
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 585

The Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996.

(2) This regulation shall come into operation on 19th December 1996.

(3) Subject to paragraphs (2) and (4) to (6) and regulation 6(1) (in so far as it relates to the period there mentioned), these Regulations shall come into operation on 6th April 1997.

(4) Regulations 3 to 6 shall not apply where the applicable time falls before 6th April 1997.

(5) Regulations 3 to 6 shall not apply to any scheme which began to be wound up earlier than 19th December 1996.

(6) Regulations 7 to 9 shall only apply where the act or omission to which the reduction in value is attributable occurred after 5th April 1997.

Interpretation

2.—(1) For the purposes of these Regulations, the time when a scheme begins to be wound up shall be determined in accordance with paragraphs (7) to (10).

(2) In these Regulations—

“the applicable time” has the same meaning as in Article 75 (but see the modifications in regulations 4(3), 6(3) and 7(2));

“employer” has the same meaning as in Article 75 (but see paragraph (4) and regulations 5, 6 and 9);

“the MFR Regulations” means the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(1);

“money purchase scheme” has the same meaning as in Article 75 (but see paragraph 4 of Schedule 2).

(3) In these Regulations references to a relevant insolvency event occurring in relation to an employer have the same meaning as in Article 75.

(4) In these Regulations “scheme” shall be construed in appropriate cases in accordance with Article 75(1B) and (1C) (as inserted by regulation 4(2) or, as the case may be, regulation 8) and Schedule 2 (and “employer” and “member” shall be construed accordingly).

(5) In these Regulations references to the guidance in GN 19 are to the guidelines on winding up and scheme asset deficiency (GN 19), prepared and published by the Institute of Actuaries and

the Faculty of Actuaries⁽²⁾ and approved for the purposes of these Regulations by the Department, with such revisions as have been so approved at the applicable time.

(6) In these Regulations references to the guidance in GN 27 are to the guidelines on minimum funding requirement (GN 27), prepared and published by the Institute of Actuaries and the Faculty of Actuaries⁽²⁾ and approved for the purposes of the MFR Regulations by the Department, with such revisions as have been so approved at the applicable time.

(7) Subject to paragraphs (8) and (10), where the rules of the scheme require or permit the scheme to be wound up and the scheme is wound up under those rules, the scheme begins to be wound up—

(a) either—

(i) at such time as the rules provide that it does so; or

(ii) if the rules make no provision as to that time, at such time as the trustees determine that the scheme shall begin to be wound up; or

(b) as soon as there are no members who are in pensionable service under the scheme;

whichever is the later.

(8) Where the rules of the scheme require or permit the scheme to be wound up, but the trustees determine in pursuance of Article 38 or otherwise that the scheme is not for the time being to be wound up, then for the purposes of paragraph (7), in so far as any provision made by the rules of the scheme as to the time when it begins to be wound up is inconsistent with the trustees' determination, that provision shall be disregarded.

(9) Where under the rules of the scheme any person other than the trustees may determine that the scheme is to be wound up, or is not to be wound up for the time being, then the references in paragraphs (7)(a)(ii) and (8) to the trustees' determination shall be taken, in a case where the winding up begins or is deferred by virtue of that other person's determination, as a reference to his determination; and this paragraph applies where such a power is vested in the trustees jointly with another person, or in some but not all of the trustees, as it applies where such a power is vested only in a person other than the trustees.

(10) Where—

(a) a scheme is wound up in pursuance—

(i) of an order of the Authority under Article 11; or

(ii) of an order of a court; and

(b) the order makes provision as to the time at which the scheme is to begin to be wound up; the scheme begins to be wound up at the time specified in the order or, if none is so specified, the date on which the order takes effect.

(11) In these Regulations any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 1995 bearing that number.

(12) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954⁽³⁾, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

(2) Copies of GN 19 and GN 27 may be obtained from the Faculty of Actuaries, 17 Thistle Street, Edinburgh EH2 1DF
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(3) 1954 c. 33 (N.I.)