

2004 No. 60

PENSIONS

**The Occupational Pension Schemes (Winding Up and
Deficiency on Winding Up, etc.) (Amendment) Regulations
(Northern Ireland) 2004**

Made - - - - - *24th February 2004*

Coming into operation *15th March 2004*

The Department for Social Development, in exercise of the powers conferred by Articles 73(3), 75(5) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(a), and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Winding Up and Deficiency on Winding Up, etc.) (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 15th March 2004.

(2) In these Regulations any reference to a numbered Article is to the Article of the Pensions (Northern Ireland) Order 1995 bearing that number.

(3) For the purposes of these Regulations the time when a scheme begins to be wound up shall be determined in accordance with Article 121(4) to (7)(c).

(4) These Regulations shall apply to any occupational pension scheme to which Article 75 (deficiencies in the assets) applies in any case where the scheme begins, or has begun, to wind up and the date by reference to which the assets and liabilities of the scheme are determined, calculated and verified for the purposes of that Article is a date falling on or after the date on which these Regulations come into operation.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations

2.—(1) The Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(d) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(1) (calculation of amounts of liabilities)(e) for “regulation 4A” there shall be substituted “regulations 4A and 4B”.

(a) S.I. 1995/3213 (N.I. 22); Article 73(3) was amended by Article 35(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and modified by regulation 3 of S.R. 1996 No. 621 as amended by regulation 9 of S.R. 1999 No. 486 and regulation 4(3) of S.R. 2000 No. 335; Article 75 was modified by regulation 4 of S.R. 1996 No. 585, as amended by paragraph 9(3) of the Schedule to S.R. 1997 No. 160

(b) See Article 8(b) of S.R. 1999 No. 481

(c) Article 121(4) to (7) was inserted by section 45(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

(d) S.R. 1996 No. 621; relevant amending regulations are S.R. 2002 No. 64

(e) Regulation 4(1) was amended by regulation 4(2) of S.R. 2002 No. 64

(3) In the heading to regulation 4A (calculation of liabilities where employer not insolvent)(a) after “employer not insolvent” there shall be added “and where winding up commences before 11th June 2003”.

(4) In regulation 4A(1) after “In the case of a scheme” there shall be inserted “which has begun to wind up before 11th June 2003 and”.

(5) After regulation 4A there shall be inserted the following regulation –

“Calculation of liabilities where employer not insolvent and where winding up commences on or after 11th June 2003

4B.—(1) This regulation shall apply in the case of a scheme which begins to wind up on or after 11th June 2003 in circumstances where the employer was not insolvent at the time the winding up of the scheme commenced.

(2) In the case of a scheme to which this regulation applies, regulation 4 shall have effect as if –

- (a) in paragraph (1)(c) for “paragraph (3)” there were substituted “paragraphs (2A) and (3)”;
- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) For the purpose of calculating the amount of the liabilities for the accrued rights to any pensions or other benefits of members (including any increase to a pension) and for any future pensions, or other future benefits, attributable (directly or indirectly) to pension credits (including any increase to a pension) that have arisen on or before the crystallisation date or, as the case may be, the amount of the liabilities for any entitlement of members to the payment of any pension or other benefit (including any increase to a pension) that has arisen on or before that date –

- (a) it shall be assumed that all such liabilities will be discharged by the purchase of annuities of a kind described in Article 74(3)(c);
- (b) paragraph (1)(b) shall not have effect, and
- (c) for paragraph (5) there were substituted the following paragraph –

“(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), 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.”.

(3) For the purposes of paragraph (1) an employer is insolvent if a relevant insolvency event within the meaning given by Article 75(4) has occurred in relation to that employer.”.

Amendment of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations

3.—(1) The Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996(b) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 3(1) (calculation of the value of scheme liabilities and assets)(c) for “regulation 3A” there shall be substituted “regulations 3A and 3B”.

(3) In the heading to regulation 3A (valuation of liabilities where employer not insolvent)(d) after “employer not insolvent” there shall be added “and where winding up commences before 11th June 2003”.

(a) Regulation 4A was inserted by regulation 4(3) of S.R. 2002 No. 64
(b) S.R. 1996 No. 585; relevant amending regulations are S.R. 2002 No. 64
(c) Regulation 3(1) was amended by regulation 3(2) of S.R. 2002 No. 64
(d) Regulation 3A was inserted by regulation 3(3) of S.R. 2002 No. 64

(4) After regulation 3A, there shall be inserted the following regulation –

“Valuation of liabilities where employer not insolvent and where winding up commences on or after 11th June 2003

3B.—(1) This regulation shall apply in the case of a scheme to which regulation 4B of the Occupational Pension Schemes (Winding Up) Regulations 1996 (calculation of liabilities where employer not insolvent and where winding up commences on or after 11th June 2003) applies.

(2) In the case of a scheme to which this regulation applies, regulation 3A(1)(b) shall have effect as if for paragraph (1B) in quotation marks there were substituted the following paragraph –

“(1B) When calculating the liabilities of the scheme for any –

- (a) accrued rights that exist on or before the applicable time to the payment of any pension or other benefit under the scheme (including any increase to a pension);
- (b) future pensions, or other future benefits, attributable (directly or indirectly) to pension credits (including any increase to a pension) which have arisen on or before the applicable time, and
- (c) entitlement to the payment of a pension or other benefit (including any increase to a pension) that has arisen on or before the applicable time,

it shall be assumed that all such liabilities will be discharged by the purchase of annuities of a kind described in Article 74(3)(c) (discharge of liabilities by insurance, etc.) and, for the purposes of the calculation, the actuary shall estimate the cost of purchasing any such annuities.”.”.

Sealed with the Official Seal of the Department for Social Development on 24th February 2004.

(L.S.)

D. A. Baker

Senior Officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations are made under the Pensions (Northern Ireland) Order 1995 (“the Order”). They make amendments to the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996 (“the Winding Up Regulations”) and the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996 (“the Deficiency on Winding Up Regulations”).

Regulation 1 provides for citation, commencement, interpretation and application.

Regulation 2 amends regulations 4 and 4A of the Winding Up Regulations so as to provide for the calculation of liabilities in the case of any occupational pension scheme to which Article 75 of the Order applies that has begun to wind up before 11th June 2003 in circumstances where the sponsoring employer is not insolvent. Regulation 2 also inserts regulation 4B into the Winding Up Regulations so as to provide a new method of calculating liabilities when a scheme begins to wind up on or after 11th June 2003 in circumstances where the sponsoring employer is not insolvent. By virtue of regulation 4B, the scheme’s liabilities in these circumstances are to be calculated on a basis which assumes that any accrued rights to a pension or other benefit under the scheme for members with more than two years of pensionable service, as well as any entitlement to the payment of a pension that has arisen under the scheme (including any increase to a pension), will be discharged by the purchase of annuities.

Regulation 3 amends regulations 3 and 3A of the Deficiency on Winding Up Regulations so as to provide for the calculation of liabilities in the case of any occupational pension scheme to which Article 75 of the Order applies that has begun to wind up before 11th June 2003 in circumstances where the sponsoring employer is not insolvent. Regulation 3 also inserts regulation 3B into the Deficiency on Winding Up Regulations so as to provide a new method of calculating liabilities when a scheme begins to wind up on or after 11th June 2003 in circumstances where the sponsoring employer is not insolvent. By virtue of regulation 3B, the scheme’s liabilities in these circumstances are to be calculated on a basis which assumes that any accrued rights to a pension or other benefit under the scheme for members with more than two years of pensionable service, as well as any entitlement to the payment of a pension that has arisen under the scheme (including any increase to a pension), will be discharged by the purchase of annuities.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Room 5, Block 5, Stormont Estate, Upper Newtownards Road, Belfast BT4 3SJ.

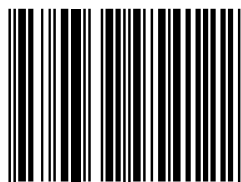
© Crown Copyright 2004

Published and printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly

Dd. N1411. C2. 2/04. Gp. 130. 14567.

£3.00

ISBN 0-337-95412-7



9 780337 954122