STATUTORY RULES OF NORTHERN IRELAND

# 2004 No. 60

# PENSIONS

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

*Made - - - - 24th February 2004*

*Coming into operation 15th March 2004*

The Department for Social Development, in exercise of the powers conferred by Articles 73(3), 75(5) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**1**), and now vested in it(**2**), and of all other powers enabling it in that behalf, 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 (Northern Ireland) 2004 and shall come into operation on 15th March 2004.

(2) In these Regulations any reference to a numbered Article is to the Article of the Pensions (Northern Ireland) Order 1995 bearing that number.

(3) For the purposes of these Regulations the time when a scheme begins to be wound up shall be determined in accordance with Article 121(4) to (7)(**3**).

(4) These Regulations shall apply to any occupational pension scheme to which Article 75 (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 Article is a date falling on or after the date on which these Regulations come into operation.

(**1**) S.I. 1995/3213 (N.I. 22); Article 73(3) was amended by Article 35(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and modified by regulation 3 of S.R. 1996 No. 621 as amended by regulation 9 of S.R. 1999 No. 486 and regulation 4(3) of S.R. 2000 No. 335; Article 75 was modified by regulation 4 of S.R. 1996 No. 585, as amended by paragraph 9(3) of the Schedule to S.R. 1997 No. 160

(**2**) *See* Article 8(b) of S.R. 1999 No. 481

(**3**) Article 121(4) to (7) was inserted by section 45(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

**Amendment of the Occupational Pension Schemes (Winding Up) Regulations**

**2.**—(1) The Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**4**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(1) (calculation of amounts of liabilities)(**5**) for "regulation 4A" there shall be substituted "regulations 4A and 4B".

(3) In the heading to regulation 4A (calculation of liabilities where employer not insolvent)(**6**) after "employer not insolvent" there shall be added "and where winding up commences before 11th June 2003".

(4) In regulation 4A(1) after "In the case of a scheme" there shall be inserted "which has begun to wind up before 11th June 2003 and".

(5) After regulation 4A there shall be inserted the following regulation –

"**Calculation of liabilities where employer not insolvent and where winding up commences on or after 11th June 2003**

**4B.**—(1) This regulation shall apply in the case of a scheme which begins to wind up on or after 11th June 2003 in circumstances where the employer was not insolvent at the time the winding up of the scheme commenced.

(2) In the case of a scheme to which this regulation applies, regulation 4 shall have effect as if –

(a) in paragraph (1)(c) for "paragraph (3)" there were substituted "paragraphs (2A) and (3)";

(b) after paragraph (2) there were inserted the following paragraph –

"(2A) For the purpose of calculating the amount of the liabilities for the accrued rights to any pensions or other benefits of members (including any increase to a pension) and for any future pensions, or other future benefits, attributable (directly or indirectly) to pension credits (including any increase to a pension) that have arisen on or before the crystallisation date or, as the case may be, the amount of the liabilities for any entitlement of members to the payment of any pension or other benefit (including any increase to a pension) that has arisen on or before that date –

(a) it shall be assumed that all such liabilities will be discharged by the purchase of annuities of a kind described in Article 74(3)(c);

(b) paragraph (1)(b) shall not have effect, and

(c) for paragraph (5) there were substituted the following paragraph –

"(5) If, when the assets of the scheme are applied in accordance with Article 73(2) towards satisfying the liabilities mentioned in Article 73(3), those liabilities, as calculated in accordance with the rules of the scheme (without any reduction by reason of their falling within a class of liability which is to be satisfied after another class), cannot in the opinion of the actuary be fully satisfied by applying assets of a value equal to the amount of those liabilities calculated in accordance with paragraph (1), then the amount to be taken as the amount of those liabilities for the purposes of Article 73(2) shall be increased accordingly.".".

(**4**) S.R. 1996 No. 621; relevant amending regulations are S.R. 2002 No. 64
(**5**) Regulation 4(1) was amended by regulation 4(2) of S.R. 2002 No. 64
(**6**) Regulation 4A was inserted by regulation 4(3) of S.R. 2002 No. 64