STATUTORY RULES OF NORTHERN IRELAND

2002 No. 64

PENSIONS

The Occupational Pension Schemes (Minimum Funding Requirement and Miscellaneous Amendments) Regulations (Northern Ireland) 2002

Made - - - -	*25th February 2002*
Coming into operation	*19th March 2002*

The Department for Social Development, in exercise of the powers conferred by Articles 56(3), 57(1)(*b*), (2) and (5), 58(2), (4)(*b*) and (6)(*a*), 59(3), 61, 73(3), 75(5), 122(2) 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 and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Minimum Funding Requirement and Miscellaneous Amendments) Regulations (Northern Ireland) 2002 and shall come into operation on 19th March 2002.

Amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations

2.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations (Northern Ireland) 1996(**3**) shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 2(1)(**4**) (interpretation), for the definition of "transitional period" there shall be substituted the following definition—

> ""transitional period" means the period beginning on the commencement date and ending on 31st December 2004".

(**1**) S.I. 1995/3213 (N.I. 22); Articles 58(6)(*a*) and 59(3) were amended by paragraph 12 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and Article 73 was amended by Article 35(1) of that Order. *See also*S.R. 1996 Nos. 570, 585 and 621, S.R. 1997 Nos. 160 and 544, S.R. 1999 No. 486 and S.R. 2000 No. 335

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

(**3**) S.R. 1996 No. 570; relevant amending regulations are S.R. 1997 No. 160, S.R. 1999 No. 486 and S.R. 2000 No. 335

(**4**) Regulation 2(1) was amended by S.R. 2000 No. 335

(3) In regulation 7(**5**) (determination and valuation of liabilities) for paragraph (9) there shall be substituted the following paragraph—

"(9) For the purposes of this regulation—

(a) a scheme is only to be taken to have a gilts-matching policy for liabilities in respect of pensioner members, pension credit benefit members, deferred members or pension credit members at any time if the last statement in respect of the scheme under Article 35 before that time states that the trustees' policy is to meet all liabilities (excluding liabilities in respect of any money purchase benefits other than underpin benefits) in respect of pensioner members, pension credit benefit members or, as the case may be, deferred members or pension credit members from investments in gilt-edged securities, and

(b) "underpin benefits" means money purchase benefits which, under the provisions of the scheme, will only be provided in respect of a member if their value exceeds the value of other benefits in respect of him under the scheme which are not money purchase benefits.".

(4) In regulation 12(1)(*b*) (duty to obtain minimum funding valuations where new serious underfunding suspected) after "the scheme would meet the minimum funding requirement on or before the" there shall be inserted "date 7 days before the".

(5) In regulation 16(**6**) (periods covered by schedules of contributions) for paragraph (2) there shall be substituted the following paragraph—

"(2) Where, on or after 19th March 2002, a schedule of contributions following a minimum funding valuation is certified by virtue of Article 58(3)(*a*) or (*c*) and—

(a) that valuation shows that, on the effective date, the minimum funding requirement was not met, or

(b) the minimum funding requirement did not appear to the actuary to be met on the date falling 7 days before the date on which the certificate of the rates of contributions shown in the schedule is signed,

the period referred to in paragraph (1) which applies for the schedule which shall be prepared following that valuation by virtue of Article 58(3)(*a*) or (*c*), is extended so as to end with the expiry of the period of 10 years beginning with the date on which the rates of contributions shown in the schedule are certified.".

(6) In regulation 17(**7**) (content and certification of schedules of contributions)—

(a) in paragraph (1)—

(i) in sub-paragraph (*b*) after "in relation to the scheme" there shall be added "(excluding the amount of any contributions required by sub-paragraph (*d*) to be shown separately)",

(ii) the word "and" at the end of sub-paragraph (*b*) shall be omitted, and

(iii) after sub-paragraph (*c*) there shall be added—

"and

(d) in the case only of a schedule of contributions which is certified on or after 19th March 2002, the due dates and amounts of any payments required by Article 60(2)(*a*) (serious underprovision).";

(b) after paragraph (1) there shall be inserted the following paragraph—

(**5**) Regulation 7 was amended by S.R. 1997 No. 160 and S.R. 2000 No. 335
(**6**) Regulation 16 was amended by S.R. 1999 No. 486
(**7**) Regulation 17 was amended by S.R. 1997 No. 160

"(1A) For the purposes of Article 58(6)(*a*), the prescribed date is the date 7 days before the date on which the actuary signs the certificate of the rates of contributions shown in the schedule.";

(c) in paragraph (2)(*b*)—

(i) for "date he signs the certificate" there shall be substituted "date 7 days before the date on which he signs the certificate", and

(ii) for "is" there shall be substituted "was";

(d) in paragraph 3(*b*)—

(i) for "date he signs the certificate" there shall be substituted "date 7 days before the date on which he signs the certificate", and

(ii) for "is" there shall be substituted "was";

(e) in paragraph (4)(*a*), for "contributions" there shall be substituted "additional contributions";

(f) in paragraph (5)—

(i) for "additional payments and contributions" there shall be substituted "additional payments and additional contributions";

(ii) for "the expiry of the period of one year" there shall be substituted "the expiry of the period of 3 years", and

(iii) the words "(extended as mentioned in regulation 20(3) where that regulation applies)" shall be omitted.

(7) In regulation 18 (occasional and periodic certification of adequacy of contributions)—

(a) in paragraph (1) for "The trustees" there shall be substituted "Subject to paragraphs (1A) and (1B), the trustees";

(b) in paragraph (1)(*b*) for "that valuation" there shall be substituted "the last minimum funding valuation", and

(c) after paragraph (1) there shall be inserted the following paragraphs—

"(1A) Paragraph (1) shall not apply to any scheme the value of whose assets was, or appears to the actuary to have been, not less than 100 per cent. of the amount of its liabilities both at the effective date of the last minimum funding valuation obtained by the trustees or managers under Article 57 and—

(a) in any case where the first schedule of contributions following that valuation was certified before 19th March 2002, at the date on which that schedule was certified, and

(b) in any case where the first schedule of contributions following that valuation is certified on or after 19th March 2002, at the date 7 days before the date on which that schedule was certified.

(1B) In a case where the trustees or managers of a scheme have obtained a minimum funding valuation since the relevant date of the last certificate under Article 58 of the rates of contributions shown in the schedule of contributions, no certificate need be obtained under paragraph (1) in relation to the anniversary of that date.".

(8) In regulation 20(**8**) (minimum funding valuations showing serious underprovision)—

(a) in paragraph (1)—

(**8**) Regulation 20 was amended by S.R. 1997 No. 160

(i) for "Where there has been a serious shortfall valuation for a scheme" there shall be substituted "Where, following a serious shortfall valuation for a scheme, a schedule of contributions is certified on or after 19th March 2002";

(ii) in sub-paragraph (*a*) the words "subject to paragraph (3)," shall be omitted and for "the period of one year" there shall be substituted "the period of 3 years";

(b) paragraph (3) shall be omitted.

(9) In regulation 21(1) (failure reports), after "they shall" there shall be inserted "before the end of the period of 3 months beginning with the end of any such period".

(10) In Schedule 2(**9**) (certification of schedules of contributions)—

(a) in Part I—

(i) in paragraph 1 for "(minimum funding requirement met on date certificate signed)" there shall be substituted "(minimum funding requirement met on date 7 days before date certificate signed)";

(ii) in paragraph 2 for "(minimum funding requirement not met on date certificate signed)" there shall be substituted "(minimum funding requirement not met on date 7 days before date certificate signed)";

(iii) for paragraph 5 there shall be substituted the following paragraph—

"**5.** If, in a case where there has been a serious shortfall valuation, the actuary is of the opinion that on the date 7 days before the date on which he signs the certificate there was no longer such a difference as is mentioned in Article 60(1), he shall insert the following statement after paragraph 1 of the certificate—

"**Cessation of serious shortfall in assets**

1A. In my opinion an actuarial valuation for the scheme as at the date 7 days before the date of this certificate would not show a shortfall as is mentioned in Article 60(1) of the Pensions (Northern Ireland) Order 1995 (value of scheme assets less than 90 per cent. of amount of scheme liabilities).".", and

(iv) for paragraph 6 there shall be substituted the following paragraph—

"**6.** If, in a case where there has been a serious shortfall valuation, the actuary is of the opinion that on the date 7 days before the date on which he signs the certificate the difference mentioned in Article 60(1) has decreased, he shall insert the following statement after paragraph 1 of the certificate—

"**Decrease in serious shortfall in assets**

1A. In my opinion an actuarial valuation for the scheme as at the date 7 days before the date of this certificate would show that the shortfall mentioned in Article 60(1) of the Pensions (Northern Ireland) Order 1995 (value of scheme assets less than 90 per cent. of amount of scheme liabilities) has decreased since the last actuarial valuation for the purposes of Article 57 and is now .".";

(b) in Part II for paragraph 1 of the form of actuary's certificate there shall be substituted the following paragraph—

(**9**) Schedule 2 was amended by S.R. 1997 No. 160