

2006 No. 597

PENSIONS

The Pension Protection Fund (Valuation of the Assets and Liabilities of the Pension Protection Fund) Regulations 2006

<i>Made</i> - - - -	<i>7th March 2006</i>
<i>Laid before Parliament</i>	<i>10th March 2006</i>
<i>Coming into force</i> - -	<i>1st April 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 315(2), (4) and (5) and 318(1) of, and paragraph 22(4) of Schedule 5 to, the Pensions Act 2004(a).

This instrument contains regulations which are made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which it is made(b).

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Valuation of the Assets and Liabilities of the Pension Protection Fund) Regulations 2006 and shall come into force on 1st April 2006.

(2) These Regulations extend to Northern Ireland.

(3) In these Regulations—

“the Act” means the Pensions Act 2004;

“the Order” means the Pensions (Northern Ireland) Order 2005(c);

“appointed actuary” shall be construed in accordance with regulation 6;

“contribution notice” means a notice issued under section 38 (contribution notices where avoidance of employer debt), 47 (contribution notices where non-compliance with financial support direction) or 55 (contribution notice where failure to comply with restoration order) of the Act, or Article 34, 43 or 51 of the Order;

“financial support direction” means a direction issued under section 43 of the Act or Article 39 of the Order (financial support directions);

“the Pension Protection Fund” means the Pension Protection Fund specified in section 173(1) of the Act (Pension Protection Fund);

“relevant accounts” means the most recent accounts kept by the Board in accordance with paragraph 22(1)(a) of Schedule 5 to the Act (the Board of the Pension Protection Fund: accounts);

(a) 2004 c.35. Section 318(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(b) See section 317(2)(c) of the Pensions Act 2004.

(c) S.I. 2005/255 (N.I.1).

“restoration order” means an order made under section 52 of the Act or Article 48 of the Order (restoration orders where transactions at an undervalue);

“section 75 debt” means so much of the amount treated, by section 75 of the Pensions Act 1995(a) or Article 75 of the Pensions (Northern Ireland) Order 1995(b) (deficiencies in the assets), as a debt due from the employer to the trustees or managers of a scheme immediately prior to the assumption of responsibility for that scheme by the Board, by virtue of section 161 of the Act or Article 145 of the Order (effect of Board assuming responsibility for a scheme), which still remains due at the valuation date;

“valuation date” means the date in relation to which the assets and liabilities of the Pension Protection Fund are calculated.

Determination of value of Pension Protection Fund assets

2. Subject to regulations 4 and 5, in determining the value of the assets of the Pension Protection Fund, the appointed actuary shall adopt the value given of the assets of the Fund as stated in the relevant accounts, and that value shall be taken to be the value of those assets at the valuation date.

Determination of value of Pension Protection Fund liabilities

3. For the purposes of the preparation of an actuarial valuation under paragraph 22(2)(a) of Schedule 5 to the Act—

- (a) the liabilities of the Pension Protection Fund shall be any sums or properties falling to be paid or transferred out of the Fund required to meet liabilities listed in section 173(3) of the Act; and
- (b) the value of a liability shall be the present value of that liability at the valuation date.

Excluded assets

4. There shall be excluded from the value of the assets of the Pension Protection Fund any amounts treated as a debt due to the Board which it is unlikely to—

- (a) recoup without disproportionate cost; or
- (b) recover within a reasonable time.

Alternative valuation of specific assets

5.—(1) For the purposes of the valuation of the assets of the Pension Protection Fund, the value of a contract of insurance shall be—

- (a) the value of the liability secured where the contract of insurance is a relevant contract of insurance in accordance with section 161(8) of the Act or Article 145(8) of the Order; or
- (b) where the contract of insurance is not a relevant contract of insurance—
 - (i) the surrender value of the contract of insurance; or
 - (ii) where it appears to the appointed actuary that the surrender value of the contract of insurance does not accurately reflect its actual value at the valuation date, he shall adopt such a value as appears to him to be appropriate.

(2) For the purposes of the valuation of a contribution notice, financial support direction or restoration order, the appointed actuary shall adopt, as the value of the asset which is the subject of the contribution notice, financial support direction or restoration order, the amount due to the Board given in that notice, direction or order.

(a) 1995 c.26. Section 75 was amended by section 271 of the Pensions Act 2004.

(b) S.I. 1995/3213 (N.I.22). Article 75 was amended by Article 248 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) (N.I.1).

(3) For the purposes of the valuation of the Pension Protection Fund, where the appointed actuary is of the opinion that any section 75 debt, or proportion of such a debt, will be recouped in the future, he shall treat that debt, or such proportion of that debt that he considers will be recovered, as an asset of the Fund.

(4) Subject to paragraph (5)—

(a) if the appointed actuary—

(i) has been given notice; or

(ii) holds the opinion,

that the value of any asset specified in the relevant accounts, that is not excluded from the actuarial valuation, is substantially different at the valuation date from that set out in the relevant accounts, he shall adjust the value of the asset to the present value of the asset at the valuation date; or

(b) where the appointed actuary—

(i) has been given notice; or

(ii) holds the opinion,

that there exists an asset of the Fund which is not listed in the relevant accounts and which is not excluded from the actuarial valuation, he shall adopt the present value of the asset as appears to him to be appropriate.

(5) The appointed actuary shall not make an adjustment of the value of an interest in real property unless the adjustment reflects a more recent valuation given, and verified, by a chartered surveyor(a) current on the date the valuation is signed.

The appointed actuary

6. For the purposes of paragraph 22(4)(a) of Schedule 5 to the Act, the prescribed qualifications to act as the appointed actuary are—

(a) Fellowship of the Faculty of Actuaries(b); or

(b) Fellowship of the Institute of Actuaries(c).

Signed by authority of the Secretary of State for Work and Pensions.

Stephen C. Timms
Minister of State,
Department for Work and Pensions

7th March 2006

(a) The Royal Institution of Chartered Surveyors is located at RICS Contact Centre, Surveyor Court, Westwood Way, Coventry CV4 8JE.
(b) The Faculty of Actuaries is located at Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP.
(c) The Institute of Actuaries is located at Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the manner in which the assets and liabilities of the Pension Protection Fund (“the Fund”) are to be determined for the purposes of preparing an actuarial valuation which the Board of the Pension Protection Fund must include in its annual statement of accounts prepared in accordance with paragraph 22(1)(b) of Schedule 5 (the Board of the Pension Protection Fund: accounts) to the Pensions Act 2004 (c.35) (“the Act”). The Regulations also prescribe the qualifications required for a person to be appointed as the actuary to the Fund.

The Board of the Pension Protection Fund is established by section 107 of the Act (the Board of the Pension Protection Fund) to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer and where the pension scheme is underfunded at a certain level.

Regulation 2 provides that the basis for the actuarial valuation shall be the asset values contained in the most recent Fund accounts kept in accordance with paragraph 22(1)(a) of Schedule 5 to the Act (“the relevant accounts”).

Regulation 3 provides that liabilities included in the actuarial valuation shall be any liability that falls to be paid, or transferred, out of the Fund under section 173(3) of the Act (Pension Protection Fund), and the value of the liabilities shall be the present value of the liabilities on the valuation date.

Regulation 4 provides that certain assets of the Fund shall be excluded from the valuation by the appointed actuary.

Regulation 5 provides that certain types of asset and liability shall be valued otherwise than on the value set out in the relevant accounts.

Regulation 6 prescribes the qualifications required for a person to be appointed as the actuary to the Fund.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Act by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

£3.00

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E0307 3/2006 160307T 19585