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STATUTORY INSTRUMENTS

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**1996 No. 3128**

**The Occupational Pension Schemes (Deficiency  
on Winding Up etc.) Regulations 1996**

*General and supplementary*

**Disapplication of section 75**

**10.**—(1) Section 75 does not apply —

- (a) to a public service pension scheme —
  - (i) under the provisions of which there is no requirement for assets related to the intended rate or amount of benefit under the scheme to be set aside in advance (disregarding requirements relating to additional voluntary contributions); or
  - (ii) which is made under section 7 of the Superannuation Act 1972<sup>(1)</sup> (superannuation of persons employed in local government service etc.) or section 2 of the Parliamentary and other Pensions Act 1987<sup>(2)</sup> (power to provide for pensions for Members of the House of Commons etc.);
- (b) to any occupational pension scheme in respect of which any Minister of the Crown has given a guarantee or made any other arrangements for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities;
- (c) to an occupational pension scheme which provides relevant benefits, but is neither an approved scheme nor a relevant statutory scheme;
- (d) to a section 615(6) scheme;
- (e) to a scheme with less than two members;
- (f) to a scheme —
  - (i) the only benefits provided by which are death benefits, and
  - (ii) under the provisions of which no member has accrued rights;
- (g) to a relevant lump sum retirement benefits scheme; or
- (h) to the scheme established by the Salvation Army Act 1963<sup>(3)</sup>.

(2) In this regulation —

“approved scheme” means a scheme which is approved or was formerly approved under section 590 or 591 of the Taxes Act or in respect of which an application for such approval has been duly made which has not been determined;

“lump sum benefits” does not include benefits paid by way of commuted retirement pension;

“relevant benefits” has the meaning given in section 612(1) of the Taxes Act;

“relevant lump sum retirement benefits scheme” means an approved scheme —

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(1) 1972 c. 11.  
(2) 1987 c. 45.  
(3) 1963 c.xxxii.

- (a) which has been categorised by the Commissioners of Inland Revenue for the purposes of its approval as a centralised scheme for non-associated employers;
- (b) which is not contracted-out; and
- (c) under the provisions of which the only benefits which may be provided on or after retirement (other than money purchase benefits derived from the payment of additional contributions by any person) are lump sum benefits which are not calculated by reference to any member's salary;

“relevant statutory scheme” has the meaning given in section 611A of the Taxes Act<sup>(4)</sup>;

“section 615(6) scheme” means a scheme with such a superannuation fund as is mentioned in section 615(6) of the Taxes Act.

(3) For the purposes of paragraph (1)(e) “scheme” shall be construed as if subsections (1B) and (1C) of section 75 (as inserted by regulation 4(2) or, as the case may be, regulation 8) were omitted.

### **Minor modifications**

11. Schedule 2 to these Regulations shall have effect for the purpose of modifying section 75 and these Regulations.

### **Modification of schemes: apportionment of section 75 debts**

12. In the case of a trust scheme (whether or not a money purchase scheme) which apart from this regulation could not be modified for the purpose of making provision for the total amount of a debt due under section 75(1) to be apportioned amongst the employers in different proportions from those which would otherwise apply by virtue of section 75(1A) (as inserted by regulation 4(2) or, as the case may be, regulation 8), for the purposes of section 68(2)(e), such a modification of the scheme is a modification for a prescribed purpose.

### **Revocations and savings**

13.—(1) The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1994<sup>(5)</sup> are hereby revoked, except in their application in any case in which section 144 of the Pension Schemes Act 1993<sup>(6)</sup> continues to apply (schemes which began winding up before 19th December 1996 and debts treated as due by virtue of valuations as at applicable times falling before 6th April 1997).

(2) Where before 6th April 1997 such arrangements have been made as are mentioned in subsection (1C) of section 144 of the Pension Schemes Act 1993 (as inserted by regulation 4 of those Regulations), then —

- (a) the revocation of those Regulations shall not affect —
  - (i) the recoverability of any debt or part of a debt, the recoverability of which is affected by subsections (1C) to (1G) of that section immediately before that date, or
  - (ii) the power of assignment conferred by subsection (1G) of that section; and
- (b) the making of, or failure to make, contributions in accordance with the arrangements, and any relevant insolvency event occurring on or after that date shall have the same effect as they would have had before that date.

(3) Paragraph (2) is without prejudice to the generality of paragraph (1).

<sup>(4)</sup> Section 611A was inserted by Schedule 6 to the Finance Act 1989 (c. 26).

<sup>(5)</sup> S.I. 1994/895.

<sup>(6)</sup> 1993 c. 48.

