
STATUTORY INSTRUMENTS

2004 No. 403

The Occupational Pension Schemes (Winding Up and Deficiency on Winding Up etc.) (Amendment) Regulations 2004

Amendment of the Winding Up Regulations

2.—(1) The Winding Up Regulations shall be amended as provided for by the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 4 (calculation of amounts of liabilities), for the words “regulation 4A and” there shall be substituted the words “regulations 4A and 4B and”.

(3) At the end of the heading to regulation 4A (calculation of liabilities where employer not insolvent)(1) there shall be added the words “and where winding up commences before 11th June 2003”.

(4) At the beginning of paragraph (1) of regulation 4A, after the words “In the case of a scheme” there shall be inserted the words “which has begun to wind up before 11th June 2003 and”.

(5) After regulation 4A, there shall be inserted the following regulation—

“Calculation of liabilities where employer not insolvent and where winding up commences on or after 11th June 2003

4B.—(1) This regulation shall apply in the case of a scheme which begins to wind up on or after 11th June 2003 in circumstances where the employer was not insolvent at the time the winding up of the scheme commenced.

(2) In the case of a scheme to which this regulation applies, regulation 4 shall have effect as if—

(a) for the words “paragraph (3)” in paragraph (1)(c), there were substituted the words “paragraphs (2A) and (3)”;

(b) after paragraph (2) there were inserted the following paragraph—

“(2A) For the purpose of calculating the amount of the liabilities for the accrued rights to any pensions or other benefits of members of the scheme (including any increase to a pension) and for any future pensions, or other future benefits, attributable (directly or indirectly) to pension credits (including any increase to a pension) that have arisen on or before the crystallisation date or, as the case may be, the amount of the liabilities for any entitlement of members of the scheme to the payment of any pension or other benefit (including any increase to a pension) that has arisen on or before that date—

(a) it shall be assumed that all such liabilities will be discharged by the purchase of annuities of a kind described in section 74(3)(c); and

(b) paragraph (1)(b) above shall not have effect; and

(c) for paragraph (5) there were substituted the following paragraph—

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“(5) If, when the assets of the scheme are applied in accordance with section 73(2) towards satisfying the liabilities mentioned in section 73(3), those liabilities, as calculated in accordance with the rules of the scheme (without any reduction by reason of them falling within a class of liability which is to be satisfied after another class), cannot in the opinion of the actuary be fully satisfied by applying assets of a value equal to the amount of those liabilities calculated in accordance with paragraph (1), then the amount to be taken as the amount of those liabilities for the purposes of section 73(2) shall be increased accordingly.””

(3) For the purposes of paragraph (1) above, an employer is insolvent if a relevant insolvency event within the meaning given by section 75(4) has occurred in relation to that employer.”.