

The Pensions Regulator

Scheme Funding

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Scheme Funding

Part 3 of PA 2004

Secondary legislation in the form of Regulations


Regulator guidance in the form of a code of practice and sample documents

Regulators' use of powers



Key Elements

- Statutory funding objective
technical provisions
- Statement of Funding Principles
- Regular actuarial valuations
actuarial reports in between
- Recovery plan if there's a shortfall
- Schedule of Contributions (SoC)
- Modify future accrual



Actuarial Certification

- Calculation of technical provisions
not covering prudence
in accordance with Regulations under
S222
- Adequacy of SoC
but not requiring calculations as at
certification date



Regulator's powers

- Modify future accrual
- Direct how technical provisions are
calculated
- Direct how shortfall is eliminated
- Impose a SoC



Schemes included

- All occupational pension schemes except
 - purely money purchase schemes
 - prescribed exemptions
- May be exemptions from any provisions of
Part 3



HEALTH WARNING

The Regulations and the Code have not yet been finalised. Whilst this presentation is based on the position as currently known it may be subject to change.



Main special cases

- Shared cost schemes
- Multi-employer schemes
- Cross-border schemes
- Schemes where trustees or actuary has power to set contributions rate
- Schemes having fewer than 100 members



Shared cost schemes

When there is a shortfall at the valuation

- trustees are given the power to modify the scheme such that the shortfall is eliminated through either:
 - additional member and employer contributions in the usual proportions, or
 - if the employer agrees, additional member and employer contributions but with the employer paying more than his usual share



Multi-employer schemes

- Segregated sections are to be treated as separate schemes
- In an unsegregated scheme, agreement must be reached with all employers unless rules or employers nominate a representative
- In the absence of a nomination, an employer may waive his right to agree except for the modification of future accrual

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Cross-border schemes

- Annual actuarial valuations
- 12 month time limit (rather than 15)
- No recovery plans
- Shortfalls made up within 1 year of ED
- (And impact of host country social & labour laws and relevant assumptions)

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Trustees set the contribution rate

- Consult the employer (except for modifications)
- May be within a limit, in which case agreement needed to exceed limit

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Actuary sets the contribution rate

- Applies to anyone other than trustees and employer (usually the actuary)
- Trustees and Regulator must take account of actuary's recommendation when deciding on method, assumptions or recovery plan



Fewer than 100 members

- At all times throughout the period
- Do triennial valuations without the need for intervening reports and hence may issue summary funding statements after valuation only



The consultation this spring

- Covered Regulations, Code of Practice and Guidance
- Ended in early May but followed by consultation events in Glasgow, Leeds, Bristol and London
- Over 50 written submissions



The main issues raised

The Regulations

- Liabilities matched by annuity policies
- Content of actuarial reports
- Certification of the schedule
- Actuary setting contribution rate
- Solvency



The code, guidance and sample documents

- Overall approach
- Prudence and technical provisions
- The employer's covenant and reaching agreement
- Recovery plans
- Reporting to the Regulator/ members



Overall approach

Summary of responses:

- Generally well written
- Too long, some repetition
- Stick to principles in code
- High level of trustee knowledge assumed
- Trying to educate



Overall approach

What we have done:

- Cut out “educational” material
- Had difficulty with principles because of need to provide “practical guidance”
- Code only – no supplementary guidance
- Specimen documents on website
- Improved focus and signposting
- Clarified some messages



Prudence and technical provisions

Summary of responses:

- Some wanted prudence defining
- Some thought message too risk averse implying little short of solvency
- Could employer covenant be a factor?
- Concentration should be on overall prudence of basis



Prudence and technical provisions

What we've done:

- Accepted much of the criticism
- Technical provisions don't have to be full buy-out
- An allowance for equity out performance may be prudent if employer can stand shocks



Prudence and technical provisions (continued)

A margin is not required on top of prudence
Overall prudence of technical provisions at an appropriate confidence level should be aim
Select individual assumptions appropriately
Mortality is different

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Employer's covenant and reaching agreement

Summary of responses:
Trustees should be able to require employer to provide information
Too much reliance on accountants
Concern over confidentiality agreements
Role for trade unions?
More needed on conflicts of duty/ interest

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Employer's covenant and reaching agreement

What we've done:
Accepted that Administration Regulations place obligation on employer to provide information
Range of sources of advice and information about employer's financial strength
Not proper for trades unions to be involved in Part 3 negotiations
Code addresses conflict issues

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Recovery Plan

Summary of responses:

Guidance generally helpful though some thought too prescriptive

Some thought employer's business plans should be a factor

May thought the messages over speed of recovery plan were ambiguous

Many argued that contingent security could justify a longer period



Recovery Plans

What we've done:

- Shortfalls should be eliminated as quickly as employer can reasonably afford
- Trustees should take account of business plans and contingent security provided



Reporting

Summary of responses:

Five working days can be too tight, particularly for report to members

What we've done:

Moved to ten working days for reports to Regulator

And one month for reports to members

Emphasised that urgent reports can be flagged by telephone and sent as soon as reasonably practicable



Miscellaneous

Summary of responses:

Guidance on actuarial advice to the employer not helpful

Little experience of mediation but unlikely to be of significant value

Discussions about peer review of actuary's advice not welcomed by all

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Miscellaneous

What we've done:

Trustees should discuss in advance the provision of advice to employers

Accepted some criticisms around mediation and tweaked messages

Retained peer review section but are stressing appropriateness to schemes and that discussion might take place on appointment

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Implementation

- ED of first Part 3 valuation no more than 3 years after that of last MFV
- Newly established schemes, ED within one year
- Scheme not previously subject to MFR, ED no later than 29/12/06

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Timings

- Regulations expected to be in force by 30 December but effectively back-dated to 22 September
- Code to be laid before Parliament about same time
- Regulator consultation document on how it intends to regulate Part 3 expected end of October

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Any questions?
