
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Pension Schemes Act 1993 and the Pensions Act 1995 (“the 1995 Act”). They make amendments to the Occupational Pension Schemes (Winding Up) Regulations 1996 (“the Winding Up Regulations”), the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996 (“the Deficiency on Winding Up Regulations”) and the Occupational Pension Schemes (Transfer Values) Regulations 1996 (“the Transfer Values Regulations”).

Regulation 2 amends regulations 4 and 4B of, and inserts regulation 4C into, the Winding Up Regulations and regulation 3 amends regulations 3 and 3A of, and inserts regulations 3C and 3D into, the Deficiency on Winding Up Regulations. The changes provide for the calculation of liabilities in the case of any occupational pension scheme to which section 75 of the Act applies. The inserted regulations 4C and 3C apply to schemes which begin to wind up on or after 15 February 2005 (“the commencement date”) and where the date by reference to which the liabilities and assets of the scheme are determined, calculated and verified falls on or after the commencement date. The inserted regulation 3D applies to multi-employer schemes where the scheme is not being wound up but the employer becomes insolvent on or after the commencement date.

The inserted regulations 4C, 3C and 3D require the scheme’s liabilities to be calculated and valued on a basis which assumes that any accrued rights to a pension or other benefit under the scheme for members with more than two years of pensionable service, as well as any entitlement to the payment of a pension that has arisen under the scheme (including any increase in a pension), will be discharged by the purchase of annuities.

Regulation 4 amends regulation 11(4)(b) of the Transfer Values Regulations to require trustees who receive a request for a statement of entitlement to a guaranteed cash equivalent to inform the member, where the scheme is being wound up, that the value of the member’s guaranteed cash equivalent may be affected by the scheme winding up, that a decision to take a guaranteed cash equivalent should be given careful consideration, and that the member should consider taking independent financial advice before deciding whether to take the guaranteed cash equivalent.

A full regulatory impact assessment of the effect that this instrument will have on the costs to business, charities, or the voluntary sector has been prepared and a copy placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Regulatory Impact Unit, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.