SCHEDULE

Consequential amendments

PART 1

THE OCCUPATIONAL PENSION SCHEMES (WINDING UP) REGULATIONS 1996

1. In regulation 2 for paragraph (1) substitute—

"(1) The time when a scheme begins to be wound up shall be determined for the purposes of these Regulations in accordance with this regulation—

(a) if in accordance with section 124(3A) to (3E) the scheme began to wind up before 6th April 2005; or

(b) if immediately before that date the scheme was treated by virtue of this regulation as having begun to be wound up for those purposes.

(1A) See section 124(3A) to (3E) for the time when a scheme begins to wind up in any other case.".

2. In regulation 3 [M1] (modifications of s.73(3) etc.)—

(a) in the heading, at the end add " for schemes beginning to be wound up before 6th April 2005 ";

(b) in paragraph (1) after "Section 73(3) applies" insert " if the scheme begins to be wound up before 6th April 2005 ";

(c) in paragraph (1)(b) omit "and before the expiry of the transitional period";

(d) omit paragraphs (1)(c), (2) and (7);

(e) in paragraph (8), as it applies where regulation 3(d) of the Occupational Pension Schemes (Winding Up) (Amendment) Regulations 2004 [M2] (which substitutes a new paragraph (8) in regulation 3) does not apply, omit "and 8(4)"; and

(f) after paragraph (8) add—

"(9) Paragraph (8) does not apply where regulation 7(3)(b)(iv) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 applies with the amendments in regulation 15 of the Occupational Pension Schemes (Winding up etc.) Regulations 2005.".

Marginal Citations

M1 Regulation 3 was amended by S.I. 1999/3198 and 2004/1140.

M2 S.I. 2004/1140.

3. In regulation 5 (modification of schemes to fix time for settling priority of liabilities on winding up), as it applies to schemes beginning to be wound up on or after 6th April 2005—

(a) for "section 73(3)" substitute " section 73(4) "; and

(b) for "section 73(2) and (3)" substitute " section 73(3) and (4) ".

4. In regulation 7 (requirements applicable to notices of discharge under regulation 6) in the definition of "scheme administrator" in paragraph (8), for "section 630(1) of the Income and Corporation Taxes Act 1988" substitute " section 270 of the Finance Act 2004 ".

5. In regulation 11(1)(b) (records and information), as it applies to schemes beginning to be wound up on or after 6th April 2005, for "section 73(3)" substitute " section 73(4) ".

6. For paragraph (1) of regulation 12 [M3] (winding up of sectionalised schemes), as it applies to schemes beginning to be wound up on or after 6th April 2005, substitute—

"(1) If—

(a) a scheme in relation to which there is more than one employer is divided into two or more sections; and

(b) the provisions of the scheme are such that they meet conditions A and B,

sections 73 to 74 apply as if each section of the scheme were a separate scheme.

(1A) Condition A is that contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to the employer, to the section which is appropriate in respect of the employment in question).

(1B) Condition B is that a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section.

(1C) In their application to a scheme—

(a) which has been such a scheme as is mentioned in paragraph (1);

(b) which is divided into two or more sections, some or all of which apply only to members who are not in pensionable service under the section;

(c) the provisions of which have not been amended so as to prevent conditions A and B being met in relation to two or more sections; and

(d) in relation to one or more sections of which those conditions have ceased to be met at any time by reason only of there being no members in pensionable service under the section and no contributions which are to be allocated to it,

sections 73 to 74 apply as if the section in relation to which those conditions have ceased to be met were a separate scheme.

(1D) For the purposes of paragraphs (1) to (1C), any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits are disregarded.

(1E) But if paragraph (1) or (1C) applies and, by virtue of any provisions of the scheme, contributions or transfers of assets to make provision for death benefits are made to a section ("the death benefits section") the assets of which may only be applied for the provision of death benefits, the death benefits section is also to be treated as a separate scheme.

(1F) For the purpose of this regulation, any provisions of a scheme by virtue of which assets attributable to one section may on the winding up of the scheme or a section be used for the purposes of another section are disregarded.".

Marginal Citations

M3 Regulation 12 was amended by S.I. 1997/786.

7. After regulation 12 insert—

"**Schemes with partial government guarantee**

12A.—(1) This regulation applies if a relevant public authority has—

(a) given a guarantee in relation to any part of a scheme, any benefits payable under the scheme or any member of the scheme; or

(b) made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities.

(2) Where this regulation applies, sections 73 to 74 and the provisions of these Regulations (apart from this regulation) apply as if the guaranteed part of the scheme and the other part of the scheme were separate schemes.

(3) In this regulation—

"the guaranteed part of the scheme" means the part of the scheme—

(a) in relation to which the guarantee has been given;

(b) which relates to benefits payable under the scheme in relation to which the guarantee has been given; or

(c) which relates to benefits payable under the scheme in relation to the liabilities for which those other arrangements have been made; and

"relevant public authority" has the meaning given in subsection (4) of section 307 of the Pensions Act 2004 (modification of that Act in relation to certain categories of schemes).

Schemes covering United Kingdom and foreign employment

12B.—(1) —(1) Paragraph (2) applies where a scheme which applies to members in employment in the United Kingdom and members in employment outside the United Kingdom is divided into two or more sections and the provisions of the scheme are such that—

(a) different sections of the scheme apply to members in employment in the United Kingdom and to members in employment outside the United Kingdom ("the United Kingdom section" and "the foreign section");

(b) contributions payable to the scheme in respect of a member are allocated to the section applying to that member's employment;

(c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section; and

(d) the United Kingdom section meets the tax condition (as defined in regulation 2(1) of the Occupational Pension Schemes (Winding up etc.) Regulations 2005) and the foreign section does not do so.

(2) If this paragraph applies sections 73 to 74 and the provisions of these Regulations (apart from this regulation) apply as if each section of the scheme were a separate scheme.

(3) Paragraph (4) applies where—

(a) a scheme applies to members in employment in the United Kingdom and members in employment outside the United Kingdom;

(b) paragraph (2) does not apply to the scheme; and

(c) part of the scheme is registered under section 153 of the Finance Act 2004 (registration of pension schemes) by virtue of that part having been treated as a separate scheme under section 611(3) of the Income and Corporation Taxes Act 1988 that is treated as becoming a registered pension scheme under paragraph 1(1) of Schedule 36 to the Finance Act 2004 by virtue of paragraph 1(2) of that Schedule.

(4) If this paragraph applies, sections 73 to 74 and the provisions of these Regulations (apart from this regulation) apply as if the approved and unapproved parts of the scheme were separate schemes.

(5) In their application to a scheme—

(a) which has been such a scheme as is mentioned in paragraph (1) or (3);

(b) which is divided into two or more sections, some or all of which apply only to members who are not in pensionable service under the section;

(c) the provisions of which have not been amended so as to prevent the conditions in paragraph (1) or, as the case may be, paragraph (3) being met in relation to two or more sections; and

(d) in relation to one or more sections of which those conditions have ceased to be met at any time by reason only of there being no members in pensionable service under the section and, in the case of paragraph (1), no contributions which are to be allocated to it,

sections 73 to 74 apply and the provisions of these Regulations (apart from this regulation) apply as if any section in relation to which those conditions have ceased to be met were a separate scheme.

(6) Before 6th April 2006 paragraph (3) applies with the substitution for sub-paragraph (c) of the following paragraph—

"(c) part of the scheme has been approved by the Commissioners of the Board of Inland Revenue for the purposes of section 590 or 591 of the Income and Corporation Taxes Act 1988 by virtue of section 611(3) of that Act;"."

Changes to legislation:
There are currently no known outstanding effects for the The Occupational Pension Schemes (Winding up etc.) Regulations 2005, PART 1.