STATUTORY INSTRUMENTS

1996 No. 1536

The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996

Valuation of assets and liabilities

Determination, valuation and verification of assets and liabilities: general

3.—(1) The liabilities and assets of a scheme which are to be taken into account for the purposes of sections 56 to 61 (minimum funding etc.) and their amount and value shall be determined, calculated and verified by the actuary—

(a) in the manner specified in regulations 4 to 9;

(b) in the case of any valuation for the purpose of forming an opinion as to whether the minimum funding requirement is met on a relevant date, on the general assumptions specified in paragraphs (2) and (3); and

(c) in accordance with the guidance given in GN 27;

and where in these Regulations there is a reference to the value of any asset or the amount of any liability being calculated or verified in accordance with the opinion of the actuary or as he thinks appropriate, he shall comply with any relevant provisions in that guidance in making that calculation or verification.

(2) The assumptions mentioned in paragraph (1)(b) are—

(a) that no contributions will become due to the scheme from the employer or the members on or after the relevant date;

(b) that all pensionable service under the scheme ceased immediately before that date;

(c) that liabilities in respect of members will be so secured that—

(i) the benefits of pensioner members will be equal in value to those under the scheme; and

(ii) the benefits of active members and deferred members will be reasonably likely to be equal in value to those payable in respect of their accrued rights under the scheme; and

(d) that liabilities in respect of members will include such amounts in respect of the expenses involved in meeting them as are indicated by the guidance given in GN 27.

(3) Where arrangements are being made by the scheme for the transfer to or from it of accrued rights, until such time as the trustees or managers of the scheme to which the transfer is being made ("the receiving scheme") have received assets of the full amount agreed by them as consideration for the transfer, it shall be assumed—

(a) that the rights have not been transferred; and

(b) that any assets transferred in respect of the transfer of those rights—

(i) are assets of the scheme making the transfer and not of the receiving scheme, and

(ii) have such a value as is determined in accordance with the guidance given in GN 27.

Determination and valuation of assets

4.—(1) Subject to the following provisions of this regulation and to regulations 3(3), 5, 6 and 9, in determining the value of the assets of a scheme for the purpose of forming an opinion as to whether the minimum funding requirement is met on a relevant date, the actuary shall adopt the value given to the assets of the scheme in the relevant accounts (less the amount of the external liabilities), and that value shall be taken to be the value of those assets on the relevant date.

(2) In this regulation "external liabilities", in relation to a scheme, means such liabilities of the scheme (other than liabilities within regulation 7(1)(a) or (b)) as are shown in the net assets statement in the relevant accounts, and their amount shall be taken to be the amount shown in that statement in respect of them.

(3) In this regulation "relevant accounts", in relation to a scheme, means audited accounts for the scheme—

(a) which comply with the requirements imposed under section 41; and

(b) which are prepared in respect of a period ending with the relevant date or, if none are so prepared—

(i) are the latest such accounts which are available at the relevant date, or

(ii) if in the opinion of the actuary it is practicable for them to be used, the latest such accounts which are available on the date of signing of the valuation.

(4) If—

(a) the actuary has been given notice that the value of any asset or the amount of external liabilities at the relevant date was substantially different from the value or amount determined in accordance with paragraph (1) or, as the case may be, paragraph (2); or

(b) the relevant accounts are such accounts as are mentioned in paragraph (3)(b)(i) or (ii) and in the opinion of the actuary the valuation of any asset or external liabilities in the accounts was substantially out of date by the relevant date,

then he shall make such adjustment to the value of that asset or, as the case may be, the amount of that external liability as appears to him appropriate to secure that the value or the amount he adopts is the market value of the asset or, as the case may be, the current amount of the liability.

(5) For the purposes of paragraph (4)—

(a) "market value" means the price which the asset might reasonably be expected to fetch on a sale in the open market, on the assumption that there were available to any prospective purchaser of the asset all the information which a prudent purchaser of it might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length; and

(b) the question whether the value of any asset or the amount of any liability is substantially different or out of date shall be determined by comparing the amount of adjustment likely to be required with the value of the asset or, as the case may be, the amount of the liability, that will otherwise be adopted.

(6) No adjustment may be made under paragraph (4) of the value given to any real property or any interest in real property in the relevant accounts, unless the adjustment reflects a more recent valuation given by a chartered surveyor in accordance with any relevant Practice Statements and Guidance Notes issued by the Royal Institution of Chartered Surveyors(**1**) and current on the date of signing of the valuation.

(7) For the purposes of paragraph (3), accounts are to be taken to comply with the requirements imposed under section 41—

(**1**) Copies are available from the Royal Institution of Chartered Surveyors, 12 Great George Street, Parliament Square, London SW1P 3AD.

(a) in a case where they relate to a shorter period than that as to which accounts are required to be obtained under that section, if they comply with those requirements apart from any relating to the length of the period covered; and

(b) in a case where they relate to a period ending before those requirements applied, if they comply with any requirements as to the form and content of accounts imposed under section 114 of the Pension Schemes Act 1993(**2**).

Rights under insurance contracts

5.—(1) Nothing in regulation 4 applies for the purposes of determining the value of any rights under a contract of insurance and that value shall be determined as follows.

(2) Subject to paragraphs (3) and (4), the value of a contract of insurance is to be taken to be the amount (if any) payable on its surrender.

(3) Where, if a contract of insurance were surrendered to the insurer on the relevant date, the amount of the alternative liabilities which the insurer would secure in return for the surrender would be substantially greater than the amount payable on its surrender, then its value is to be taken to be that greater amount.

(4) Where it appears to the actuary that the circumstances are such that, in accordance with the guidance given in GN 27, it is appropriate for him to do so, then he may—

(a) disregard the value of the rights under a contract of insurance and the amount of the liabilities secured by the contract; or

(b) adopt a value for those rights which is equal to the amount of those liabilities.

Excluded assets

6.—(1) There shall be excluded from the value of the scheme assets—

(a) any resources invested (or treated as invested by or under section 40) in contravention of section 40(1) (employer-related investments);

(b) any amounts treated as a debt due to the trustees or managers under section 59(2), 60(5) or 75(1) which are unlikely to be recovered without disproportionate cost or within a reasonable time;

(c) any increase in scheme assets attributable to an increase in the value of the scheme's assets being secured by a method specified in Schedule 4 following a serious shortfall valuation.

(2) At any time after the transitional period, there shall also be excluded the excess of the value mentioned in paragraph (3) over the amount mentioned in paragraph (4).

(3) The value referred to in paragraph (2) is the aggregate value of employer-related investments, as defined in subsection (2) of section 40, the holding of which—

(a) contravenes subsection (1) of that section; or

(b) would do so apart from any provision enabling them to be held only until a specified time or by virtue of their having fallen within regulation 5(2)(d) of the Occupational Pension Schemes (Investment of Scheme's Resources) Regulations 1992(**3**).

(4) The amount referred to in paragraph (2) is 5 per cent. of the aggregate value of the scheme's assets (excluding anything falling within paragraph (1) or (3)(b)).

(**2**) 1993 c. 48. Section 114 is repealed by Schedule 3 to the Pensions Act 1995 (c. 26).
(**3**) S.I.1992/246.

Determination and valuation of liabilities

7.—(1) Subject to the provisions of these Regulations, the liabilities of a scheme which must be taken into account for the purpose of forming an opinion as to whether the minimum funding requirement is met on a relevant date are—

(a) the liabilities in respect of pensions and benefits mentioned in section 73(3) (which lists the liabilities of schemes in the order in which they are to be met on a winding up); and

(b) in the case of a scheme with members whose employment is contracted-out by reference to the scheme, liability in respect of contributions equivalent premiums for all such members in respect of whom an election to pay such premiums could be made (on the assumption that the scheme were wound up on the relevant date).

(2) The amount of the liabilities of the scheme in respect of pensions and benefits shall be calculated on the assumption that it is equal to the amount required to be invested in investments of an appropriate description in order to meet those liabilities, and that calculation shall be made by reference to the yield on such investments (as indicated in such indices as are specified in the guidance given in GN 27).

(3) For the purpose of making that calculation, it shall be assumed, subject to paragraphs (4) and (5), that all liabilities in respect of the pensions payable to or in respect of members who are pensioner members on the relevant date are met from investments in gilt-edged securities.

(4) If the amount of the liabilities in respect of pensions payable to or in respect of members, who are pensioner members on the relevant date, in the period of 12 years beginning with that date ("12 year liabilities") exceeds £100 million, then it shall be assumed—

(a) that those 12 year liabilities are met from investments in gilt-edged securities; and

(b) except in the case of a scheme with a gilts-matching policy for liabilities in respect of pensioner members, that all the liabilities of the scheme in respect of pensions payable to such members after the expiry of the period of 12 years ("long term liabilities") are met from investments in equities.

(5) Where paragraph (4) does not apply, it shall be assumed—

(a) that the 12 year liabilities, and so much of the long term liabilities as when aggregated with the 12 year liabilities equals at least £100 million, are met from investments in gilt-edged securities; and

(b) except in the case of a scheme with a gilts-matching policy for liabilities in respect of pensioner members, that the remainder of the long term liabilities are met from investments in equities;

and, for the purposes of sub-paragraph (a), long term liabilities shall only be included if they are due in the shortest possible period of whole years, beginning 12 years after the relevant date, which requires to be taken into account for that paragraph to be satisfied.

(6) For the purposes of paragraphs (4) and (5), in calculating the amount of liabilities for the purpose of determining whether the amount exceeds £100 million, the liabilities shall be calculated on the basis that they are met from investments in gilt-edged securities.

(7) For the purpose of calculating the liabilities in respect of the members who are not pensioner members on the relevant date, it shall be assumed, subject to paragraph (8), that they are met—

(a) to the extent that they relate to any time before the switch-over period, from investments in equities;

(b) to the extent that they relate to the switch-over period, from investments in both gilt-edged securities and equities, in such respective proportions as are indicated by the guidance in GN 27; and

(c) to the extent that they relate to any time after the switch-over period, from investments in gilt-edged securities.

(8) If the scheme has a gilts-matching policy for liabilities in respect of deferred members, it shall be assumed that liabilities in respect of members who are deferred members on the relevant date are met from investments in gilt-edged securities.

(9) For the purposes of this regulation, a scheme is only to be taken to have a gilts-matching policy for liabilities in respect of pensioner members or deferred members at any time if the last statement in respect of the scheme under section 35 before that time states that the trustees' policy is to meet all liabilities in respect of pensioner members or, as the case may be, deferred members from investments in gilt-edged securities.

(10) In this regulation "the switch-over period", in relation to a member, means the period of 10 years ending with the age at which the member will first become entitled under the provisions of the scheme to receive a full pension on retirement of an amount determined without a reduction to take account of its payment before a later age (but disregarding any entitlement to pension on retirement in the event of illness, incapacity or redundancy).

Further provisions as to valuation: methodology, assumptions, etc.

8.—(1) The assets and liabilities of the scheme shall be valued by reference to the same date.

(2) In calculating the amount of any liability by reference to any date for the purpose of forming an opinion as to whether the minimum funding requirement is met on a relevant date, the actuary shall, in such manner as is indicated in the guidance given in GN 27—

(a) in the case of any scheme where—

(i) in accordance with regulation 7(4) and (5), any liabilities in respect of the pensions payable to or in respect of members who are pensioner members on that date may be assumed to be met from investments in equities, and

(ii) in accordance with that guidance it is appropriate to do so,

apply such demographic assumptions as are specified by that guidance for the scheme by reference to the members of the scheme; and

(b) in the case of any other scheme, apply such demographic assumptions as are specified for the scheme in question by reference to such tables as are specified by that guidance for the scheme.

Valuations by reference to future dates and periods

9.—(1) In calculating the value of any asset or the amount of any liability as at any future time, in order to form an opinion as to the adequacy of rates of contributions to a scheme for the purpose of securing that the minimum funding requirement—

(a) will continue to be met by the scheme throughout any period; or

(b) will be met by the scheme by the end of any period,

the actuary must take into account (in addition to the matters mentioned in regulations 3 to 8 so far as they are relevant) such assumptions as are specified by the guidance given in GN 27 as appropriate for the purposes of such a calculation.

(2) In forming an opinion as to the adequacy of rates of contributions shown in a schedule of contributions for a scheme for the purpose of securing that the minimum funding requirement will continue to be met throughout or, as the case may be, will be met by the end of the schedule period, the actuary may make such adjustments to the value of the assets of the scheme and the amount of the liabilities of the scheme, as shown in the last minimum funding valuation for the scheme, as are

in his opinion, in accordance with the guidance given in GN 27, appropriate to reflect changes in the assets and liabilities of the scheme after the relevant date of that valuation.