
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 621

The Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996

Preferential Liabilities on Winding Up

Calculation of amounts of liabilities

4.—(1) Subject to paragraphs (4) and (5), for the purposes of Article 73(2) the amounts of the liabilities mentioned in Article 73(3) shall be calculated and verified by the actuary of the scheme—

- (a) on the assumption that the questions whether or not a person's entitlement to payment of a pension or other benefit has arisen and whether any amount must be treated as an increase or as part of a pension are to be determined as at the crystallisation date;
- (b) on the assumption that liabilities in respect of members do not include the expenses involved in meeting them;
- (c) subject to paragraph (3), in the manner specified in regulations 7(2), (3) and (7) to (10) and 8(2) of the MFR Regulations (so far as they relate to the calculation and verification of liabilities); and
- (d) otherwise in accordance with the guidance given in GN 19 (so far as it applies for the purposes of these Regulations).

(2) Such a calculation must be accompanied by a statement that it is in accordance with the guidance mentioned in paragraph (1)(d).

(3) For the purposes of this regulation, regulations 7 and 8 of the MFR Regulations shall be modified as follows—

- (a) references in regulations 7(3), (7) and (8) and 8(2) to the relevant date shall be taken as references to the date as at which the calculation is made (being a date not earlier than the crystallisation date or the commencement of winding up, if later);
- (b) in regulation 7(3) “, subject to paragraphs (4) and (5),” shall be omitted; and
- (c) regulation 8(2)(a)(i) shall be omitted.

(4) If, when the assets of the scheme are applied in accordance with Article 73(2) towards satisfying any liability of the scheme mentioned in Article 73(3), that liability, as calculated in accordance with the rules of the scheme (without any reduction by reason of its falling within a class of liability which is to be satisfied after another class), is in the opinion of the actuary fully satisfied by applying assets of a value less than the amount of that liability calculated in accordance with paragraph (1), then the amount to be taken as the amount of that liability for the purposes of Article 73(2) shall be reduced accordingly.

(5) If, when the assets of the scheme are applied in accordance with Article 73(2) towards satisfying the liabilities mentioned in Article 73(3)(a) or (b), those liabilities, as calculated in accordance with the rules of the scheme (without any reduction by reason of their falling within a class of liability which is to be satisfied after another class), cannot in the opinion of the actuary be fully satisfied by applying assets of a value equal to the amount of those liabilities calculated in

accordance with paragraph (1), then the amount to be taken as the amount of those liabilities for the purposes of Article 73(2) shall be increased accordingly.

(6) Subject to paragraph (7), in this regulation “the crystallisation date” means—

(a) in the case of a scheme where—

- (i) the trustees or managers determined (whether in pursuance of Article 38 or otherwise) that the scheme was not for the time being to be wound up, despite rules otherwise requiring it to be so;
- (ii) the time when the sub-paragraph of Article 73(3) into which the liability in respect of any person falls is determined is fixed under the provisions of the scheme; and
- (iii) that time falls on or after the date of that determination mentioned in head (i) and before the date on which the scheme begins to be wound up,

the date when that time occurs; and

(b) otherwise, the date on which the scheme begins to be wound up.

(7) Where the trustees or managers of a scheme—

- (a) determined before 6th April 1997 that the scheme was not for the time being to be wound up, despite rules otherwise requiring it to be so; and
- (b) before that date determined a time (being a time before 6th April 1997) when the amounts or descriptions of liabilities of the scheme were to be determined for the purposes of any rule of the scheme requiring the assets of the scheme to be applied on winding up in satisfying the amounts of certain liabilities to or in respect of members before other such liabilities,

the date when that time occurs is the crystallisation date.