STATUTORY INSTRUMENTS

1987 No. 412

INCOME TAX

The Pension Scheme Surpluses (Valuation) Regulations 1987

Made - - - -	*13th March 1987*
Laid before the House	*16th March 1987*
Coming into force - -	*6th April 1987*

The Commissioners of Inland Revenue in exercise of the powers conferred on them by Part II of Schedule 12 to the Finance Act 1986(**1**) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pension Scheme Surpluses (Valuation) Regulations 1987 and shall come into force on 6th April 1987.

Interpretation

2. In these Regulations unless the context otherwise requires—

"administrator" means the person or persons having the management of a scheme;

"Board" means Commissioners of Inland Revenue;

"the effective date" in relation to a valuation is the date stated to be the effective date in the signed valuation;

"employer" means employer of members of a scheme;

"indexed-gilt" means a public sector index-linked security;

"insured scheme" means a scheme the contributions to which, apart from voluntary contributions made by members, are invested wholly by way of insurance premiums;

a "Paragraph" (not being a paragraph of a regulation) means a paragraph of Schedule 12;

"retail prices index" means the general index of retail prices (for all items) published by the Department of Employment;

"Schedule 12" means Schedule 12 to the Finance Act 1986;

"scheme" means an exempt approved scheme within the meaning of section 21 of the Finance Act 1970(**2**);

(**1**) 1986 c. 41.
(**2**) 1970 c. 24.

"self-administered scheme" means a scheme some or all of the income and other assets of which are invested otherwise than in insurance policies;

"signed valuation" has the meaning given to it by regulation 9(4).

Schemes to which Part II of Schedule 12 is to apply

3.—(1) With effect from the 6th April 1987 Part II of Schedule 12 shall apply, subject to these Regulations, in relation to schemes prescribed by paragraph (2) of this regulation.

(2) Prescribed schemes to which paragraph (1) of this regulation refers are—

(a) self-administered schemes having not less than 12 members;

(b) insured schemes, the policies in respect of which do not provide that levels of contributions require to take account of surpluses.

Actuarial principles and requirements—introductory

4. Regulations 5 to 8 prescribe principles and requirements (based on actuarial principles and practice) in accordance with which valuations of assets and liabilities of a scheme are to be determined for the purposes of Paragraph 5(2).

Valuation of liabilities

5.—(1) A valuation of liabilities shall be determined in accordance with the principles described as the "Projected Accrued Benefit Method" in the document entitled "Pension Fund Terminology: Specimen Descriptions of Commonly Used Valuation Methods" published in 1986 by the Institute of Actuaries and Faculty of Actuaries.

(2) The actuarial assumptions and requirements for the purposes of the valuation to which paragraph (1) of this regulation refers are as follows—

(a) *the valuation rate of interest:* the rate assumed to be earned on the investment of the future income of the scheme (net of expenditure) shall be 8.5 per cent. per annum;

(b) *the net investment yield (pre-retirement):* the margin between the valuation rate of interest to which sub-paragraph (a) refers and general increases in salaries must be assumed to be 1.5 per cent. per annum;

(c) *the net investment yield (post-retirement):*

(i) the valuation rate of interest shall be reduced to take account of pension increases at the rate provided for under the scheme, provided the net investment yield is not so reduced to an amount less than 3 per cent. per annum;

(ii) where it is provided under the scheme that there shall be regular reviews of pensions currently payable and for pension increases (not exceeding any relevant increase in the retail prices index) to be given at the discretion of the trustees or employer (subject to availability of funds), paragraph (i) shall apply as if references to increases included references to such discretionary increases;

(iii) the pension increases under paragraph (ii) shall be arrived at after taking account of—

(a) the average increase, measured either absolutely or relative to inflation, awarded during the period of 3 years preceding the effective date of the valuation; or

(b) such rate of increase notified to the Board under a declaration of intent made jointly by the administrator of the scheme and the employer to pay increases (subject to availability of funds), provided also that the extent of the increase included in the valuation (either by reference to a rate of increase or by a margin in the rate of interest) is disclosed to scheme members;

(iv) where, under the scheme, the rate of pensions increase is effectively linked to increases in the retail prices index, the net investment yield shall be 2 per cent. per annum except where the obligation to make an increase is (under the scheme) subject to a stated (or overriding) maximum when an appropriate higher net yield must be used;

(v) no reduction shall be made in the valuation rate of interest unless the requirements of this regulation are fulfilled.

Valuation of liabilities—allowances

6.—(1) In calculating liabilities of a scheme an appropriate allowance shall be made for each of the factors described in paragraphs (2) to (4) of this regulation, subject to those provisions and to paragraphs (5) and (6).

(2) *Pensioners mortality:* unless based upon experience of the operation of the scheme or other like schemes where mortality is not expected to be different, the mortality assumptions to be used for the purposes of the valuation, are those in the PA (90) Mortality Table, published in 1979 by the Institute of Actuaries and the Faculty of Actuaries, rated down by one year.

(3) *Salary scales:* any assumption in respect of career escalation in respect of salaries shall be based, where there is such a scale, upon a specifically constructed scale, but, where there is no such scale, an amount not exceeding 1 per cent. shall instead be deducted from the net investment yield.

(4) *Expenses:* where the cost of administration of a scheme is borne by the scheme under the terms of the trust deed provision shall be made for future costs by taking account of the average of such costs incurred over the three years preceding the effective date of the valuation, and whether or not contributions are being paid to the scheme.

(5) *Other factors:* assumptions may be made, where appropriate, in respect of staff turnover and other factors relating to the particular circumstances of a scheme.

(6) Changes in actuarial assumptions from those used in the previous valuation may be made where they are justified and any such change shall be notified in writing to the Board at or before the time when the valuation is produced or the certificate is given under Paragraph 5.

Valuation of assets

7.—(1) For the purposes of a valuation of assets the following requirements shall be fulfilled—

(a) future income of the scheme shall be discounted at a rate of 8.5 per cent. per annum;

(b) scheme income from indexed-gilts shall be assumed to increase at the rate of 5.3 per cent. per annum;

(c) income from variable interest investments (not being indexed-gilts) shall be assumed to increase at a rate of 3.5 per cent. per annum.

(a) (2) (a) Subject to sub-paragraph (b), instead of a valuation of the actual assets of a scheme the valuation may be made on the assumption that the scheme assets comprised an appropriate standardised portfolio of the market value of the actual assets at the effective valuation date, and

(b) any change in the valuation methods to which sub-paragraph (a) refers and any change in the assumed composition of the said appropriate standardised portfolio from whatever was, in either case, assumed for the previous valuation, may be made where it is justified, and any such change shall be notified in writing to the Board at or before the time when the valuation is produced or the certificate is given under Paragraph 5.

Valuation of insurance policies of a scheme

8.—(1) Where the assets of a scheme comprise or include contracts of insurance of the kind described in paragraph (2) of this regulation that paragraph shall apply for the purposes of the valuation of those contracts.

(a) (2) (a) *Pension fund management contracts:* the requirements of regulation 7 shall be applicable;

(b) *Deposit administration contracts:* the value of the contract shall be taken to be the value of the fund accumulated under the contract;

(c) (i) *Deferred annuity contracts (with profits):* the value of the contract shall be ascertained by estimating future proceeds (assuming future bonus levels consistent with an annual rate of interest of 8.5 per cent.) and discounting them at 8.5 per cent. per annum,

(ii) *Cash accumulation contracts (with profits):* paragraph (i) shall apply;

(d) *Non-profit contracts:* the proceeds shall be discounted at 8.5 per cent. per annum.

Periodic actuarial valuations

9.—(1) This regulation prescribes the circumstances and the time to which Paragraph 5(1) refers (for the purposes of producing a valuation or giving a certificate to the Board).

(a) (2) (a) Subject to the provisions of this regulation, whenever a valuation of assets and liabilities of the scheme is made the administrator shall in those circumstances, produce a written valuation ("signed valuation") or give a certificate to the Board which fulfils the requirements of these Regulations, and

(b) a signed valuation or a certificate shall in any event be produced or given to the Board by the administrator having an effective date not later than 3 years and 6 months after—

(i) the effective date of the previous valuation or certificate, or

(ii) (where there is no previous valuation or certificate) the date when the scheme was established.

(3) Paragraph (2)(b)(i) of this regulation shall apply to a scheme which is a "public service scheme" which fulfils the conditions of section 66(1) of the Social Security Pensions Act 1975(**3**) with the substitution for "3 years and 6 months" of "5 years".

(4) A "signed valuation" to which paragraph (2) refers shall be produced to the Board, dated and signed by—

(a) a Fellow of the Institute of Actuaries; or

(b) a Fellow of the Faculty of Actuaries; or

(c) a person with other actuarial qualifications who has been approved as being a proper person to act for the purposes of regulation 8 of the Occupational Pension Schemes (Disclosure of Information) Regulations 1986(**4**) in connection with the scheme.

(5) A date to which sub-paragraph (b)(i) or (ii) of paragraph (2) refers may be a date (where appropriate) before these Regulations come into force.

Certificate, valuation—other prescribed requirements

10.—(1) Subject to regulation 11, for the purposes of Paragraph 6(1) the prescribed period is six months after the date of signing of the valuation or certificate.

(**3**) 1975 c. 60; s. 66 was amended by section 4 of the Social Security Act 1980 (c. 30).
(**4**) S.I.1986/1046; to which there are amendments not relevant to these Regulations.

(2) For the purposes of Paragraph 6(2)(a) the prescribed periods shall be—

(a) 6 months where Paragraph 6(3)(a) applies;

(b) 6 months where the proposals (to which Paragraph 6(2) refers) are to enhance the accrued benefits under the scheme and Paragraph 6(3)(d) or (e) applies;

(c) 5 years or such lesser period as may be agreed between the administrator and the Board where Paragraph 6(3)(b) or (c) applies;

(d) in other cases whatever period is agreed between the administrator and the Board;

(e) unless it is otherwise agreed the periods referred to above shall begin 30 days after the date on which the Board notify to the administrator in writing their approval of proposals made under Paragraph 6(1), or, where there is an appeal, the date of the final determination of the appeal.

(3) In a case to which Paragraph 6(2)(b) applies, where the proposals for reducing or eliminating an excess include the provision for any payment to an employer, the proposals may not have the effect of reducing the assets of the scheme to an amount less than is equal to 5 per cent. in excess of the liabilities.

(4) For the purposes of Paragraphs 5(3), 6(1), 6(2)(a), 8(3)(a) and 8(3)(b) "the prescribed maximum" is 5 per cent.

Reduction and elimination of excess—special provisions

11.—(1) This regulation prescribes for the purposes of Paragraph 6(4) modifications subject to which the provisions of Paragraph 6(3) are to apply for the reduction or elimination of the excess (within the meaning of that Paragraph).

(a) (2) (a) In the case of a scheme which has been in existence for less than 15 years the excess may be eliminated within a period of five years or by the end of 15 years from the commencement of the scheme whichever is the longer;

(b) sub-paragraph (a) does not apply to a scheme established to provide benefits for some or all members of an existing or former scheme—

(i) of the employer, or

(ii) to which the employer concerned had made contributions.

(3) Where a scheme has ceased to admit new members the excess may be reduced or eliminated over the period terminating with the end of the service of the last member.

(4) Where a scheme, being the only scheme of an employer, has less than 30 members the excess may be reduced or eliminated over the period terminating with the end of the service of the last member.

(5) Where in respect of a scheme to which this regulation applies the excess is being reduced or eliminated over a period in excess of 5 years, no payment under Paragraph 6(3)(a) shall be made to the employer unless a suspension of contributions would not reduce the excess to 5 per cent. or less of the value of the liabilities of the scheme.

Self-administered schemes and insured schemes—special provisions

12.—(1) Where—

(a) a self-administered scheme or an insured scheme does not fulfil the conditions of regulation 3, and

(b) the administrator intends to make a payment to an employer out of funds which, if made, would be a payment to which Paragraph 1(1) applies, unless such a scheme is being wound up and not replaced, Paragraph 5(2) shall apply for the purposes of a valuation of assets and liabilities.

(2) Where a valuation to which paragraph (1) of this regulation refers shows that the value of the assets exceeds the value of the liabilities these Regulations and Paragraphs 7, 8(1) and (2) and 11 shall apply to the scheme.

Prescribed periods for the purposes of Schedule 12

13. The following table sets out in the second column prescribed periods for the purposes of the Paragraphs mentioned in the first column—

Table

Paragraph	Period
5(1)	within 3 months after the date when the valuation or certificate is signed
6(5)	within 6 months after the receipt of the proposals submitted to the Board
7(1)	within 30 days
7(2)	within 60 days
7(3)	within 30 days
8(1)	within 6 months after the receipt by the Board of— (a) particulars under Paragraph 7(1), (b) written valuation under Paragraph 7(2), or (c) particulars under Paragraph 7(3)
8(3)	within 3 months after the date of the notice to which Paragraph 8(1) refers or, where there is an appeal, 30 days after the final determination of the appeal
8(4)	within 6 months after the receipt of the proposals submitted to the Board.

Appeals procedure and consequences of appeal

14.—(1) An appeal may be brought by the administrator against a notice under Paragraph 8(1)(b) by a notice in writing given to the Board within 30 days after the date of their notice.

(2) During the period beginning with the receipt by the Board of the notice of appeal to which paragraph (1) of this regulation refers and ending with the determination of the appeal the conditions of Paragraph 8(3) and (4) shall not require to be fulfilled.

Certificate—prescribed form

15.—(1) The certificate to which Paragraph 5(3) refers shall be in the form prescribed in the Schedule to these Regulations.

(2) The values of the assets and liabilities which the certificate states (for the purposes of Paragraph 5(3)) shall be determined in accordance with the principles and requirements prescribed by these Regulations for valuations.

(3) The certificate shall be signed by a person who is qualified under regulation 9(4) to sign a valuation.

B. Pollard
A. M. W. Battishill
Two of the Commissioners of Inland Revenue

13th March 1987

SCHEDULE

Regulation 15

CERTIFICATE

This certificate is given to the Commissioners of Inland Revenue for the purposes of paragraph 5(3) of Schedule 12 to the Finance Act 1986.

Name/description of scheme ....
Inland Revenue Reference No ....

A. I hereby certify that–

(1) in my opinion as at .... (date)
(*delete as necessary) the value of the assets of the scheme exceeded/did not exceed* 105 per cent. of the value of the liabilities of the scheme;

(2) the assets and liabilities to which paragraph (1) refers have been determined in accordance with principles and requirements prescribed by the Pension Scheme Surpluses (Valuation) Regulations 1987.

B. (To be completed if the value of the assets in paragraph A(1) above exceeds 105 per cent.)

	£	£
Actuarial Value of Assets		....
Actuarial Value of Liabilities	....	
5 per cent of value of liabilities	....	________________
Surplus		================

Signature ....
Name ....
Address ....
....
....

Date ....
Qualification ....
Name of employer (if applicable) ....
....

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Commissioners of Inland Revenue under the provisions of Part II of Schedule 12 to the Finance Act 1986 ("Schedule 12"). They prescribe the pension schemes to which those provisions are to apply and prescribe principles and requirements for valuation of pension scheme excess assets and for the reduction or elimination of such excess.

Regulation 1 provides for the title to and commencement of the Regulations.

Regulation 2 provides definitions.

Regulation 3 prescribes the schemes to which the provisions of Schedule 12 are to apply.

Regulations 4—8 prescribe principles and requirements (based on actuarial principles and practice) for valuation of assets and liabilities of a scheme.

Regulation 9 provides for periodic valuations and prescribes the qualifications for those making valuations.

Regulation 10 prescribes the requirements and, in particular, periods of time for the purposes of various actions to be taken under Schedule 12.

Regulation 11 makes provision for reduction or elimination of excess in special cases.

Regulation 12 makes provision for self-administered schemes and insured schemes.

Regulation 13 prescribes further periods of time for actions under Schedule 12.

Regulation 14 provides for appeals and suspends the operation of the provisions of Paragraph 8(3) and (4) until after appeals are determined.

Regulation 15 provides requirements for the administrator's certificate under Paragraph 5 of Schedule 12 and for the prescribed form in the Schedule.

Note: the publications to which regulations 5(1) and 6(2) refer may be obtained from:—
Institute of Actuaries

Staple Inn Hall

High Holborn

London WC1B7QJ
Faculty of Actuaries

23 St Andrew's Square

Edinburgh EH2 1AQ