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STATUTORY RULES OF NORTHERN IRELAND

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**1994 No. 107**

**The Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1994**

**Scheme in respect of which there are no members in pensionable service**

**4.** In the application of section 140 of the Act to a scheme in respect of which there are no members who are in pensionable service under the scheme—

- (a) that section shall be modified in the manner provided by regulation 3(b)(ii);
- (b) that section shall be further modified by inserting at the beginning of subsection (1) the words “Subject to the following provisions of this section,” and by adding after the subsections (1A) and (1B) inserted by regulation 3(a), the following subsections—

“(1C) Where by virtue of subsection (1) a debt (“the debt”) is due from the employer to the trustees of a scheme (“the original scheme”) and—

- (a) arrangements have been made by the employer and the trustees of the original scheme under which the employer will make contributions to another occupational pension scheme so as to enable that other scheme to pay benefits (“the replacement benefits”) to persons who have accrued rights under the original scheme in place of the benefits that would be payable under the original scheme;
- (b) contributions are made by the employer in accordance with those arrangements; and
- (c) the replacement benefits are broadly equivalent to the benefits payable under the original scheme which they replace,

then the debt shall not be recoverable.

(1D) Where the arrangements referred to in subsection (1C) relate to part of the deficiency under the scheme then a corresponding part of the debt (“the relevant part”) shall not be recoverable.

(1E) If the employer fails or ceases, in whole or in part, duly to make contributions in accordance with the arrangements referred to in subsection (1C), or a relevant insolvency event occurs in relation to that employer, the debt or, as the case may be, the relevant part of it, shall again be recoverable.

(1F) Any amounts paid by the employer under arrangements to fund the provision of replacement benefits in accordance with subsection (1C) shall be offset against the debt or, as the case may be, the relevant part of the debt.

(1G) Where arrangements have been made to which subsection (1C) relates, the trustees of the original scheme may assign all such rights and powers as they possess in relation to the debt, or, as the case may be, the relevant part of the debt, to the trustees or managers of the scheme providing the replacement benefits.”; and

- (c) where there is more than one employer within the meaning of that term as modified by paragraph (a), that section shall be further modified in the manner provided by regulation 3(a) and (b)(i).