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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 570**

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

*Authority's powers to extend periods for making payments*

**Extension of contribution period**

**25.**—(1) The Authority may extend (or further extend) the schedule period which would otherwise apply by virtue of regulation 16 if, on an application duly made to the Authority in that behalf by the trustees or managers of a scheme or the employer, the Authority are satisfied that—

- (a) one of the conditions mentioned in paragraph (2), and
- (b) all the conditions mentioned in paragraph (3),

are met.

(2) The conditions referred to in paragraph (1)(a) are—

- (a) that there has been a substantial decrease in the value of the scheme assets which is attributable to any act or omission constituting an offence prescribed for the purposes of Article 79(1)(c) (or, in the case of an act or omission which occurred outside Northern Ireland, would constitute such an offence if it had occurred in Northern Ireland);

(b) that—

- (i) by reason of exceptional general economic or financial circumstances there has been such a substantial decrease in the value of the scheme assets, or
- (ii) there has been such a decrease in the value of a substantial proportion of the scheme assets in comparison with the relevant index assets,

that, if the period in question were not extended, the level of contributions required to be made by or on behalf of the employer would be such that—

- (I) in the case of a scheme which relates to employment in a business, the profitability of the business would be seriously affected, or
- (II) in any other case, the financial position of the employer would be so affected;

- (c) that the employer proposes to make a contribution to the scheme in cash, to be obtained by him by the sale of assets, and completion of the formalities connected with the sale has been delayed;
- (d) that there has been a substantial increase in the amount of the liabilities of the scheme.

(3) The conditions referred to in paragraph (1)(b) are—

- (a) that the application has not been made as a result of an increase in the liabilities of the scheme since the beginning of the schedule period, arising—
  - (i) from the inclusion of, or of an increased amount in respect of, a liability the whole or part of which was not taken into account at the beginning of that period, by virtue

- of an act or omission which constituted a breach of a requirement imposed under Article 47(9) (disclosure), or
- (ii) from a change in circumstances which, in the opinion of the Authority, was within the control of the employer;
- (b) that—
- (i) the employer has made proposals for securing that the minimum funding requirement will be met before the time when the proposed extended period will expire, and
  - (ii) except in a case where those proposals include his making a lump sum payment to the trustees or managers, pending the determination of the application contributions are being paid to the scheme by or on behalf of the employer at or above the rate certified by the actuary as the rate which would be required for securing that that requirement will be met before that time;
- (c) in the case of a scheme which relates to employment in a business, that the business is likely to continue to operate, and
- (d) that the trustees or managers and employer have agreed to provide the Authority during the extended period with all information requested by them for monitoring the factors relevant to the exercise of their powers under this regulation.
- (4) An application under paragraph (1) shall be made in writing and be accompanied by—
- (a) a statement by the applicant specifying—
    - (i) the general circumstances of the scheme;
    - (ii) his proposals for securing that the minimum funding requirement will be met within a specified period, and
    - (iii) his reasons for making those proposals;
  - (b) a statement as to the financial position of the employer, including—
    - (i) his ability to make adequate contributions to the scheme;
    - (ii) the effect on his financial position if the contributions payable by him or on his behalf were reduced to the rates proposed in the application, and
    - (iii) the likelihood of his financial position being seriously affected if the application were not granted;
  - (c) the last actuarial valuation for the scheme;
  - (d) the last statement in respect of the scheme under Article 35 (investment principles);
  - (e) a statement by the actuary as to the rates of contributions that are in his opinion required for securing that the minimum funding requirement will be met by the end of the period which would be applicable if the application were not granted;
  - (f) in the case of an application made by the employer, a statement by the trustees or managers setting out their views as to the application, and
  - (g) such other information and evidence as the Authority may require in support of the application.
- (5) Where the employer is a company, the statement required under paragraph (4)(b)(i) shall—
- (a) be made by its directors, and
  - (b) be accompanied by a statement by the auditor of the company that in his opinion the directors' statement has been made with due care.
- (6) Where the Authority exercise their power under paragraph (1), the schedule period applicable to the scheme in accordance with regulation 16 shall be altered accordingly.

(7) In paragraph (2)(b)(ii) “the relevant index assets” means the assets the average yield from investment in which is, in accordance with regulation 7(2), used in the valuation of the liabilities of the scheme.

### **Extension of period for meeting serious shortfalls**

**26.**—(1) The Authority may extend (or further extend) the period which by virtue of regulation 20 would otherwise be the period within which the increase required to be secured under Article 60(2) must be secured, if it is to be secured as mentioned in Article 60(2)(a), if, on an application duly made to the Authority in that behalf by the trustees or managers of a scheme or the employer, they are satisfied, subject to paragraph (2), that—

- (a) one of the conditions mentioned in regulation 25(2), and
- (b) all the conditions mentioned in regulation 25(3),

are met.

(2) For the purposes of this regulation, paragraphs (2) to (5) of regulation 25 apply to an application under paragraph (1) of this regulation as they apply to an application under that regulation, but subject to the following modifications—

- (a) in paragraph (2)(b) for the reference to the level of contributions required to be made by or on behalf of the employer there shall be substituted a reference to the amount of the appropriate payment required to be made by the employer under Article 60(2)(a);
- (b) in paragraphs (3)(b) and (4)(a)(ii) for the references to securing that the minimum funding requirement will be met there shall be substituted references to securing that the required increase in value is secured;
- (c) in a case where it is proposed to make a single payment under Article 60(2)(a), paragraph (4)(b)(ii) and (e) shall be omitted;
- (d) in a case where it is proposed to make 2 or more payments under Article 60(2)(a), paragraph (4)(b)(ii) shall have effect with the substitution for the reference to contributions of a reference to those payments and paragraph (4)(e) shall be omitted.

### **General extensions in exceptional circumstances**

**27.**—(1) Where, by reason of exceptional general economic or financial circumstances, it is likely that a large number of applications will be made—

- (a) under regulation 25, or
- (b) under regulation 26,

the Authority may exercise the powers of extension mentioned in paragraph (1) of that regulation in the case of all schemes in respect of which an application is made to them under that regulation, by extending (or further extending) the period to which the application relates, unconditionally or subject to any conditions.

(2) Extensions given generally under paragraph (1) may extend the applicable period for schemes of different descriptions by different periods.

(3) Regulation 25(6) applies to an extension given by virtue of paragraph (1)(a) as it applies in the case of an extension by virtue of regulation 25(1).

(4) Extensions under paragraph (1) may apply to applications made under regulation 25 or, as the case may be, 26, notwithstanding that they are not accompanied by the documents, information and evidence required in their case by regulation 25(4).