

2004 No. 403

PENSIONS

The Occupational Pension Schemes (Winding Up and Deficiency on Winding Up etc.) (Amendment) Regulations 2004

<i>Made</i> - - - -	<i>18th February 2004</i>
<i>Laid before Parliament</i>	<i>23rd February 2004</i>
<i>Coming into force</i> -	<i>15th March 2004</i>

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

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Winding Up and Deficiency on Winding Up etc.) (Amendment) Regulations 2004 and shall come into force on 15th March 2004.

(2) In these Regulations -

“the Act” means the Pensions Act 1995;

“the Winding Up Regulations” means the Occupational Pension Schemes (Winding Up) Regulations 1996(c); and

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

(3) For the purposes of these Regulations, the time when a scheme begins to be wound up shall be determined in accordance with subsections (3A) to (3E) of section 124 of the Act.

(4) These Regulations shall apply to any occupational pension scheme to which section 75 of the Act (deficiencies in the assets) applies in any case where the scheme begins, or has begun, to wind up and the date by reference to which the assets and liabilities of the scheme are determined, calculated and verified for the purposes of that section is a date falling on or after the date on which these Regulations come into force.

[Regulation 2 amends regulation 4 and 4A of S.I. 1996/3216.]

[Regulation 3 amends regulations 3 and 3A of S.I. 1996/3218.]

(a) 1995 c. 26. Section 73(3) of the Act 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. Section 75 of the Act is modified by regulation 4 of S.I.1996/3128. Section 124(1) of the Act is cited because of the meaning given to “prescribed” and “regulations”.

(b) See section 120(2)(b) of the Act for the requirement to consult.

(c) S.I.1996/3126 as amended by S.I.1997/786, S.I.1999/3198, S.I.2000/2691 and S.I.2002/380.

(d) S.I.1996/3128 as amended by S.I.1997/786, S.I.1997/3038, S.I.1999/3198 and S.I.2002/380.

OCCUPATIONAL PENSION SCHEMES (**WINDING UP AND DEFICIENCY ON WINDING UP ETC.**) (AMENDMENT) REGULATIONS 2004

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

18th February 2004

Malcolm Wicks
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 1 provides for citation, commencement, interpretation and application.

Regulation 2 amends regulations 4 and 4A of the Winding Up Regulations so as to provide for the calculation of liabilities in the case of any occupational pension scheme to which section 75 of the Act applies that has begun to wind up before 11th June 2003 in circumstances where the sponsoring employer is not insolvent. Regulation 2 also inserts a new regulation 4B into the Winding Up Regulations so as to provide a new method of calculating liabilities when a scheme begins to wind up on or after 11th June 2003 in circumstances where the sponsoring employer is not insolvent. By virtue of the new regulation 4B, a scheme’s liabilities in these circumstances are to be calculated 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 3 amends regulations 3 and 3A of the Deficiency on Winding Up Regulations so as to provide for the calculation of liabilities in the case of any occupational pension scheme to which section 75 of the Act applies that has begun to wind up before 11th June 2003 in circumstances where the sponsoring employer is not insolvent. Regulation 3 also inserts a new regulation 3B into the Deficiency on Winding Up Regulations so as to provide a new method of calculating liabilities when a scheme begins to wind up on or after 11th June 2003 in circumstances where the sponsoring employer is not insolvent. By virtue of the new regulation 3B, the scheme’s liabilities in these circumstances are to be calculated 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.

An assessment of the costs to business of complying with these Regulations has been prepared. A copy of the Regulatory Impact Assessment has been 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.