STATUTORY RULES OF NORTHERN IRELAND

2006 No. 161

PENSIONS

The Occupational Pension Schemes (Payments to Employer) Regulations (Northern Ireland) 2006

Made - - - - 27th March 2006

Coming into operation - 6th April 2006

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The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 37(3)(a), (b) and (g), (4), (5) and (8), 76(2), (3)(d) and (8), 122(3) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**a**), and now vested in it(**b**), and Article 228(6)(a) of the Pensions (Northern Ireland) Order 2005(**c**).

PART 1

Citation, commencement and interpretation

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Payments to Employer) Regulations (Northern Ireland) 2006 and shall come into operation on 6th April 2006.

Interpretation

2.—(1) In these Regulations—

"the 2005 Order" means the Pensions (Northern Ireland) Order 2005;

"earmarked scheme" means a money purchase scheme under which all the benefits are secured by one or more insurance policies specifically allocated to the provision of benefits to or in respect of individual members;

(**a**) S.I. 1995/3213 (N.I. 22)); Article 37 was substituted by Article 227 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 76 is amended by paragraph 56 of Schedule 10 to that Order
(**b**) *See* Article 8(b) of S.R. 1999 No. 481
(**c**) S.I. 2005/255 (N.I. 1)

"effective date" means the date by reference to which the scheme's assets are valued and liabilities calculated by the person specified in regulation 6;

"excluded person" means a deferred member or pension credit member whose current address is not known to the trustees or managers of the scheme, and in respect of whom correspondence sent to the last known address of such a member, by the trustees or managers, has been returned;

"insurance policy" means—

(a) in relation to an earmarked scheme a contract on human life or a contract of annuity on human life, and

(b) in any other case, a contract on human life or a contract of annuity on human life, but excluding a contract which is linked to investment funds;

"money purchase benefits" means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and which are not benefits the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefit is based;

"money purchase scheme" means a pension scheme under which all the benefits that may be provided, other than death benefits, are money purchase benefits;

"regulatory own funds scheme" means a scheme in which the scheme, and not any employer in relation to that scheme—

(a) underwrites any liability to cover against biometric risk;

(b) guarantees an investment performance, or

(c) guarantees a level of benefits;

"the Regulator" means the Pensions Regulator(**a**);

"relevant accounts" for the purposes of identifying and valuing the assets of a scheme are audited accounts for the scheme which—

(a) comply with the requirements imposed under Article 41(**b**) (provision of documents for members), and

(b) are prepared in respect of a period ending with the effective date of the valuation, and

"valuation certificate" means a valuation certificate which complies with regulation 7.

(2) In the application of—

(a) Article 37 (payment of surplus to employer), and

(b) these Regulations,

to a scheme which has no active members, references to the employer have effect as if they were references to the person who was the employer immediately before the occurrence of the event after which the scheme ceased to have such members.

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

(4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(**c**), where a period of time is expressed to begin on, or to be reckoned to begin on, a particular day, that day shall be included in the period.

(**a**) *See* section 1 of the Pensions Act 2004 (c. 35)

(**b**) Article 41 was amended by paragraph 10(1) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), paragraph 22 of the Schedule to S.R. 2005 No. 434 and paragraph 46 of Schedule 10 and Schedule 11 to the Pensions (Northern Ireland) Order 2005

(**c**) 1954 c. 33 (N.I.)

PART 2

Schemes not in wind up

Schemes not in wind up

3.—(1) Subject to paragraph (2) and regulations 12 to 14, the prescribed requirements for the purposes of Article 37(3)(b) (payment of surplus to employer) are that the scheme is not in wind up, and—

(a) it is a scheme which—

(i) is subject to Part IV of the 2005 Order(**a**) (scheme funding), and

(ii) is not a regulatory own funds scheme, or

(b) it is a scheme that is an earmarked scheme.

(2) A scheme to which—

(a) paragraph (1)(a) applies must also comply with regulations 4 to 7 and 9 to 11, or

(b) paragraph (1)(b) applies must also comply with regulation 8.

Schemes that are subject to Part IV of the 2005 Order - determination of assets and liabilities

4.—(1) In the case of a scheme to which regulation 3(1)(a) applies, where the trustees propose to make a payment to the employer, either—

(a) the written valuation of the scheme's assets and liabilities required under Article 37(3)(a) (payment of surplus to employer) shall be prepared in accordance with this regulation and regulations 5 and 6, or

(b) where—

(i) an actuarial valuation has been prepared for the purposes of Part IV of the 2005 Order(**b**) (scheme funding), and

(ii) this valuation is valid for the purposes of regulation 9,

the trustees may use this valuation for the purposes of regulation 7(1) and Article 37(3)(a), ("a Part IV valuation").

(2) Where the trustees use a Part IV valuation—

(a) the value to be placed on the scheme's liabilities shall be the value placed by the actuary on the scheme's liabilities for the purposes of the actuary's estimate of the solvency of the scheme included in that valuation, in accordance with—

(i) regulation 7(6)(a), or

(ii) regulation 7(6)(b),

as the case may be, of the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005(**c**) (actuarial valuations and reports), and

(b) the value to be placed on the scheme's assets shall be the value placed by the actuary on the scheme's assets for the purposes of the actuary's estimate of the solvency of the scheme included in that valuation.

(3) Subject to paragraph (7), the assets of the scheme to be taken into account for the purposes of the written valuation specified in paragraph (1)(a) are the assets attributed to the scheme in the relevant accounts, excluding—

(**a**) Part IV was modified by Schedule 2 to S.R. 2005 No. 568 and regulation 5(1) of S.R. 2005 No. 570
(**b**) *See* Article 203(2)(a) of the Pensions (Northern Ireland) Order 2005
(**c**) S.R. 2005 No. 568

(a) any resources invested (or treated as invested by Article 40(**a**)) in contravention of Article 40(1) (restriction on employer-related investments);

(b) any amount treated as a debt under Article 207(3) of the 2005 Order (failure to make payments) which are unlikely to be recovered without disproportionate cost or within a reasonable time, and

(c) where it appears to the actuary that the circumstances are such that it is appropriate to exclude them, any rights under an insurance policy.

(4) Subject to paragraph (6), the liabilities of the scheme to be taken into account for the purposes of the written valuation specified in paragraph (1)(a) are any liabilities—

(a) in relation to a member of the scheme by virtue of—

(i) any right that has accrued to or in respect of him to future benefits under the scheme rules, or

(ii) any entitlement to the present payment of a pension or other benefit which he has under the scheme rules, and

(b) in relation to the survivor of a member of the scheme, by virtue of any entitlement to benefits, or right to future benefits which he has under the scheme rules in respect of the member.

(5) For the purposes of paragraph (4)—

"right" includes a pension credit right, and

"the survivor" of a member is a person who—

(a) is the widow, widower or surviving civil partner of the member, or

(b) has survived the member and has any entitlement to benefit, or right to future benefits, under the scheme in respect of the member.

(6) Where rights under an insurance policy are excluded under paragraph (3)(c), the liabilities secured by the policy shall be disregarded for the purposes of paragraph (4).

(7) Where arrangements are being made by the scheme for the transfer to or from it of accrued rights and any pension credit rights, until such time as the trustees or managers of the scheme to which the transfer is being made ("the receiving scheme") have received assets of the full amount agreed by them as consideration for the transfer, it shall be assumed—

(a) that those rights have not been transferred, and

(b) that any assets transferred in respect of the transfer of those rights are assets of the scheme making the transfer, and not the receiving scheme.

Schemes that are subject to Part IV of the 2005 Order - valuation of assets and liabilities

5.—(1) In the case of a valuation specified in regulation 4(1)(a), and subject to paragraph (2), the value to be given to the assets of a scheme for the purposes of Article 37(3)(a) (payment of surplus to employer) is the value given to those assets in the relevant accounts, less the amount of the external liabilities.

(2) The value to be given to any rights under an insurance policy not excluded under regulation 4(3) is the value the actuary considers appropriate in the circumstances of the case on the effective date.

(3) The value to be placed on the liabilities of the scheme shall be the actuary's estimate of the value of the liabilities of the scheme on the effective date.

(4) In paragraph (3), "estimate of the value of the liabilities of the scheme" means—

(**a**) Article 40 was amended by Article 152 of S.I. 2001/3649, Article 26 of S.I. 2004/355 and paragraph 45 of Schedule 10 to the Pensions (Northern Ireland) Order 2005

(a) an estimate by the actuary of the cost of purchasing annuities, of the type described in Article 74(3)(c)(**a**) (discharge of liabilities by purchase of annuities satisfying prescribed requirements) and on terms consistent with those in the available market, which would be sufficient to satisfy the liabilities taken into account under regulation 4(4), and

(b) other expenses which, in the opinion of the actuary, would be likely to be incurred in connection with the winding up of the scheme.

(5) Where the actuary considers that it is not practicable to make an estimate in accordance with paragraph (4)(a), he shall make an estimate of the value of the liabilities of the scheme on the effective date, in such manner as he considers appropriate in the circumstances of the case.

(6) Where the actuary's estimate of the liabilities of the scheme is made under paragraph (5), the valuation shall include a brief account of the principles adopted in making the estimate.

(7) In paragraph (1), "the external liabilities" of a scheme are such liabilities of the scheme (other than liabilities within regulation 4(4)) as are shown in the net assets statement in the relevant accounts, and their amount shall be taken to be the amount shown in that statement in respect of them.

(8) The assets of the scheme shall be valued, and the amount of the liabilities determined, by reference to the effective date.

Prescribed persons for the purposes of Article 37(3)(a)

6. The prescribed persons for the purposes of Article 37(3)(a) (payment of surplus to employer) are in the case of a scheme that is subject to Part IV of the 2005 Order (scheme funding)—

(a) where it is a scheme for which an actuary is required to be appointed under Article 47(1)(b) (professional advisers), the actuary appointed under that Article, or

(b) where it is a scheme which is exempt from the application of Article 47(1)(b) by virtue of regulations made under paragraph (5) of that Article—

(i) a Fellow of the Faculty of Actuaries(**b**), or

(ii) a Fellow of the Institute of Actuaries(**c**).

Schemes that are subject to Part IV of the 2005 Order – valuation certificate and amount of payment to employer

7.—(1) Where a written valuation prepared in accordance with regulation 4(1) shows that the value of the assets of the scheme is greater than the value of the scheme's liabilities, the prescribed person shall prepare a valuation certificate in the form prescribed in Schedule 1.

(2) Where paragraph (1) applies, the maximum payment that may be made to the employer is, in the case of a valuation prepared in accordance with—

(a) regulation 4(1)(a), the amount by which the value of the scheme's assets exceeds the value of the scheme's liabilities at the effective date of the valuation, or

(b) regulation 4(1)(b), the amount of the excess of the scheme's assets over its liabilities specified in the actuary's estimate of the solvency of the scheme prepared in accordance with regulation 7(4)(b) of the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 (actuarial valuations and reports).

Earmarked schemes

8.—(1) In the case of a scheme to which regulation 3(1)(b) applies, a payment may only be made to the employer where all liabilities accruing in respect of a member, beneficiary or his estate have been—

(**a**) Article 74(3)(c) was amended by Article 60 of S.I. 2002/1555

(**b**) The Faculty of Actuaries is located at Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP

(**c**) The Institute of Actuaries is located at Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ

(a) secured by the purchase of one or more insurance policies, or

(b) paid in full.

(2) Where paragraph (1) applies, the maximum payment that may be made to the employer is a payment no greater than the excess of the scheme assets in relation to that member after all the liabilities accruing in respect of that member have been secured or paid in full.

Period for which a valuation certificate is to remain in force

9. A valuation certificate shall remain in force—

(a) in the case of a scheme that falls within regulation 3(1)(a) for fifteen months where the valuation is prepared pursuant to Part IV of the 2005 Order, or

(b) twelve months in other cases,

from the effective date of the valuation.

Notification to members

10.—(1) Where the trustees of a scheme to which regulation 3(1)(a) applies propose to make a payment under Article 37(1)(a) (payment of surplus to employer), the prescribed requirements in accordance with which the notice referred to in Article 37(3)(g) shall be given are that—

(a) the trustees of the scheme shall make a written statement that they have decided to make such a payment;

(b) the amount of the proposed payment shall be stated;

(c) the date that the payment is to be made, which is—

(i) not later than the last day on which the valuation certificate is valid for the purposes of Article 37(4)(e), and

(ii) at least three months after the day the information is sent to the members or survivors,

shall be stated, and

(d) the notice shall provide that the member may, within one month of the date of the notice, request a copy of the relevant valuation certificate prepared in accordance with regulation 7(1).

(2) Where a member requests a copy of the relevant valuation certificate under paragraph (1)(d), the trustees of the scheme shall provide this information within one month from the date that the request is received by them.

(3) A notice under Article 37(3)(g) does not have to be given to any excluded person.

Notification to the Regulator

11. Where the trustees of a scheme to which regulation 3(1)(a) applies have made a payment in accordance with Article 37(1)(a) (payment of surplus to employer), they shall notify the Regulator that the payment has been made by no later than one week after the day on which the payment was made.

PART 3

Exemptions, transitional provisions and modifications

Exemptions

12.—(1) Articles 37 (payment of surplus to employer) and 76 (excess assets on winding up)(**a**) shall not apply to a scheme where—

(a) a Minister of the Crown or government department has given a guarantee or made any other arrangements for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities,

(b) arrangements for the payment of any surplus or for the distribution of any excess assets on the winding up of the scheme are subject to the approval of a Minister of the Crown or government department, or

(c) the scheme does not fall within the description of schemes prescribed in regulation 3(1).

(2) Where such a guarantee has been given as is mentioned in paragraph (1)(a) or (b) in respect of only part of a scheme, Articles 37 and 76 shall apply as if that part and the other part of the scheme were separate schemes.

Transitional

13. The prescribed requirements for the notice specified in Article 228(6)(a) of the 2005 Order (payment of surplus to employer: transitional power to amend scheme) are that the notice shall—

(a) be in writing, and

(b) contain the following information—

(i) that the trustees have decided to exercise their power under Article 228(3) or (4) of that Order, as the case may be, and

(ii) the date, being a date which is at least three months after the date that the information is sent to the employer and members, from which the trustees' proposed exercise of the power is to take effect.

Modifications in relation to earmarked schemes

14. In relation to a scheme to which regulation 3(1)(b) applies, Article 37 (payment of surplus to employer) shall be modified as if in paragraph (3) sub-paragraphs (a) to (c), (f) and (g) were omitted.

PART 4

Schemes in wind up

Notice of proposal to distribute excess assets to the employer

15.—(1) The prescribed requirements for the notice specified in Article 76(3)(d) (excess assets on winding up) are set out in paragraphs (2) to (5).

(2) Where the trustees or the employer propose to exercise the power in Article 76(1)(c), the trustees or, as the case may be, the employer, must take all reasonable steps to ensure that each member, except any excluded person, is sent a written notice divided into two parts, of the proposal in accordance with the following provisions of this regulation.

(3) The first part of the notice shall—

(**a**) S.I. 1995/3213 (N.I. 22); Article 37 is substituted by Article 227 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 76 is amended by paragraph 56 of Schedule 10 to that Order

(a) inform the member as to—

(i) the trustees' estimate of the value of the assets remaining after the liabilities of the scheme have been fully discharged and the persons or class of person to whom, and in what proportions, it is proposed that they should be distributed, and

(ii) whether the requirements of Article 76(3) are satisfied,

(b) invite the member, if he wishes, to make written representations in relation to the proposal to the trustees or, as the case may be, to the employer, before a specified date (which is not earlier than two months after the date on which the first part of the notice is given), and

(c) advise the member that—

(i) the second part of the notice will be sent to him if the trustees or, as the case may be, the employer intend to proceed with the proposal to exercise that power, and

(ii) no excess assets may be distributed to the employer in accordance with the proposal until at least three months after the date on which the second part of the notice is sent to him.

(4) The second part of the notice shall be given after the date specified in accordance with paragraph (3)(b) and at least three months before the power is exercised, and shall—

(a) contain the information referred to in paragraph (3)(a), including any modifications to the proposal, and

(b) advise the member that he may make written representations to the Regulator before a specified date (which is not earlier than three months after the date on which the second part of the notice is sent to him) if he considers that any of the requirements of Article 76(3) are not satisfied.

(5) The parts of the notice under paragraph (3) or (4) shall be treated as having been given to a member where it has been sent by post to either—

(a) the address at which he was last known to be living, or

(b) in the case of a person who was an active member, immediately before the commencement of the winding up of the scheme, an address at which he is currently known to be employed.

Circumstances in which the Regulator must be satisfied that the requirements of Article 76 are met

16.—(1) For the purposes of Article 76(2) (excess assets on winding up), the prescribed circumstances are that—

(a) subject to paragraph (2), in relation to any proposal to which that Article applies, the Regulator receives—

(i) written representations from a member to the effect that any requirements of Article 76(3) are not satisfied, or

(ii) information from any source sufficient to raise a doubt as to whether all the requirements are satisfied, and

(b) the Regulator notifies the trustees or, as the case may be, the employer in writing that the power should not be exercised until the Regulator has confirmed in writing that it is satisfied that those requirements are satisfied.

(2) Where notice has been given to a member in accordance with regulation 15(3), paragraph (1)(a)(i) shall only apply in the case of representations received by the Regulator from the member before the date specified in accordance with regulation 15(4)(b) (expiry date of the second part of the notice).

Additional requirement for purposes of Article 76

17. Where—

(a) the date specified in accordance with regulation 15(4)(b) (expiry date of the second part of the notice) has passed, and

(b) the trustees or, as the case may be, the employer have not received notification from the Regulator in accordance with regulation 16(1)(b),

the trustees or, as the case may be, the employer shall obtain written confirmation from the Regulator that it has not received any representations or information referred to in regulation 16(1)(a) and that Article 76(4) (excess assets on winding up) accordingly, does not apply.

PART 5

Multi-employer Schemes

Schemes with more than one employer

18.—(1) Where—

(a) a scheme in relation to which there is more than one employer is divided into two or more sections, and

(b) the provisions of the scheme are such that they meet conditions A and B,

these Regulations shall apply as if each section of the scheme were a separate scheme.

(2) Condition A is that contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to the employer, to the section which is appropriate in respect of the employment in question).

(3) Condition B is that a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section.

(4) In their application to a scheme—

(a) which has been such a scheme as is mentioned in paragraph (1);

(b) which is divided into two or more sections, at least one of which applies only to members who are not in pensionable service under the section;

(c) the provisions of which have not been amended so as to prevent conditions A and B being met in relation to two or more sections, and

(d) in relation to one or more sections of which those conditions have ceased to be met at any time by reason only of there being no members in pensionable service under the section and no contributions which are to be allocated to it,

Articles 37 (payment of surplus to employer) and 76 (excess assets on winding up) and these Regulations apply as if the section in relation to which those conditions have ceased to be satisfied were a separate scheme.

(5) For the purposes of paragraphs (1) to (4), any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits are disregarded.

(6) But if paragraph (1) or (4) applies and, by virtue of any provisions of the scheme, contributions or transfers of assets to make provision for death benefits are made to a section ("the death benefits section") the assets of which may only be applied for the provision of death benefits, the death benefits section is also to be treated as if it were a separate scheme for the purpose of Articles 37 and 76 and these Regulations.

(7) For the purpose of this regulation, any provisions of a scheme by virtue of which assets attributable to one section may on the winding up of the scheme or a section be used for the purposes of another section are disregarded.

(8) In the application of Article 37(3) to a scheme in relation to which there is more than one employer, sub-paragraph (e) of that paragraph shall have effect as if for "employer has asked",

there were substituted "person whom the employers nominate to act as their representative for the purposes of this paragraph has asked, or, if no such nomination is made, all the employers have asked".

PART 6

Revocations

Revocations

19. The Regulations specified in column 1 of Schedule 2 are revoked to the extent specified in column 3.

Sealed with the Official Seal of the Department for Social Development on 27th March 2006.

L.S.

John O'Neill
A senior officer of the Department for Social Development

SCHEDULE 1

Regulation 7

ACTUARY'S CERTIFICATE - VALUATION OF ASSETS AND LIABILITIES

Actuarial Certificate Given for the Purposes of Regulation 7 of the Occupational Pension Schemes (Payments to Employer) Regulations (Northern Ireland) 2006

Name of scheme

Date as at which valuation is made

1. Comparison of value of scheme assets with amount of scheme liabilities

In my opinion, at the above date the value of the assets of the scheme was greater than the amount of the liabilities of the scheme.

The value of the assets of the scheme was

The amount of the liabilities was

The amount of the difference (being the maximum amount of payment that may be made to the employer) was

2. Valuation principles

The scheme's assets and liabilities are valued in accordance with Article 37 of the Pensions (Northern Ireland) Order 1995 and the Occupational Pension Schemes (Payments to Employer) Regulations (Northern Ireland) 2006.

Signature

Date

Name

Qualification

Address

Name of employer

Note

The valuation of the amount of the liabilities of the scheme may not reflect the actual cost of securing those liabilities by the purchase of annuities if the scheme were to have been wound up on the date as at which the valuation is made.

SCHEDULE 2

Regulation 19

Revocations

Column 1	*Column 2*	*Column 3*
Citation	*Reference*	*Extent of revocation*
The Occupational Pension Schemes (Payments to Employers) Regulations (Northern Ireland) 1997	S.R. 1997 No. 96	The whole of the Regulations
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1997	S.R. 1997 No. 160	In the Schedule, paragraph 17
The Occupational Pension Schemes (Payments to Employers) (Amendment) Regulations (Northern Ireland) 1997	S.R. 1997 No. 473	The whole of the Regulations
The Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005	S.R. 2005 No. 171	In the Schedule, paragraph 11

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the circumstances in which, and the extent to which, payments may be made from certain pension schemes to the employer in relation to that scheme ("the relevant employer") of the scheme.

Regulations 1 and 2 provide for the citation, commencement and interpretation.

Regulation 3 prescribes that no payment may be made under Article 37 of the Pensions (Northern Ireland) Order 1995 ("the 1995 Order") except in the case of the types of scheme specified in that regulation.

Regulation 4 prescribes that in the case of a scheme which is subject to the requirements of Part IV of the Pensions (Northern Ireland) Order 2005 ("the 2005 Order"), which is not a regulatory own funds scheme and which is not winding up, prior to a payment to the relevant employer being made there must be an actuarial valuation of the scheme's assets and liabilities. It also prescribes the assets and liabilities that shall be taken into account when making this valuation.

Regulation 5 prescribes the manner in which the actuary shall value the assets and estimate the value of the liabilities of the scheme.

Regulation 6 prescribes the persons who may prepare and sign a written valuation under Article 37(3)(a) of the 1995 Order.

Regulation 7 prescribes that where a valuation shows that the assets of the scheme exceed the liabilities of the scheme, then the maximum payment that may be made to the employer is the amount of that excess, and that where this is the case the actuary shall certify this on a form set out in Schedule 1.

Regulation 8 prescribes that in the case of a money purchase scheme that holds each member's fund under a separate insurance policy a scheme may consider making a payment to the relevant employer where the liabilities in relation to any particular member have been secured or paid in full, and the payment to the employer represents the excess of the assets produced by the insurance policy, over and above the member's entitlement to scheme benefits.

Regulation 9 specifies that, depending on the type of scheme, a valuation certificate shall be valid for a maximum period of either twelve or fifteen months from the date it is prepared.

Regulation 10 prescribes the information that the trustees of the scheme must provide to the scheme members where the trustees propose to exercise a power to make a payment to the relevant employer.

Regulation 11 prescribes the information that the trustees of the scheme must provide to the Regulator where a payment to the relevant employer is to be made.

Regulation 12 provides for exceptions to the requirements of Articles 37 and 76 of the 1995 Order.

Regulation 13 provides for transitional provisions in relation to schemes with existing powers to make payments to employers.

Regulation 14 modifies Article 37 of the 1995 Order in the case of an earmarked scheme.

Regulation 15 prescribes requirements in accordance with which notice shall be given to scheme members where the trustees plan to distribute a scheme surplus when a scheme is winding up.

Regulation 16 provides for circumstances where the Regulator must be satisfied that the provisions of Article 76 of the 1995 Order are satisfied.

Regulation 17 provides that where they have not received notification from the Regulator that the power to pay excess assets to the employer should not be exercised, then the trustees or employers in relation to the scheme should obtain written confirmation from the Regulator that it has not received any representations or information that could impact on payment of surplus assets upon wind up.

Regulations 18 provides for the application of Articles 37 and 76 of the 1995 Order in relation to a scheme with more than one employer.

Regulation 19 and Schedule 2 make consequential revocations.

Schedule 1 prescribes the form required for an actuarial certificate under regulation 7.

The Pensions (2005 Order) (Commencement No. 9) Order (Northern Ireland) 2006 (S.R. 2006 No. 95 (C. 7)) provides for the coming into operation of Articles 227, which substituted Article 37 of the 1995 Order, one of the enabling provisions under which these Regulations are made, and 228(6)(a) of the 2005 Order, another enabling provision under which these Regulations are made, for the purposes only of authorising the making of regulations, on 9th March 2006 and for all other purposes on 6th April 2006.

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 to consult under Article 117(1) of the 1995 Order and Article 289(1) of the 2005 Order does not apply by virtue of paragraph (2)(e) of each of those Articles.

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