
STATUTORY INSTRUMENTS

2005 No. 706

**The Occupational Pension Schemes
(Winding up etc.) Regulations 2005**

Transfer values

Amendments of the Occupational Pension Schemes (Transfer Values) Regulations 1996

15.—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1996^{M1} are amended as follows.

(2) In regulation 7(3)(b)(iv)^{M2} (manner of calculation and verification of cash equivalents) for the words from “the liabilities” to “winding-up)” substitute “the liabilities for the benefits in respect of which the cash equivalents are being calculated “.

(3) In regulation 8^{M3} (further provisions as to calculation of cash equivalents and increases and reductions of cash equivalents (other than guaranteed cash equivalents)) for paragraphs (4) and (4A) substitute—

“(4) In the case of a scheme to which section 56 of the 1995 Act (minimum funding requirement) applies, the cash equivalent in respect of a member may be reduced by the trustees of the scheme if the GN11 insufficiency conditions are met.

(4A) The GN11 insufficiency conditions are that the actuary's last relevant GN11 report (see paragraph (4J)) shows that at the effective date of the report—

- (a) the scheme had assets that were insufficient to pay the full amount of the cash equivalent in respect of all the members, and
- (b) the assets were insufficient to pay in full any category of liabilities that is a category of liabilities for benefits in respect of which the member's cash equivalent is being calculated.

(4B) If the GN11 insufficiency conditions are met then, subject to paragraph (4D), the trustees may reduce any part of the member's cash equivalent that is payable in respect of such a category of liabilities as are mentioned in paragraph (4A)(b) by a percentage not exceeding the GN11 deficiency percentage.

(4C) The GN11 deficiency percentage for any such part of a member's cash equivalent is the percentage by which the actuary's last relevant GN11 report shows that the assets were insufficient to pay that category of liabilities.

(4D) The total reduction made in a member's cash equivalent under paragraph (4) must not reduce the member's cash equivalent below the MFR basis minimum for the member.

(4E) For the purposes of this regulation, the MFR basis minimum for the member is the minimum amount required in accordance with regulation 7(3)(b)(iv) to pay in full the liabilities for the benefits in respect of which the member's cash equivalent is being calculated, but this is subject to paragraph (4F).

(4F) If the GN11 insufficiency conditions and the MFR insufficiency conditions are both met, the MFR basis minimum for the member for the purposes of paragraph (4D) may be reduced by the trustees of the scheme in accordance with paragraph (4H).

(4G) The MFR insufficiency conditions are that the last relevant MFR valuation statement (see paragraph (4K)) shows that at the effective date of the valuation—

- (a) the scheme had assets that were insufficient to pay in full the liabilities of the scheme in respect of pensions and other benefits towards which the assets would be required by section 73 of the 1995 Act to be applied in the order determined under that section, and
- (b) the assets were insufficient to pay in full any category of liabilities to which that order applies that are liabilities for benefits in respect of which the member's cash equivalent is being calculated.

(4H) The reduction that may be made under paragraph (4F) is that any part of the MFR basis minimum for the member that relates to that category of liabilities may be reduced by a percentage not exceeding the MFR deficiency percentage.

(4I) The MFR deficiency percentage for any such part of the MFR basis minimum for the member is the percentage by which the last relevant MFR valuation statement shows that the assets were insufficient to pay that category of liabilities.

(4J) The references in this regulation to the actuary's last relevant GN11 report are to his last report before the guarantee date in accordance with “Retirement Benefit Schemes – Transfer Values (GN11)” published by the Faculty of Actuaries and the Institute of Actuaries and current at the guarantee date ^{M4}.

(4K) The references in this regulation to the last relevant MFR valuation statement are to the statement made by the actuary in accordance with Schedule 1 to the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 (minimum funding valuation statements) and contained in the last actuarial valuation under section 57 of the 1995 Act (valuation and certification of assets and liabilities) before the guarantee date.

(4L) If the last relevant MFR valuation statement refers to an order for applying assets determined under section 73 that is an order modified by regulations made under that section, then the reduction under paragraph (4F) is to be made by reference to the order as so modified.”.

(4) In regulation 8(5) for “paragraph (4)” and “the reference” substitute “ paragraphs (4), (4A) and (4G) ” and “ the references ” respectively.

(5) In regulation 8(12) for “section 73 of the 1995 Act and regulations made under that section” substitute “ the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions ”.

(6) In regulation 8(13) for “under section 73 of the 1995 Act, section 73 of that Act applies” substitute “ under section 73B(4)(b)(i) of the 1995 Act by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply ”.

(7) In regulation 9(3) (increases and reductions of guaranteed cash equivalents) for “section 73 of the 1995 Act and regulations made under that section” substitute “ the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions ”.

(8) In regulation 9(4) for “under section 73 of the 1995 Act, section 73 of that Act applies” substitute “ under section 73B(4)(b)(i) of the 1995 Act by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply ”.

(9) Paragraphs (2) to (4) only apply to the calculation of cash equivalents where the guarantee date is on or after 6th April 2005 and the scheme has not begun to be wound up before that date.

(10) In paragraph (9) “the guarantee date” has the meaning given by subsection (2) of section 93A of the 1993 Act ^{M5} (salary-related schemes: right to statement of entitlement).

(11) Paragraphs (5) to (8) only apply where the scheme begins to be wound up on or after 6th April 2005.

Marginal Citations

- M1** [S.I. 1996/1847](#).
- M2** [Regulation 7\(3\)\(b\)\(iv\)](#) is amended by [S.I. 1997/786](#).
- M3** [Regulation 8](#) is amended by [S.I. 2003/1727](#).
- M4** The publication GN11 may be obtained from the Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ and from the Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP.
- M5** [Section 93A](#) is inserted by section 153 of the Pensions Act 1995 and amended by section 84(1) of, and paragraph 34 of Schedule 12 to, the Welfare Reform and Pensions Act 1999.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Winding up etc.) Regulations 2005, Section 15.