

## SCHEDULE 4

Regulation 20(2)

### Transitional Provisions and Savings

#### PART 1

##### Transitional provisions

1. Paragraphs 2 to 7 apply in relation to a scheme which—
  - (a) is either—
    - (i) subject to Article 56 of the 1995 Order (minimum funding requirement), or
    - (ii) exempted from the application of that Article by regulation 28 of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(1) (“the 1996 Regulations”),  
immediately before the commencement date, and
  - (b) becomes subject to Part IV of the Order (scheme funding) on that date.
2. Article 203 (actuarial valuations and reports) shall apply to the scheme as if—
  - (a) it included a requirement for the trustees or managers of the scheme—
    - (i) to obtain an actuarial valuation (“the first valuation under the Order”), in accordance with the requirements specified in paragraph 3 of this Schedule, and
    - (ii) to ensure that the first valuation under the Order is received by them within the relevant period specified in paragraph 4 of this Schedule;
  - (b) neither paragraph (1)(a) nor paragraph (4) applied in relation to the first valuation under the Order, and
  - (c) paragraph (3)(a) were omitted.
- 3.—(1) Except where sub-paragraph (3), (5) or (7) applies, the trustees or managers of the scheme must obtain the first valuation under the Order by reference to an effective date not more than one year after the commencement date.
  - (2) Sub-paragraph (3) applies where—
    - (a) the trustees or managers received, before the commencement date, in accordance with any provisions of Article 57 of the 1995 Order (valuation and certification of assets and liabilities) and the 1996 Regulations, or receive—
      - (i) on or after the commencement date, and
      - (ii) within one year of its effective date,in accordance with any such provisions which continue in operation under Part 2 of this Schedule, an actuarial valuation by reference to an effective date on or after 21st September 2002, and
    - (b) where neither sub-paragraph (5) nor sub-paragraph (7) applies.
  - (3) Where this sub-paragraph applies, the trustees or managers must obtain the first actuarial valuation under the Order by reference to an effective date which is—
    - (a) no earlier than 22nd September 2005, and

---

(1) S.R. 1996 No. 570; relevant amending regulations are S.R. 1997 Nos. 160 and 544

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(b) not more than three years after the effective date of the last valuation they received under the 1995 Order.

(4) Subject to sub-paragraph (8), sub-paragraph (5) applies where—

(a) immediately before the commencement date, the trustees or managers were required under Article 57(2)(a) of the 1995 Order to obtain an actuarial valuation by virtue of a certificate in the terms set out in that provision, or

(b) on or after the commencement date, the trustees or managers receive a certificate in the terms set out in Article 57(2)(a) of the 1995 Order in consequence of the requirements saved by paragraph 15 of this Schedule,

and the trustees or managers have determined before that date, or determine subsequently, that the valuation should be obtained by reference to an effective date which is no earlier than 22nd September 2005 and not more than three years after the effective date of the last valuation they received under the 1995 Order.

(5) Where this sub-paragraph applies, the trustees or managers must obtain the first valuation under the Order by reference to the effective date they have determined.

(6) Subject to sub-paragraph (8), sub-paragraph (7) applies where—

(a) immediately before the commencement date, the trustees or managers were required under Article 57(2)(b) of the 1995 Order to obtain an actuarial valuation by virtue of the occurrence of an event of the kind described in regulation 13 of the 1996 Regulations (Article 75 debts in multi-employer schemes), and

(b) they have determined before that date, or determine subsequently, that the valuation should be obtained by reference to an effective date which is no earlier than 22nd September 2005 and not more than three years after the effective date of the last valuation they received under the 1995 Order.

(7) Where this sub-paragraph applies, the trustees or managers must obtain the first valuation under the Order by reference to the effective date they have determined.

(8) In a case where, but for this provision, sub-paragraph (5) would apply, by virtue of the receipt by the trustees or managers of a certificate in the terms set out in Article 57(2)(a) of the 1995 Order, and sub-paragraph (7) would also apply, by virtue of the occurrence of an event of the kind described in regulation 13 of the 1996 Regulations, sub-paragraph (5) applies only if the certificate was received before the event occurred and sub-paragraph (7) applies only if the event occurred before the certificate was received.

4. The trustees or managers must ensure that the first valuation under the Order is received by them—

(a) where paragraph 3(1) applies, or where paragraph 3(3) applies and the trustees or managers obtained that valuation by reference to an effective date which is after 29th December 2005, within 15 months after its effective date;

(b) where paragraph 3(3) applies and the trustees or managers obtained that valuation by reference to an effective date between 22nd September and 29th December 2005, within 18 months after its effective date;

(c) where paragraph 3(5) applies, within 18 months after the date on which the certificate referred to in paragraph 3(4) is signed, and

(d) where paragraph 3(7) applies, within 18 months after the date on which the event referred to in paragraph 3(6) occurred.

5. Article 206 (schedule of contributions) shall apply to the scheme as if it included a requirement for the trustees or managers of the scheme to prepare a schedule of contributions (“the first schedule

of contributions under the Order”) within the same period as that within which they are required by paragraph 4 of this Schedule to ensure that they receive the first valuation under the Order.

6. In the circumstances described in paragraph 4(b), (c), and (d), regulation 6(2) (first statement of funding principles) applies to the scheme, and regulations 8(1)(a) (recovery plan) and 13 (period for obtaining employer’s agreement) apply in relation to the first valuation under the Order, as if the period there referred to were the same period as that within which the trustees or managers are required by paragraph 4 to ensure that they receive the first valuation under the Order.

7. References in Articles 203 to 210 to actuarial valuations or schedules of contributions shall be taken to exclude any such valuation or schedule of contributions under the 1995 Order as in force before the commencement date or as continued in force by paragraphs 9 to 16.

## PART 2

### Savings

8. Paragraphs 9 to 19 apply to a scheme which—

- (a) is subject to Article 56 of the 1995 Order immediately before the commencement date, and
- (b) becomes subject to Part IV of the Order on that date.

9. Articles 56 and 58 to 60 of the 1995 Order and regulations 15 to 17 and 19 to 27 of, and Schedules 2 and 4 to, the 1996 Regulations continue to apply in relation to the scheme from the commencement date until the date on which the first schedule of contributions under the Order comes into force.

10. Where—

- (a) immediately before the commencement date, the trustees or managers of the scheme were required under Article 57(1)(a) of the 1995 Order and regulation 10 of the 1996 Regulations (time limits for minimum funding valuations) to obtain an actuarial valuation within a period ending on or after the commencement date, and
- (b) they have determined before that date, or determine subsequently, that the valuation should be obtained by reference to an effective date before 22nd September 2005,

those provisions shall apply to the scheme on and after the commencement date in respect of that valuation.

11. Where—

- (a) immediately before the commencement date, the trustees or managers of the scheme were required under Article 57(2)(a) of the 1995 Order to obtain an actuarial valuation within the period specified in Article 57(4)(a) of that Order, and
- (b) they have determined before that date, or determine subsequently, that the valuation should be obtained by reference to an effective date before 22nd September 2005,

those provisions shall apply to the scheme on and after the commencement date in respect of that valuation.

12. Where—

- (a) immediately before the commencement date, the trustees or managers of the scheme were required under Article 57(2)(b) of the 1995 Order to obtain an actuarial valuation by virtue of the occurrence of an event of the kind described in regulation 13 of the 1996 Regulations, and
- (b) they have determined before that date, or determine subsequently, that the valuation should be obtained by reference to an effective date before 22nd September 2005,

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

those provisions shall apply to the scheme on and after the commencement date in respect of that valuation, subject to the modification that the valuation must be obtained within the period of six months beginning with the date on which the relevant event occurred.

13. Where—

- (a) immediately before the commencement date, the trustees or managers of the scheme were required under Article 41(1)(a) and (2)(c) of the 1995 Order and regulation 30 of the 1996 Regulations (ongoing actuarial valuations and statements) to obtain an actuarial valuation within a period ending on or after the commencement date, and an accompanying statement in the form set out in Schedule 6 to those Regulations, and
- (b) they have determined before that date, or determine subsequently, that the valuation should be obtained by reference to an effective date before 22nd September 2005,

those provisions shall apply to the scheme on and after the commencement date in respect of that valuation and statement.

14. Where a requirement to obtain a valuation is preserved by any of paragraphs 10 to 13, Article 57(5) to (7) of the 1995 Order, regulations 3 to 9 of the 1996 Regulations and (except in the case to which paragraph 13 applies) regulation 14 of, and Schedule 1 to, those Regulations shall apply in respect of that valuation.

15. Where, immediately before the commencement date, the trustees or managers of the scheme were required under Article 57(1)(b) of the 1995 Order and regulation 18 of the 1996 Regulations (occasional and periodic certification of adequacy of contributions) to obtain annual certificates as to the adequacy of contributions payable towards the scheme, those provisions, Article 57(5) to (7) of that Order and Schedule 3 to those Regulations shall apply to the scheme until the effective date of the first valuation under the Order relating to the scheme.

16. Article 61 of the 1995 Order (supplementary), regulations 2 (interpretation) and 29 of, and Schedule 5 to, the 1996 Regulations (modifications) shall apply, so far as material, on and after the commencement date in relation to the provisions of that Order and those Regulations saved by paragraphs 9 to 15.

17. Where any provision of the 1995 Order or the 1996 Regulations applies to the scheme on or after the commencement date by virtue of this Schedule, any reference to that provision in the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(2) (“the Contracting-out Regulations”) shall apply in relation to the scheme on and after the commencement date as if—

- (a) in the case of a provision of the 1995 Order, the repeal of that provision by the Order had not come into operation on that date in accordance with the Pensions (2005 Order) (Commencement No. 7) Order (Northern Ireland) 2005(3) (“the Commencement Order”);
- (b) in the case of a provision in the 1996 Regulations, those Regulations had not been revoked by regulation 21, and
- (c) the amendments to the Contracting-out Regulations in paragraph 1 of Schedule 3 had not come into operation.

18. Where any provision of the 1995 Order or the 1996 Regulations applies to the scheme on or after the commencement date by virtue of this Schedule, regulation 4(2) of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997(4) shall be taken to include a reference to that provision notwithstanding its repeal by the Order

---

(2) S.R. 1996 No. 493; relevant amending regulations are S.R. 1997 No. 160 and S.R. 2002 No. 109

(3) S.R. 2005 No. 543 (C. 37)

(4) S.R. 1997 No. 39, to which there are amendments not relevant to these Regulations

in accordance with the Commencement Order or the revocation of the 1996 Regulations by regulation 21.

19. Any reference to the 1995 Order or the 1996 Regulations in—

- (a) the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996<sup>(5)</sup>;
- (b) the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1996<sup>(6)</sup>, or
- (c) the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005<sup>(7)</sup>,

shall apply to the scheme on and after the commencement date as if, where the reference is to a provision of the 1995 Order, the repeal of that provision by the Order had not come into operation on that date in accordance with the Commencement Order, and, where the reference is to a provision in the 1996 Regulations, those Regulations had not been revoked by regulation 21.

---

(5) S.R. 1996 No. 621, amended by S.R. 1997 No. 160, S.R. 1999 No. 486, S.R. 2000 No. 335, S.R. 2002 No. 64, S.R. 2004 Nos. 60, 187, S.R. 2005 Nos. 20, 168 and 171

(6) S.R. 1996 No. 585; relevant amending regulations are S.R. 1997 Nos. 160 and 544, S.R. 2002 No. 64, S.R. 2004 No. 60 and S.R. 2005 No. 20

(7) S.R. 2005 No. 168, amended by S.R. 2005 No. 387