

## 2005 No. 72

### PENSIONS

#### The Occupational Pension Schemes (Winding Up, Deficiency on Winding Up and Transfer Values) (Amendment) Regulations 2005

*Made* - - - - 19th January 2005

*Laid before Parliament* 25th January 2005

*Coming into force* - 15th February 2005

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 113, 181(1) and 182(2) of the Pension Schemes Act 1993(a) and sections 73(3), 75(5), 124(1) and 174(2) and (3) of the Pensions Act 1995(b) and of all other powers enabling him in that behalf, after consultation with such persons as he considered appropriate(c), hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Winding Up, Deficiency on Winding Up and Transfer Values) (Amendment) Regulations 2005 and shall come into force on 15 February 2005.

(2) In these Regulations—

“the Deficiency on Winding Up Regulations” means the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1996(d);

“the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996(e); and

“the Winding Up Regulations” means the Occupational Pension Schemes (Winding Up) Regulations 1996(f).

[Regulation 2 amends regulation 4 of S.I. 1996/3126.]

[Regulation 3 amends regulation 3 of S.I. 1996/3128.]

[Regulation 4 amends regulation 11 of S.I. 1996/1847.]

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(a) 1993 c. 48. Section 181(1) is cited because of the meaning given to “prescribe”.

(b) 1995 c. 26. Section 73(3) was amended by section 38(1) of the Welfare Reform and Pensions Act 1999 (c. 30) and is modified by regulation 3 of S.I. 1996/3126 as amended by S.I. 2000/2691 and S.I. 2004/1140. Section 75 of the Act is modified by regulation 4 of S.I. 1996/3128 as amended by S.I. 1997/786. Section 124(1) of the Act is cited because of the meaning given to “prescribed” and “regulations”.

(c) See section 185(1) of the 1993 Act and section 120(1) of the 1995 Act for the requirement to consult.

(d) S.I. 1996/3128; regulation 3A was inserted by S.I. 2002/380 and amended by S.I. 2004/403 and regulation 3B was inserted by S.I. 2004/403.

(e) S.I. 1996/1847.

(f) S.I. 1996/3126; regulation 4A was inserted by S.I. 2002/380 and amended by S.I. 2004/403 and regulation 4B was inserted by S.I. 2004/403.

THE OCCUPATIONAL PENSION SCHEMES (**WINDING UP**) DEFICIENCY  
ON WINDING UP AND TRANSFER VALUES) (AMENDMENT)  
REGULATIONS 2005

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

19 January 2005

*Malcolm Wicks*  
Minister of State,  
Department for Work and Pensions

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**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.