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STATUTORY INSTRUMENTS

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**1992 No. 1555**

**PENSIONS**

**The Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1992**

<i>Made</i>	- - - -	<i>30th June 1992</i>
<i>Laid before Parliament</i>		<i>30th June 1992</i>
<i>Coming into force</i>	- -	<i>1st July 1992</i>

The Secretary of State for Social Security, in exercise of his powers under sections 166(1) to (3A) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(1) and sections 58B(1), (3) and (6) and 66(2) of the Social Security Pensions Act 1975(2) and of all other powers enabling him in that behalf, not being required to refer the proposals in respect of these Regulations to the Occupational Pensions Board because this instrument contains only regulations made consequential upon paragraph 2 of Schedule 4 to the Social Security Act 1990 and is made before the end of the period of 6 months beginning with the coming into force of that enactment(3), hereby makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1992.

(2) These Regulations come into force on 1st July 1992.

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

(4) In these Regulations—

“the Act” means the Social Security Pensions Act 1975;

“actuary” means—

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

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(1) 1975 c. 14. See definitions of “prescribe” and “regulations” in Schedule 20. Sections 166(1) to (3A) and 168(1) apply, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c. 60), to the exercise of certain powers conferred by that Act.  
(2) 1975 c. 60. Section 58B was inserted by paragraph 2 of Schedule 4 to the Social Security Act 1990 (c. 27).  
(3) See section 61(2) of the Social Security Pensions Act 1975 and section 61(5) of the Social Security Act 1986 (c. 50). Section 61(5) of the 1986 Act was amended by paragraph 12(3) of Schedule 8 to the Social Security Act 1989 (c. 24).

- (c) a person with other actuarial qualifications who is approved by the Secretary of State as being a proper person to act for the purposes of section 58B of the Act.

### **Calculation of the value of scheme liabilities and assets**

2.—(1) For the purposes of section 58B(1) of the Act, the value of a scheme’s liabilities and assets are to be determined by being calculated and verified in such manner as may, subject to paragraph (2), be approved in the particular case by an actuary appointed by the trustees of the scheme in question.

(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 is to be disregarded.

### **Scheme which applies to more than one employer**

3. In the application of section 58B 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, as defined in paragraph 3 of Schedule 16 to the Social Security Act 1973(4)—

- (a) that section is modified by adding, after sub-section (1), the following new sub-section—

“(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(1) of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1992(5), 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.”;

and

- (b) section 58B(2) is 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 the 1st July 1992 a scheme was being wound up, on or after that date, and
  - (ii) before the default time arises in relation to all of the employers to whom the scheme relates; and
- (b) in relation to a scheme which is not being wound up, each of the times on or after 1st July 1992 at which the default time arises in relation to any of the employers to whom the scheme relates;”;

- (ii) by substituting the following definition for the definition of “the employer”—

““the employer” means every employer of persons in the description or category of employment to which the scheme relates and includes any person who was an employer of such persons immediately before the scheme—

- (a) commenced winding up, or
- (b) if earlier, ceased to admit new members;”.

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(4) 1973 c. 38.  
(5) S.I.1992/1555.

**Scheme in respect of which there are no members in pensionable service**

4. In the application of section 58B of the Act to a scheme in respect of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the Social Security Act 1973—

(a) that section is modified in the manner provided by regulation 3(b)(ii) above; and

(b) where there is more than one employer within the meaning of that term as modified by paragraph (a) above, that section is further modified in the manner provided by regulation 3(a) and (b)(i) above.

Signed by authority of the Secretary of State for Social Security.

30th June 1992

*Ann Widdecombe*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 58B of the Social Security Pensions Act 1975 (which was inserted by paragraph 2 of Schedule 4 to the Social Security Act 1990) provides for deficiencies in the assets of an occupational pension scheme on a winding up to be a debt due from the employer to the trustees of the scheme.

These Regulations—

- make provision as to the calculation of the scheme's liabilities and assets (regulation 2);
- modify the application of section 58B in relation to scheme which apply to earners in employments under different employers (regulation 3) and to schemes in respect of which there are no members in pensionable service (regulation 4).

These Regulations are consequential upon the coming into force of paragraph 2 of Schedule 4 to the Social Security Act 1990 and are made before the end of the period of 6 months beginning with the commencement of that provision and, therefore, under section 61(5) of the Social Security Act 1986, no proposals to make them have been submitted to the Occupational Pension Board.