
STATUTORY INSTRUMENTS

2002 No. 380

**The Occupational Pension Schemes
(Minimum Funding Requirement and
Miscellaneous Amendments) Regulations 2002**

Amendment of the Winding Up Regulations

3.—(1) The Winding Up Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 4(1) (calculation of amounts of liabilities), after the words “Subject to” there shall be inserted the words “regulation 4A and”.

(3) After regulation 4 there shall be inserted the following regulation:

“Calculation of liabilities where employer not insolvent

4A.—(1) In the case of a scheme in respect of which the employer was not insolvent at the time the winding up of the scheme commenced, regulation 4 shall have effect as if—

(a) for the words “paragraph (3)” in paragraph (1)(c), there were substituted the words “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 in respect of any entitlement to the payment of any pension or other benefit (including any increase in a pension) that has arisen under the scheme on or before the crystallisation date—

(a) it shall be assumed that all such liabilities will be discharged by the purchase of annuities of a kind described in section 74(3)(c); and

(b) paragraph (1)(b) above 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 section 73(2) towards satisfying the liabilities mentioned in paragraph (aa) or (b) of section 73(3) and towards satisfying any liability for an increase to a pension or other benefit to which those paragraphs of that section apply, those liabilities, as calculated in accordance with the rules of the scheme (without any reduction by reason of them 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 section 73(2) shall be increased accordingly.”.

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) In regulation 13(4) (hybrid schemes—calculation of liability for underpin benefits), after the words “that regulation)” there shall be inserted the words “, but regulation 4A shall not apply for that purpose”.