STATUTORY RULES OF NORTHERN IRELAND

1994 No. 107

PENSIONS

The Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1994

Made - - - -	*25th March 1994*
Coming into operation	*19th April 1994*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 140(5), 149(5)(a) and (b) and 178(3) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1994 and shall come into operation on 19th April 1994.

(2) These regulations apply to every occupational pension scheme which is not a money purchase scheme.

(3) In these regulations—

"the Act" means the Pension Schemes (Northern Ireland) Act 1993;

"actuary" means—

(a) a Fellow of the Institute of Actuaries,

(b) a Fellow of the Faculty of Actuaries, or

(c) a person with other actuarial qualifications who is approved by the Department as being a proper person to act for the purposes of section 140 of the Act (deficiencies in the assets of a scheme on winding up).

(4) The Interpretation Act (Northern Ireland) 1954(**2**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(**1**) 1993 c 49
(**2**) 1954 c 33 (N.I.)

Calculation of the value of scheme liabilities and assets

2.—(1) For the purposes of section 140(1) of the Act, the value of a scheme's liabilities and assets are, subject to paragraphs (2) and (3), to be determined by being calculated and verified in accordance with the Guidance Note "Retirement Benefits Schemes — Deficiency on Winding Up (GN 19)"(**3**).

(2) In calculating the value of the scheme's liabilities, any provision of the scheme which limits the amount of its liabilities by reference to the amount of its assets shall be disregarded.

(3) A determination under paragraph (1) must be certified by an actuary appointed by the trustees of the scheme in question as being in accordance with the guidance referred to in that paragraph.

Scheme which applies to more than one employer

3. In the application of section 140 of the Act to a scheme which applies to earners in employments under different employers and in respect of which there are members in pensionable service under the scheme—

(a) that section shall be modified by inserting after subsection (1), the following subsections—

"(1A) The amount of the debt due from each employer shall be such amount as, in the opinion of the actuary referred to in regulation 2(3) of the Occupational Pension Schemes (Deficiency on Winding Up, etc.) Regulations (Northern Ireland) 1994, bears the same proportion to the deficiency under the scheme as the amount of the scheme's liabilities attributable to employment with that employer (including liabilities in respect of any transfer credits allowed under the scheme in connection with employment with that employer) bears to the total amount of the scheme's liabilities.

(1B) Where a scheme which applies to earners in employments under different employers is divided into two or more sections and the provisions of the scheme are such that—

(a) different sections of the scheme apply to different employers;

(b) contributions payable to the scheme by an employer, or by an earner in employment under that employer, are allocated to that employer's section, and

(c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other such section,

each section of the scheme shall be treated as a separate scheme for the purposes of this section."; and

(b) section 140(3) shall be modified—

(i) by substituting the following definition for the definition of "the applicable time"—

""the applicable time" means—

(a) in relation to a scheme which is being wound up, any time—

(i) after the commencement of the winding up, or, where on 1st July 1992 a scheme was being wound up on or after that date, and

(ii) before a relevant insolvency event occurs in relation to all of the employers to whom the scheme relates; and

(**3**) Guidance Note GN 19 was jointly published on 1st April 1993, and revised with effect from 1st October 1993, by the Institute of Actuaries and the Faculty of Actuaries: copies may be obtained from the Institute of Actuaries, Staple Inn Hall. High Holborn., London WC1V 7QJ of from the Faculty of Actuaries, 23 St. Andrews Edinburgh EH2 1AQ