
STATUTORY INSTRUMENTS

2002 No. 380

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

Amendment of the Deficiency Regulations

4.—(1) The Deficiency Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 3 (calculation of the value of the scheme's liabilities and assets), for the words "The liabilities" at the beginning of paragraph (1) there shall be substituted the words "Subject to regulation 3A, the liabilities".

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

"Valuation of liabilities where employer not insolvent

3A.—(1) Where a scheme (including a section of a scheme in relation to which there is more than one employer which is treated as a separate scheme for the purposes of section 75) is being wound up and the employer was not insolvent immediately before the winding up of the scheme commenced, regulation 3 shall have effect as if—

(a) in paragraph (1)—

(i) at the beginning of subparagraph (a), there were inserted the words "except to the extent that the liabilities are in respect of any entitlement to a pension or other benefit that has arisen under the scheme and in respect of which paragraph (1B) below applies,";

(ii) for the words "paragraphs (2) and (3)" in subparagraph (a), there were substituted the words "paragraphs (2)(a) to (c) and (3)";

(iii) for the words "paragraphs (3) and (4)" in subparagraph (b), there were substituted the words "paragraphs (1B), (3) and (4)";

(iv) for the words "regulations 3(2) and (3)" in subparagraph (c), there were substituted the words "regulations 3(2)(a) to (c) and (3)"; and

(v) after the words "and 4 to 8 of the MFR Regulations" in subparagraph (c), there were inserted the words "or as respects paragraphs (1A) and (1B) below"; and

(b) after paragraph (1) there were inserted the following paragraphs:

"(1A) The liabilities of a scheme which are to be taken into account under paragraph (1) above shall include all expenses (except the cost of annuities taken into account by virtue of paragraph (1B) below) which, in the opinion of the trustees or managers of the scheme, are likely to be incurred in connection with the winding up of the scheme."; and

"(1B) When calculating the liabilities of the scheme 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 applicable time, 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) (discharge of liabilities by insurance—annuity purchase) and, for the purposes of the calculation, the actuary shall estimate the cost of purchasing any such annuities.”.

(2) Where a scheme to which regulation 4 (multi-employer schemes) applies (including a section of a scheme in relation to which there is more than one employer which is treated as a separate scheme for the purposes of section 75) is being wound up in circumstances where—

(a) an employer in relation to the scheme ceases to employ persons in the description or category of employment to which the scheme relates at a time when there are no other employers in relation to the scheme continuing to employ such persons; and

(b) that employer was not insolvent immediately before the winding up commenced, regulation 3 shall have effect with the modifications set out in paragraph (1)(a) and (b) of this regulation.

(3) For the purposes of paragraphs (1) and (2) above, an employer is insolvent if a relevant insolvency event has occurred in relation to that employer.

(4) In the Note at the end of the form of certificate set out in Schedule 1 (form of actuary’s certificate), after the word “securing” there shall be inserted the words “all of”.”.