EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Transfer Values) Regulations 1996 ("the principal Regulations"). They also make various consequential amendments to the Pensions on Divorce etc. (Provision of Information) Regulations 2000, the Pension Sharing (Valuation) Regulations 2000, the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 and the Pension Sharing (Pension Credit Benefit) Regulations 2000.

Regulation 1 provides for citation and commencement.

Regulation 2 amends regulations 1 and 8 of the principal Regulations. Paragraph (2) of regulation 2 inserts a definition of "effective date" into regulation 1(1) of the principal Regulations so as to make further provision for the interpretation of the Regulations. Paragraph (3) of regulation 2 substitutes paragraph (4) of regulation 8 of the principal Regulations with two new paragraphs (4) and (4A).

Regulation 8(4) of the principal Regulations enables the trustees or managers of an occupational pension scheme to which the minimum funding requirement in section 56 of the Pensions Act 1995 ("the Act") applies to make adjustments to the amount of a cash equivalent (other than a guaranteed cash equivalent) before the guarantee date in circumstances where the last minimum funding valuation under section 57 of the Act shows that the scheme is underfunded.

The new paragraph (4) applies to occupational pension schemes to which the requirement in section 56 of the Act (minimum funding requirement) applies. Where such a scheme is not sufficiently funded to meet the full amount of the cash equivalent in respect of all of its members, as determined by the actuary for the purposes of the last report to the trustees or managers of the scheme before the guarantee date under the actuarial guidance note entitled "Retirement Benefit Schemes—Transfer Values (GN 11)", the new provision enables the trustees or managers to reduce the amount of a cash equivalent. The amount of the reduction must be no greater than the amount by which the actuary's report shows the scheme assets as being insufficient to pay the minimum amount of the cash equivalent in respect of all scheme members and the amount of the cash equivalent after the reduction must not, in any case, be less than the minimum amount which is required under regulation 7 of the principal Regulations to satisfy the liabilities referred to in section 73(3) of the Act (preferential liabilities on winding up) as modified by regulation 3 of the Occupational Pension Schemes (Winding Up) Regulations 1996. The new paragraph (4A) of regulation 8 enables the trustees or managers of occupational pension schemes to which the minimum funding requirement applies to reduce the minimum amount of the cash equivalent by a percentage which is no greater than the percentage by which the scheme was not, by reference to its last minimum funding valuation under section 57 of the Act (valuation and certification of assets and liabilities), able to pay the minimum amount of the cash equivalent that is required under regulation 7 of the principal Regulations in respect of the preferential liabilities on winding up. This provision amends the regulation so as to permit the trustees or managers to reduce the minimum amount of the cash equivalent by a percentage which is no greater than the percentage by which the last minimum funding valuation shows the scheme assets as being insufficient to satisfy the preferential liabilities on winding up under section 73(3) of the Act (preferential liabilities on winding up) as modified.

Regulation 3 amends regulation 4(2)(c) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 so that it also refers to the new regulation 8(4A) of the principal Regulations.

Regulation 4 amends regulations 1 and 5 of the Pension Sharing (Valuation) Regulations 2000. Paragraph (2) of regulation 4 inserts a definition of "effective date" into regulation 1 of those Regulations so as to make further provision for the interpretation of the Regulations. Paragraph (3) of regulation 4 substitutes paragraph (3) of regulation 5 of those Regulations so as to make similar provision to that made by the substituted paragraph 8(4) of the principal Regulations. Paragraph (3) also inserts a new paragraph (3A) into regulation 5 of those Regulations which makes similar provision to that made by the new regulation 8(4A) of the principal Regulations.

Regulation 5 amends regulations 1 and 16 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000. Paragraph (2) of regulation 5 inserts a definition of “effective date” into regulation 1 of those Regulations so as to make further provision for the interpretation of the Regulations. Paragraph (3) of regulation 5 inserts a new paragraph (2) and (2A) into regulation 16 of those Regulations.

Regulation 6 amends regulations 1 and 27 of the Pension Sharing (Pension Credit Benefit) Regulations 2000. Paragraph (2) of regulation 6 inserts a definition of “effective date” and “valuation day” into regulation 1 of those Regulations so as to make further provision for the interpretation of the Regulations. Paragraph (3) of regulation 6 inserts a new paragraph (4) and (4A) into regulation 27 of those Regulations. The effect of these amendments is to make similar provision to that made by the amendments to regulation 8 of the principal Regulations (see paragraphs 2 to 4 above).

The provisions of these Regulations will not impose any overall costs to business. A regulatory impact assessment is therefore not necessary.