SCHEDULE 1 Regulation 8

Insertion of Schedules 1A and 1B to the principal Regulations

After Schedule 1 to the principal Regulations, insert—

"SCHEDULE 1A Regulation 7D(1)

Reductions in initial cash equivalents

1. In a case where two or more paragraphs of this Schedule apply, they must be applied in the order in which they occur in this Schedule.

2. In the case of a scheme to which Part 3 of the 2004 Act (scheme funding) applies(**1**), the member's initial cash equivalent may be reduced by the trustees if—

(a) the insufficiency conditions are met; and

(b) the insufficiency report has an effective date which is no earlier than the effective date of the most recent actuarial valuation received by the trustees in accordance with section 224(4) of the 2004 Act (scheme funding).

3. The insufficiency conditions are that the last insufficiency report shows that at the effective date of the report—

(a) the scheme had assets that were insufficient to cover the insufficiency report liabilities in respect of all the members; and

(b) the assets were insufficient to cover in full any category of insufficiency report liabilities that is an equivalent category of liabilities for benefits in respect of which the member's cash equivalent is being calculated.

4. If the insufficiency conditions are met the trustees may reduce, by a percentage not exceeding the deficiency percentage, any part of the member's initial cash equivalent that is payable in respect of such an equivalent category of liabilities as are mentioned in paragraph 3(b).

5. The deficiency percentage for any such part of a member's initial cash equivalent is the percentage by which the insufficiency report shows that the assets were insufficient to cover that category of liabilities.

6. If, by virtue of regulations made under section 232 of the 2004 Act (power to modify provisions of Part 3), Part 3 of that Act applies to a section of a scheme as if that section were a separate scheme, paragraphs 2 and 3 apply as if that section were a separate scheme and as if the reference to a scheme were accordingly a reference to that section.

7. In a case where a contributions equivalent premium has been paid in respect of a member in accordance with section 55 of the 1993 Act (payment of state scheme premiums on termination of certified status)(**2**), the initial cash equivalent must be reduced (to nil if need be) to the extent that it represents the member's accrued rights which have been extinguished by virtue of section 60 of the 1993 Act (effect of payment of premiums on rights)(**3**) by payment of that premium.

8. Where a member's cash equivalent is to be used for acquiring—

(a) transfer credits under the rules of another scheme; or

(b) rights under the rules of a personal pension scheme,

(**1**) Regulation 17(1)(l) of S.I. 2005/3377 provides that Part 3 does not apply where a scheme is winding up.
(**2**) Section 55 was amended by section 141 of, and paragraph 50 of Schedule 5 to, the Pensions Act 1995, paragraph 7 of Schedule 2 to the Welfare Reform and Pensions Act 1999 and S.I. 2005/2050.
(**3**) Section 60 was amended by paragraph 54 of Schedule 5 to the Pensions Act 1995 and S.I. 2005/2050.

and the receiving scheme has undertaken to provide benefits at least equal in value to the benefits represented by that cash equivalent on payment of a lesser sum (including nil), the initial cash equivalent must be reduced so that the cash equivalent is that lesser sum.

9. Where effect has been given to protected rights in accordance with section 32A of the 1993 Act (discharge of protected rights on winding up: insurance policies)(**4**), the initial cash equivalent of those rights must be reduced so that the cash equivalent is nil.

10. Where all or any of a member's benefits have been appropriately secured, the initial cash equivalent in respect of those benefits must be reduced so that the cash equivalent is nil.

11. For the purposes of paragraph 10, "appropriately secured" means the same as in section 19 of the 1993 Act (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts)(**5**), except that a policy of insurance or annuity contract which is taken out or entered into with an authorised friendly society (as defined for the purposes of regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(**6**) (means of assuring short service benefit)), but which otherwise satisfies the conditions for being appropriate for the purposes of section 19 of that Act, is to be treated as if it were appropriate for the purposes of that section provided the terms of such policy or contract are not capable of being amended, revoked or rescinded.

12. Where a scheme has (in the case of a cash equivalent mentioned in section 93A of the 1993 Act, before the guarantee date) begun to be wound up, an initial cash equivalent may be reduced to the extent necessary for the scheme to comply with the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act(**7**)) and regulations made under those provisions.

13. If, by virtue of regulations made under section 73B(4)(b)(i) of the 1995 Act (sections 73 and 73A: supplementary) by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply to a section of a scheme as if that section were a separate scheme, paragraph 12 applies as if that section were a separate scheme and as if the references to a scheme were accordingly references to that section.

14. Where all or any of the benefits to which an initial cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees do what is needed to carry out what the member requires, the initial cash equivalent of the benefits so surrendered, commuted or forfeited must be reduced so that the cash equivalent is nil.

15. The trustees may reduce an initial cash equivalent to reflect any reasonable administration costs were the member to leave the scheme and must offset against these costs any reasonable administrative savings.

SCHEDULE 1B

Regulations 7D(2) and 7E(4)

Insufficiency Reports

1. Where the trustees have requested an insufficiency report under regulation 7D(2) or 7E(4), the actuary is responsible for the preparation of the report.

2. The insufficiency report must contain—

(a) a comparison, as at the effective date of the report, between the insufficiency report liabilities of all members and the market value of the assets of the scheme; and

(**4**) Section 32A was inserted by section 146(1) of the Pensions Act 1995 and amended by S.I.s 2001/3649 and 2007/3014.
(**5**) Section 19 was amended by S.I.s 2001/3649, 2005/2050 and 2007/3014.
(**6**) S.I. 1991/167. Regulation 6 was amended by S.I.s 1994/1062, 1995/35 and 3067 and 1997/786.
(**7**) Section 73B was inserted by section 270(1) of the Pensions Act 2004.

(b) a statement of any allowance the actuary makes under paragraph 3.

3. The actuary may deduct from the assets of the scheme an allowance which—

(a) is of such amount as he considers reasonable in the circumstances of the scheme; and

(b) represents the expenses associated with wind up.

4. Where it appears to the actuary that the circumstances are such that it is appropriate, he may exclude any rights under an insurance policy from the scheme assets.

5. Where rights under an insurance policy are excluded under paragraph 4, the liabilities secured by the policy must be disregarded for the purposes of the insufficiency report.

6. The value of any rights under an insurance policy included in the scheme assets must be the value the actuary considers appropriate.

7. The insufficiency report liabilities are—

(a) for active members with vested rights, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—

(i) paragraphs 2 to 6 of Schedule 1A are to be disregarded;

(ii) references to "guarantee date" are to be taken to mean the effective date of the report; and

(iii) it is to be assumed that the member ceases pensionable service on the effective date;

(b) for deferred members, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—

(i) paragraphs 2 to 6 of Schedule 1A are to be disregarded; and

(ii) references to "guarantee date" are to be taken to mean the effective date of the report;

(c) for pensioner members, calculated and verified in accordance with regulations 7 to 7C as appropriate except that references to "guarantee date" are to be taken to mean the effective date of the report;

(d) for members over normal pension age not in receipt of a pension, calculated and verified—

(i) in the same way as those of pensioner members; and

(ii) on the assumption that the member's pension comes into payment on the effective date of the report;

(e) for pension credit members, calculated and verified in accordance with regulations 7 to 7E and Schedule 1A as appropriate except that—

(i) paragraphs 2 to 6 of Schedule 1A are to be disregarded; and

(ii) references to "guarantee date" are to be taken to mean the effective date of the report; and

(f) for members with unvested rights, equal to the amount of the unvested contributions and the actuary is to assume that the member ceases pensionable service on the effective date of the report.

8. When preparing the insufficiency report—

(a) the actuary must make estimates comparing the relevant assets with the relevant liabilities of the scheme in respect of each category of liability;

(b) for the purposes of sub-paragraph (a), the actuary may use one or more categories of liability;

(c) where the actuary uses more than one category, he must have regard to the priority order on winding up specified in section 73(3) of the 1995 Act (preferential liabilities on winding up)(**8**); and

(d) in determining the extent and content of the category or categories of liabilities, the actuary may use such approximations as he considers reasonable.

9. In this Schedule—

"relevant assets" means, subject to paragraphs 2(b) to 6, for a particular category of liability, the market value of the scheme assets, less the total of the relevant liabilities for all categories with greater priority under the priority order and are not to exceed the maximum of the relevant liabilities for that category.

"relevant liabilities" means, for a particular category of liability, the sum of all insufficiency report liabilities falling into that category.".

(**8**) Section 73 was substituted by section 270 of the Pensions Act 2004.