
EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations concern the application of the statutory priority order set out in section 73 of the Pensions Act 1995 (“the Act”); the ways in which the trustees can be treated as having discharged their liabilities in respect of scheme members under section 74 of the Act and the cases in which the statutory power to defer winding up under section 38 of the Act is not to apply. The Occupational Pensions Board have agreed that the regulations, to the extent that they are made under the Pensions Schemes Act 1993, need not be referred to them and the Secretary of State has consulted such persons as he considers appropriate.

Regulation 1 provides for citation, commencement and interpretation of the regulations.

Regulation 2 makes provision as to when the winding up of a scheme starts for the purpose of the regulations.

Regulation 3 makes provision for modifications to the statutory priority order.

Regulation 4 makes provision for the calculation of the preferential liabilities.

Regulation 5 makes provision for trust scheme rules to be modified to fix the liabilities of the scheme at a date earlier than the commencement of winding up.

Regulation 6 sets out the arrangements which have to be followed by the trustees in order for them to be treated as having discharged the scheme’s liabilities in respect of scheme members.

Regulation 7 sets out the requirements which have to be met by the notices of discharge issued under regulation 6.

Regulation 8 sets out the requirements which apply to methods of discharge under section 74(3) of the Act.

Regulation 9 provides that the requirements under section 32A of the Pensions Schemes Act 1993 are unaffected by regulations 6 to 8.

Regulation 10 disapplies the statutory power to defer winding up under section 38 of the Act in certain cases.

Regulation 11 sets out the records required to be kept and the information to be disclosed to members concerning determinations about deferring winding up or the timing of the crystallisation of preferential liabilities.

Regulation 12 makes provision for where the minimum funding requirement applies separately to different parts of a scheme.

Regulation 13 makes provision for modifications of the amounts of assets and liabilities to be taken into account where some of the benefits provided by the scheme are money purchase benefits or calculated on a money purchase basis.

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, including regulations has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Adelphi, 1-11 John Adam Street, London WC2N 6HT.