
STATUTORY INSTRUMENTS

1996 No. 3126

**The Occupational Pension Schemes
(Winding Up) Regulations 1996**

Preferential liabilities on winding up

Modifications of s. 73(3)

3.—(1) Section 73(3) applies—

- (a) in all cases subject to the modifications mentioned in paragraphs (3) and (4);
- (b) in the case of a scheme which begins to be wound up before the expiry of the transitional period, subject to the modifications mentioned in paragraphs (5) and (6); and
- (c) in the case of a scheme which begins to be wound up after the expiry of that period, subject to the modification mentioned in paragraph (7).

(2) For the purposes of paragraph (1), the transitional period is—

- (a) the period of 10 years beginning with 6th April 1997; or
- (b) in the case of a scheme—
 - (i) to which regulation 16(2) of the MFR Regulations applies (extension of period covered by schedule of contributions where minimum funding valuation shows minimum funding requirement not met), and
 - (ii) the schedule period in relation to which has been extended under regulation 25 or 27 of those Regulations (extension by the Authority),

that extended schedule period;

and in this paragraph “the schedule period” has the same meaning as in the MFR Regulations.

(3) After paragraph (a) of section 73(3) there shall be inserted—

“(aa) where—

- (i) the trustees or managers of the scheme are entitled to benefits under a contract of insurance which was entered into before 6th April 1997 with a view to securing the whole or part of the scheme’s liability for any pension or other benefit payable in respect of one particular person whose entitlement to payment of a pension or other benefit has arisen and for any benefit which will be payable in respect of that person on his death, and
- (ii) either that contract may not be surrendered or the amount payable on surrender does not exceed the liability secured by the contract (but excluding liability for increases to pensions),

the liability so secured”.

(4) In section 73(3)(b)—

- (a) at the beginning there shall be inserted the words “in a case not falling within paragraph (aa),”; and
- (b) for the words “to dependants” there shall be substituted the words “in respect”.

(5) For paragraphs (c) and (d) of section 73(3) there shall be substituted—

“(c) any liability—

(i) for equivalent pension benefits (within the meaning of section 57(1) of the National Insurance Act 1965), guaranteed minimum pensions, protected rights or section 9(2B) rights (within the meaning of regulation 1(2) of the Contracting-out (Transfer and Transfer Payments) Regulations 1996(1)) (but excluding increases to pensions), or

(ii) in respect of members with less than two years pensionable service who are not entitled to accrued rights under the scheme, for the return of contributions,

(d) any liability for increases to pensions referred to in paragraphs (aa) and (b),

(e) any liability for increases to pensions referred to in paragraph (c),

(f) so far as not included in paragraph (c) or (e), any liability for pensions or other benefits which have accrued to or in respect of any members of the scheme (including increases to pensions).”.

(6) In the words following paragraph (f) of section 73(3) (as inserted by paragraph (5)), for the words “paragraphs (b) to (d)” there shall be substituted the words “paragraphs (aa) to (f)”.

(7) In the words following paragraph (d) of section 73(3) for the words “paragraphs (b) to (d)” there shall be substituted the words “paragraphs (aa) to (d)”.

(8) In the case of any scheme to which section 73(3) applies with the modifications mentioned in paragraphs (5) and (6), regulations 7(3)(b)(iv) and 8(4) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(2) have effect with the insertion after “(c)(i)” of “(e)” and with the substitution for “(d)” of “(f)”.

(1) S.I. 1996/1462.

(2) S.I. 1996/1847.