

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.

1. 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 20 of the Insurance Companies (Accounts and Statements) Regulations 1980 (S.I. 1980 No. 6), the current Instrument, as amended, 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 18(b) of S.I. 1980 No. 6 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 commencing on or after 1 January 1981, is to state, if such be the case, that adequate records have been kept for the purpose of valuing the long-term business liabilities and that the liabilities in respect of long-term business do not exceed the long-term business assets, due account having been taken of the relationship between the nature and term of the assets and liabilities.

For accounting years ending after 14 March 1984 the certificate 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. (For the statutory requirements in respect of the latter, see item 2 below.)

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 17(a) of S.I. 1980 No. 6, which applies where the valuation relates to an accounting period starting on or after 1 January 1981, 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 17(b) of S.I. 1980 No. 6 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 a 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 S.I. 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. INDUSTRIAL ASSURANCE ACT, 1923

SECTION 12 makes certain modifications in the legislation embodied in the Assurance Companies Act, 1909, as re-enacted in the Insurance Companies Act, 1958, so far as industrial assurance business is concerned; it provides *inter alia* that the independent actuary referred to in SECTION 11 of that Act shall be appointed by the President of the Institute of Actuaries or by the President of the Faculty of Actuaries in Scotland, on the application of the Industrial Assurance

Commissioner, and shall make his report on the amalgamation or transfer to the Commissioner.

SECTION 18 provides that the valuation of the liabilities of a Collecting Society or Industrial Assurance Company shall be made by an actuary as defined by the Assurance Companies Act, 1909, as re-enacted in the Insurance Companies Act, 1958. In this connexion, Regulation 5 of S.I. 1980 No. 1820 provides that the abstract of the actuary's report, and the statement of a company's industrial assurance business, shall be in the form set out in Schedules 4 and 5 to S.I. 1980 No. 6 (see under Insurance Companies Act, 1982 above).

3. SUPERANNUATION AND OTHER TRUST FUNDS (VALIDATION) ACT, 1927

SECTION 5 provides that the financial condition of every fund registered under the Act must be investigated and reported on at least once every five years by an actuary.

SECTION 8 defines an actuary as a person having such qualifications as may be prescribed by the Chief Registrar of Friendly Societies. In this connexion S.I. 1968 No. 1480, The Superannuation and other Trust Funds (Qualification of Actuaries) Regulations 1968 provides that the actuary shall be:

- (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 on application may approve.

This Act is to be repealed under Section 69 of the Social Security Act 1973.

4. LOCAL GOVERNMENT SUPERANNUATION REGULATIONS, 1974

These regulations, laid under SECTION 7 of the Superannuation Act 1972, repeal most of the provisions of the Local Government Superannuation Acts 1937 and 1953, including those that relate to the duties of the actuary.

Regulation B7 requires that every fund shall be valued by an actuary as at 1 April 1974 and at 31 March in each fifth year thereafter. An 'actuary' is defined in Regulation A3 as a Fellow of the Institute of Actuaries, or a Fellow of the Faculty of Actuaries. Under Regulation B8 the actuary is further required to furnish a certificate specifying the 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, the rate of contribution 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.

Apportionment of many of the local government superannuation funds, as they existed before 1 April 1974, is necessary as a consequence of the reorganization of local government, and the transfer of certain functions to the National Health Service and to the National Water Council and the Regional

Water Authorities. Regulation J6 provides for an actuary to be appointed to perform each such apportionment, and Schedule 16 lays down the procedure to be adopted.

5. 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 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 Statutory Instrument 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.

6. 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.

7. 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 the guidance note on page 56.)

8. 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 O.P.B. will place considerable reliance on certificates from the scheme's actuary.' Details of the types of certificates required are given in Occupational Pensions Board Memorandum No. 43.

MEMORANDUM ON PROFESSIONAL CONDUCT AND PRACTICE*

1. INTRODUCTION

1.1. The Institute of Actuaries is a professional body operating under a Royal Charter. Through its members it has an obligation in the public interest to provide the best possible service and advice; and since the public in general has no ready means of judging the quality of this it is essential that the highest standards of conduct are maintained by all members of the Institute (whether or not they are fully qualified) when they give advice of a professional nature.

1.2. Professional conduct involves the actuary's own sense of integrity in relationships not only with those to whom professional services are rendered but also with other members of the profession and with the public. In all these relationships every member is therefore concerned not only with his own behaviour but also with the behaviour of his colleagues.

1.3. The Council of the Institute believes that the importance of maintaining the highest standards is generally recognized by members. It has never sought to incorporate in the Charter or Bye-laws a comprehensive code to regulate professional conduct, but it relies upon the conscience of each individual member and the collective conscience of the whole membership. Nevertheless, to assist members, the Council has authorized the publication in the *Year Book* of this memorandum on the main principles to which it expects all members to conform in the spirit as well as the letter. Questions relating to legal liability which might arise in connexion with the provision of actuarial advice are not dealt with herein, but an article on legal liability follows on page 64.

1.4. The guidance given in this memorandum should be regarded as a general

* This article which was issued by Council as guidance to Members was first published in the *Year Book* for 1973/74 and incorporates subsequent amendments.