

PART TWO

THE DUTIES OF ACTUARIES AND PROFESSIONAL CONDUCT

THE ACTUARY AND THE PUBLIC

Members of the public would be well advised to seek professional actuarial guidance on a number of problems, such as those arising in connexion with the setting up or operation of pension schemes, or those involved in the valuation of life interests or reversions or the assessment of damages. If anyone who is desirous of obtaining such advice is in doubt as to whom to approach, the Institute will be glad to provide names of actuaries experienced in the type of problem concerned. Enquires should be directed to the Secretary of the Institute.

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, 1974

This Act consolidates the Insurance Companies Act, 1958 as amended by the Companies Act, 1967 and the Insurance Companies Amendment Act, 1973. SECTION 15 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 is terminated.

SUBSECTION (1) of SECTION 85 of the ACT provides that, in the Act, the expression 'actuary' means an actuary possessing the prescribed qualifications. Rule 15 of S.I. 1968 No. 1408*, the current Instrument, defines an actuary as:

(1) a Fellow of the Institute of Actuaries or of the Faculty of Actuaries; or
(2) such other person having actuarial knowledge as the Board of Trade may, on the application of the company, approve.

SUBSECTION (3) of SECTION 13 of the ACT as amended, provides for regulations to be made requiring certificates to be annexed to the accounts of insurance companies.

Rule 5 of S.I. 1968 No. 1408*, the current Instrument, requires a certificate signed by an actuary to be annexed to the balance sheet of every company writing long-term business. The certificate, which is required in respect of every accounting year commencing on or after 1 January 1969, is to state whether or not, in the actuary's opinion, the liabilities in respect of long-term business exceeded the aggregate amounts of those liabilities as shown on the balance sheet.

As now defined, long-term business consists of ordinary long-term business (comprising ordinary life assurance, long-term personal accident, and capital redemption business) and industrial assurance business.

SUBSECTION (1) of SECTION 14 of the ACT requires that every insurance company transacting ordinary long-term or industrial assurance business must, at least once in every three years, cause an investigation to be made into its financial condition, including a valuation of its liabilities, by the appointed actuary. 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.

Rule 16 of S.I. 1968 No. 1408*, which applies where the valuation date is on or after 1 January 1969, prescribes that the abstract of the actuary's report should be in the form set out in the Fourth Schedule 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 actuary.

SUBSECTION (2) of SECTION 14 of the ACT requires that where an insurance company causes an abstract to be made of the actuary's report the company shall prepare in the prescribed form a statement of the insurance business at the date to which the accounts are made up for the purposes of the investigation, provided that if the investigation is made annually the statement need be made only once every five years.

Rule 17 of S.I. 1968 No. 1408* prescribes that the company's statements should be in the form set out in the Fifth Schedule thereto. The statement is to be signed by the actuary.

SECTION 34 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 42 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

* To be superseded by S.I. 1980 No 6. See p. 24.

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 48 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 78 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. Regulations applicable to the determination of the amount of liabilities have not yet (mid-1980) been promulgated but when they are, it is anticipated that they will prescribe minimum standards for actuarial valuations of long-term business.

On 1 January 1981 the Insurance Companies (Accounts and Statements) Regulations 1980 come into force. These regulations [S.I. 1980 No. 6] cover the returns to be made to the Department of Trade by insurance companies and first apply to returns submitted for an accounting period starting on or after 1 January 1981. They supersede S.I. 1968 No. 1408 where it appears above. In particular:

(a) the definition of 'actuary' as prescribed under Regulation 20 is 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 the new regulations is deemed to be qualified.

(b) Regulation 17 prescribes that the abstract of the actuary's report on the ordinary long-term business shall be in accordance with Schedule 4. This sets out the information to be given and is to be signed by the appointed actuary.

(c) Regulation 17 also prescribes that the statement of ordinary long-term business shall be in accordance with Schedule 5. Again the Schedule sets out the information required and is to be signed by the appointed actuary.

(d) Regulation 18 requires the certificate to be signed by the appointed actuary and to be annexed to the balance sheet to be in accordance with Part II of Schedule 6.

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, Rule 3 of S.I. 1968 No. 1571 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. 1968 No. 1408 (see under Insurance Companies Act, 1974 above).

Rule 7 of S.I. 1968 No. 1571 provides that any person acting as an actuary for the purpose of valuing the liabilities of a collecting society or of a company's industrial assurance business 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 Industrial Assurance Commissioner may, on the application of the company or collecting society, approve.

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.'

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.

SERVICE ON ROYAL COMMISSIONS AND OTHER PUBLIC COMMITTEES

In the earliest days of the profession, actuaries gave help to governmental committees of various kinds. As a natural outcome, actuaries have since rendered public service to an increasing extent as members of Royal Commissions, Departmental Committees, etc. At first such service was usually in connexion with friendly societies, superannuation and widows' benefits and similar subjects; but with the growing scope of actuarial work and the development of national schemes of social insurance the frequency of these references to actuaries increased, and in recent years they have covered a very wide range of interests. Further, whilst the majority of appointments to committees have arisen out of the particular professional position or knowledge or activities of the member appointed, in many instances the appointment has been in recognition of the individual's reputation for general capacity or wisdom in counsel.

Royal Commissions stand perhaps alone in public interest and importance, and actuaries have figured frequently amongst the membership of such bodies. For example, the Institute was represented by Mr R. S. Skerman on the Royal