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STATUTORY INSTRUMENTS

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**2004 No. 403**

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

**Amendment of the Deficiency on Winding Up Regulations**

**3.—**(1) The Deficiency on Winding Up Regulations shall be amended as provided for by the following paragraphs of this regulation.

(2) At the beginning of regulation 3 (calculation of the value of scheme liabilities and assets), for the words “Subject to regulation 3A” there shall be substituted the words “Subject to regulations 3A and 3B”.

(3) At the end of the heading to regulation 3A (valuation of liabilities where employer not insolvent)<sup>(1)</sup> there shall be added the words “and where winding up commences before 11th June 2003”.

(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, paragraph (1)(b) of regulation 3A (valuation of the liabilities where employer not insolvent) 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 in 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 the type 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 costs of purchasing any such annuities.”.

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(1) S.I.1996/3128; regulation 3A was inserted by regulation 4(3) of S.I.2002/380.