STATUTORY RULES OF NORTHERN IRELAND

1996 No. 570

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

Inadequate contributions

Minimum funding valuations showing serious underprovision

20.—(1) Where there has been a serious shortfall valuation for a scheme, the period before the end of which the employer must secure the increase in the value of the scheme assets mentioned in Article 60(2) is—

(a) subject to paragraph (3), in so far as the increase is secured as mentioned in Article 60(2)(*a*) (payments to trustees or managers), the period of one year beginning with the appropriate date, and

(b) in so far as the increase is secured as mentioned in Article 60(2)(*b*) (by a method specified in Schedule 4), the period of 12 weeks beginning with the date on which that valuation was signed,

and, for the purposes of Article 60(4), (5) and (7), the period applicable under Article 60(3) shall be taken to be the period mentioned in sub-paragraph (*a*) of this regulation.

(2) In paragraph (1)(*a*) "the appropriate date" means—

(a) if the serious shortfall valuation was obtained under Article 57(2), the date with which the period within which the valuation was required to be obtained began (being the period specified by or under Article 57(4)), and

(b) otherwise, the date on which that valuation was signed.

(3) If a minimum funding valuation shows that on its effective date, being a date falling in the transitional period, there was such a difference between the value of the scheme assets and the amount of its liabilities as is mentioned in Article 60(1) (serious underprovision), the period of one year mentioned in paragraph (1)(*a*) is extended so as to end with the expiry of the period of 6 years beginning with the commencement date (and Article 60(4), (5) and (7) shall apply accordingly).

(4) Where the increase in the value of the scheme assets required to be secured by Article 60(2) is secured as mentioned in Article 60(2)(*b*) within the period mentioned in paragraph (1)(*b*), nothing in paragraph (1)(*a*) is to be taken as preventing the employer from making a payment to the trustees or managers at any time to secure the whole or part of the required increase.

(5) Article 60(4) (which requires the trustees or managers to give notice to the Authority of the employer's failure to secure the required increase within the prescribed period) does not apply in any case where a subsequent minimum funding valuation shows that on the effective date of that valuation there is no longer such a difference between the value of the scheme assets and the amount of its liabilities as is mentioned in Article 60(1); and in those circumstances Article 60(5) (unpaid shortfall treated as debt from employer to trustees or managers) shall have effect with the addition

at the end of "until the effective date of a subsequent actuarial valuation which does not show such a difference as is mentioned in paragraph (1)".

Failure reports

21.—(1) If it appears to the trustees or managers of a scheme that the minimum funding requirement is not met—

(a) at the end of any period—

(i) beginning with their receiving a minimum funding valuation in relation to the scheme which shows that on the effective date the minimum funding requirement is met, and

(ii) ending with their receiving the next subsequent such valuation ("the second valuation"), being a valuation which shows that on the effective date the minimum funding require ment is not met, or

(b) at the end of any period—

(i) beginning with their receiving a minimum funding valuation in relation to the scheme ("the first valuation") which shows that on the effective date the minimum funding requirement is not met, and

(ii) ending with their receiving the next subsequent such valuation ("the second valuation"), being a valuation which shows that on the effective date—

(I) the minimum funding requirement is not met, and

(II) the amount by which the value of the scheme assets falls short of the amount of the scheme liabilities is a greater percentage of the liabilities than was shown in the first valuation,

they shall prepare a report stating the reasons for the failure to meet that requirement on the effective date of the second valuation and for the deterioration in the funding of the scheme.

(2) If the trustees or managers receive a request in writing from any such person as is mentioned in Article 41(4) (which lists the persons to whom copies of documents are to be made available) for a copy of a report prepared by them under paragraph (1), they shall make a copy of the report available to him before the expiry of the period of one month beginning with the date on which they receive the request.

Methods of securing shortfall in cases of serious underprovision

22. Schedule 4 shall have effect as respects the methods by which the employer may secure the increase in the value of the scheme assets required by Article 60(2) (instead of or in addition to making an appropriate payment to the trustees or managers).

Failure to pay contributions due under schedule of contributions

23.—(1) A notice under Article 59(1) that any amount payable in accordance with a schedule of contributions has not been paid on or before the due date—

(a) shall be given to the Authority before the end of the period of 30 days beginning with that date, and

(b) subject to paragraph (2), shall be given to the members before the end of the period of 90 days beginning with that date.

(2) No notice need be given under paragraph (1)(*b*) if payment has been made before the end of the period of 60 days beginning with the due date.

(3) Where a schedule of contributions provides for payments to be made by any date or within a period after that date, for the purposes of paragraphs (1) and (2) the due date shall be taken to be that date or the last day of that period.

Modification of shared cost schemes

24.—(1) The trustees of a shared cost scheme to which Article 56 applies may by resolution modify the scheme with a view to making such provision that, if there is a serious shortfall valuation for the scheme, then the cost of any payments which the employer is obliged to make under Article 60 as a result of that valuation is borne by the employer and the members in the appropriate proportions (in the case of the members, either by provision for them to make payments or for their rights to benefits under the scheme to be modified or both), unless the employer and the trustees or managers agree—

(a) that the cost of the payments resulting from that valuation is to be borne by the employer alone, or

(b) that he should bear a greater proportion of it than would otherwise fall to be borne by him.

(2) In paragraph (1) "shared cost scheme" means a scheme under the provisions of which—

(a) the level of benefits expected to be provided is defined;

(b) contributions are payable by the employer and the active members in specified proportions, and

(c) if—

(i) it appears to the trustees or managers, or

(ii) an actuarial valuation shows,

that otherwise the assets of the scheme will (or are likely to) fall short of the liabilities of the scheme, the rates of contributions payable by both the active members and the employer may be increased in those specified proportions,

and in this regulation "the appropriate proportions" means those specified proportions.

(3) For the purposes of paragraph (2) there shall be disregarded—

(a) voluntary contributions by members and any associated contributions by the employer, and

(b) any temporary suspension of the liability to make contributions or alteration in the proportions in which the contributions are payable under any provision of the scheme allowing such a suspension or alteration in any circumstances.