

SECTION D: THE DUTIES OF ACTUARIES AND PROFESSIONAL CONDUCT

THE STATUTORY DUTIES OF THE ACTUARY

The following is a list of the main functions entrusted to the actuarial profession by public Acts of Parliament of Great Britain. In addition, a large number of private Acts dealing with the superannuation schemes of local authorities and other bodies contain provisions requiring periodical valuations to be made by a qualified actuary. Further, where an industry has been nationalized, or staff in some employment carrying pension rights transferred to employment under a State scheme, it has usually been provided by regulations that any necessary actuarial work such as the apportionment of superannuation funds shall be performed by an actuary, being a Fellow of the Institute or of the Faculty.

In the list given below no reference is made to the various Acts which impose duties on the Government Actuary or other actuaries in the Public Service.

I. INSURANCE COMPANIES ACT 1982

This Act (the 1982 Act) consolidated the Insurance Companies Acts 1974 to 1981.

SECTION 19 of the Act requires every company to which the Act applies which carries on long-term business to appoint an actuary as actuary to the company and to notify the Secretary of State within 14 days whenever such an appointment is made or terminated.

SUBSECTION (1) of SECTION 96 of the Act provides that, in the Act, the expression 'actuary' means an actuary possessing the prescribed qualifications. Regulation 28 of the Insurance Companies (Accounts and Statements) Regulations 1983 (SI 1983 No. 1811) defines an actuary as 'a Fellow of the Institute of Actuaries or of the Faculty of Actuaries having attained the age of 30 years'. Any person appointed as actuary prior to the coming into force of these regulations was deemed to be qualified.

SUBSECTION (3) of SECTION 17 of the Act provides for regulations to be made requiring certificates to be annexed to the accounts of insurance companies.

Regulation 26(b) of SI 1983 No. 1811 requires a certificate signed by the appointed actuary to be annexed to the balance sheet of every company writing long-term business. This certificate, which is required in respect of every accounting year ending on or after 15 March 1984, is to state, if such be the case:

that adequate records have been kept for the purpose of valuing the long-term business liabilities; that the mathematical reserves together with any amount specified (being part of the excess of the admissible assets representing the long-term business funds over the amount shown in the relevant form) constitute proper provision for the liabilities including liabilities arising from any distribution of surplus; that the liabilities have been assessed in the context of the assets valued in accordance with the appropriate regulations. It shall also state the required solvency margin.

For the purpose of distinguishing it from general business, long-term business is defined in the 1982 Act as any of the following classes of business: life and annuity; marriage and birth; linked long term; permanent health; tontines; capital redemption; pension fund management. However, for the purpose of statutory returns, long-term business is divided into ordinary long-term business and industrial business.

SUBSECTIONS (1) and (2) of SECTION 18 of the Act require that every company transacting ordinary long-term business or industrial business must, once in every twelve-month period, cause an investigation to be made into its financial condition by the appointed actuary. This investigation shall include a valuation of the long-term business liabilities and a determination of the overall surplus and of the surplus of any particular parts of the business in which policyholders are entitled to participate. An abstract of the actuary's report must be made in the prescribed form. These provisions must also be complied with whenever an investigation is made for publication or with a view to the distribution of profits.

Regulation 24(a) of SI 1983 No. 1811 prescribes that the abstract of the actuary's report should be in the form set out in Schedule 4 appended to the Instrument. This Schedule sets out the information to be given in the abstract, which is to be made and signed by the appointed actuary.

SUBSECTION (3) of SECTION 18 of the Act requires that at least once every five years the company shall prepare in the prescribed form a statement of its long-term business at the date to which the accounts were made up for the actuarial investigation.

REGULATION 24(b) of SI 1983 No. 1811 requires that such company's statements should be in the form presented by Schedule 5 thereto. The statement is to be signed by the appointed actuary.

SECTION 42 of the Act further empowers the Secretary of State to require a company to have its actuary carry out an investigation into part or the whole of its long-term business, and to submit a report thereon in the prescribed form, at any specified date.

SUBSECTION (2) of SECTION 49 of the Act states that the court shall not entertain an application to it for sanction for the transfer of the whole or part of the long-

term business of one insurance company to another unless the petition is accompanied by a report on the terms of the scheme by an independent actuary.

SUBSECTION (2) of SECTION 56 of the Act provides that, when a company carrying on long-term business is to be wound up, the liquidator shall, unless the court otherwise orders, carry on that business with a view to its being transferred as a going concern to another insurance company. Subsection (6) provides that the court may, on the application of the liquidator, a special manager appointed to carry on the long-term business, or the Secretary of State, appoint an independent actuary to report on the desirability or otherwise of the long-term business being continued and on any reduction in contracts necessary for its successful continuation.

SECTION 90 of the Act provides for regulations to be made with respect to the determination of the value of the assets and the amount of the liabilities in any case in which the value or amount is required by any provision of the Act to be determined in accordance with valuation regulations. Determination of liability regulations were newly promulgated in SI 1981 No. 1654, which consolidated all insurance companies regulations except for the Accounts and Statements regulations. Regulations 54 to 64, which are concerned with the determination of long-term liabilities, came into operation for valuations from 1 October 1982.

2. LOCAL GOVERNMENT SUPERANNUATION REGULATIONS 1986

These regulations, laid under SECTION 7 of the Superannuation Act 1972, supersede the 1974 Regulations and consolidate all previous Regulations which remain valid, including those provisions that relate to the duty of the actuary. The Regulations are applicable only to local authorities in England and Wales.

The Regulations require that every fund shall be valued by an actuary as at 1 April 1989 and at 31 March in each fifth year thereafter. An 'actuary' is defined as a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries. The actuary is further required to furnish a certificate specifying the common rate of contribution, as a percentage of salary roll, to be paid in the ensuing 5-year period in respect of all bodies interested in the superannuation fund maintained by the Authority and, secondly, any individual adjustments to the common rate in respect of any body, included within the scope of the superannuation fund, in respect of which the actuary considers a special contribution to be necessary.

3. FRIENDLY SOCIETIES ACTS 1896 TO 1974

All previous Friendly Societies Acts have been largely repealed and consolidated in the Friendly Societies Act 1974, which came into force on 1 April 1975.

SECTIONS 41 and 42 of the 1974 Act require that every registered society shall be

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valued by an actuary at least once in every 5 years, or, if required by the Chief Registrar of Friendly Societies, at least once in every 3 years.

It is provided in Schedule 2, para 11(2) of the 1974 Act that a Society registered on or after 26 July 1968, which proposes to carry on long-term business within the meaning of the Insurance Companies Act 1974, must have its tables of contributions and benefits relating to that business certified by a qualified actuary.

For the purposes of the Acts, an actuary is defined by SI 1968 No. 1481, 'The Friendly Societies (Qualifications of Actuaries) Regulations 1968', as either:

- (1) a Fellow of the Institute of Actuaries or of the Faculty of Actuaries; *or*
- (2) such other person having actuarial knowledge as the Chief Registrar may, on the application of a registered Friendly Society, approve.

Although, under SECTION 41 of the 1974 Act, the Treasury retains the powers granted under the 1896 Act to appoint actuaries as Public Valuers, and to determine the rates of remuneration to be paid by societies for their services, all such appointments which had been made under the 1896 Act lapsed on 31 March 1971 and no new appointments have so far been made.

4. TRADE UNION AND LABOUR RELATIONS ACT 1974

SECTION 11(7) states that the provisions of Part II of Schedule 2 to the Act apply to members' superannuation schemes maintained by trade unions or employers' associations.

Paragraph 23 of Part II of Schedule 2 provides for the examination of a superannuation scheme by an actuary and for a report to be made by the actuary to the trade union or employers' association concerned. The contents and publication of the report, and the definitions used in the Act (including that of an 'appropriately qualified actuary') are dealt with in subsequent paragraphs in Schedule 2.

5. EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978

SECTION 123 enables unpaid employer's contributions to an occupational pension scheme, within certain limits, to be recovered from the Redundancy Fund in the event of the employer's becoming insolvent. One of these limits is 'the amount certified by an actuary to be necessary for the purpose of meeting the liability of the scheme on dissolution to pay the benefits provided by the scheme to or in respect of the employees of the employer'. (See also Guidance Note GN4.)

6. SOCIAL SECURITY PENSIONS ACT 1975

This Act does not of itself impose statutory duties on actuaries but under it the Occupational Pensions Board must be satisfied that an occupational pensions scheme wishing to be contracted out has sufficient resources. For this purpose 'the OPB will place considerable reliance on certificates from the scheme's actuary'. Details of the types of certificates required are given in Occupational Pensions Board Memoranda Nos. 43 and 76.

7. THE SOCIAL SECURITY ACT 1985

This Act, which modifies the Social Security Pensions Act 1975, imposes duties on the actuary in relation to two aspects of occupational pension schemes. (a) transfer values and (b) disclosure.

(a) *Transfer Values*. The cash equivalents stipulated in paragraph 12(1) of Schedule 1A of the Act are to be calculated and verified by an actuary using methods and assumptions which satisfy the requirements set out in The Occupational Pension Schemes (Transfer Values) Regulations 1985.

(b) *Disclosure*. In accordance with the requirements of the Occupational Pension Schemes (Disclosure of Information) Regulations 1986, the trustees of an occupational scheme are obliged to obtain valuation reports from an actuary at intervals not exceeding 3 years 6 months. The actuary is also required to provide an actuarial statement in a format specified in Schedule 4 of the regulations, and this statement is included in the annual report issued by the trustees.

8. THE FINANCE ACT 1986

Schedule 12 of this Act sets out the procedures relating to a refund of pension fund assets to an employer and describes the maximum tax-exempt funding levels permitted for pension funds. The Act requires that a pension scheme must be valued by an actuary using prescribed assumptions or that the actuary must provide a certificate stating whether or not the value of the assets exceeds the value of the liabilities by more than the prescribed maximum. The prescribed maximum and the assumptions prescribed for determining the values of assets and liabilities are set out in Joint Office Memorandum No 82, issued by the Superannuation Funds Office and the Occupational Pensions Board, and are expected to be incorporated in forthcoming regulations—the Pension Surpluses (Valuation) Regulations 1987.