

GN49: Occupational Pension Schemes – Scheme funding matters on which advice of actuary must be obtained

Classification

Practice Standard

MEMBERS ARE REMINDED THAT THEY MUST ALWAYS COMPLY WITH THE PROFESSIONAL CONDUCT STANDARDS (PCS) AND THAT GUIDANCE NOTES IMPOSE ADDITIONAL REQUIREMENTS UNDER SPECIFIC CIRCUMSTANCES

Purpose

This Guidance Note contains specific guidance to an actuary in relation to his or her role of giving advice to the *trustees* under Section 230(1) of the Pensions Act 2004 (“the Act”) and is issued pursuant to Regulation 15 of the Occupational Pension Schemes (Scheme Funding) Regulations 2005.

Definitions

For the purpose of the Guidance Note:

Reference	Definition
<i>Trustees</i>	The trustees or managers of an occupational pension scheme to which Part 3 of the Pensions Act 2004 applies.
<i>Regulator</i>	The Pensions Regulator established by Section 1 of the Pensions Act 2004
<i>Relevant advice</i>	Advice given to the <i>trustees</i> under Section 230(1) of the Pensions Act 2004.
<i>Code of Practice</i>	The code of practice on funding defined benefits produced by the <i>Regulator</i> dated December 2005.

Application

An actuary to an occupational pension scheme appointed under Section 47(1)(b) of the Pensions Act 1995 or, where the scheme is exempt from the requirement to appoint an actuary, the actuary authorised by the *trustees* of the occupational pension scheme as provided for in Schedule 2 to the Regulations mentioned below.

Legislation or Authority

Pensions Act 2004, Section 230.

The Occupational Pension Schemes (Scheme Funding) Regulations 2005, SI 2005/3377, (“the Regulations”).

The Pensions Regulator’s Code of Practice – ‘Funding defined benefits’ dated December 2005.

Northern Ireland has its own body of law relating to pensions and, in relation to Northern Ireland, references to Great Britain legislation contained in this guidance note should be read as including references to the corresponding Northern Ireland legislation. The Northern Ireland legislations corresponding to the Great Britain legislation mentioned in this Guidance Note are included in Appendix A. Except as indicated in the table there is no difference in the numbering of the provisions mentioned in this guidance note.

This Guidance Note has been approved by the Secretary of State in accordance with Regulation 15 of the Regulations and the Department for Social Development in Northern Ireland in accordance with Regulation 15 of the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005, SR 2005 No 568.

Author

Pensions Board

Status

Approved under Due Process

<i>Version</i>	<i>Effective from</i>
1.0	30.12.05

Adopted by BAS on 06.04.07

Ceased to apply on 01.04.11

1 Introduction

1.1 This Guidance Note contains specific guidance to an actuary in relation to his or her role of giving advice to the *trustees* under Section 230(1) of the Pensions Act 2004 (“the Act”).

2 Advising Trustees

2.1 Under Section 230(1) of the Act the *trustees* must obtain the advice of the actuary before doing any of the following:

- (a) making any decision as to the methods and assumptions to be used in calculating the scheme’s technical provisions (section 222(4) of the Act);
- (b) preparing or revising the statement of funding principles (section 223 of the Act);
- (c) preparing or revising a recovery plan (section 226 of the Act);
- (d) preparing or revising the schedule of contributions (section 227 of the Act); and,
- (e) modifying the scheme as regards the future accrual of benefits under section 229(2) of the Act.

- 2.2 In giving *relevant advice* the actuary must have regard to the *Code of Practice* and any other relevant guidance on funding defined benefits issued by the *Regulator*.
- 2.3 In advising the *trustees* under 2.1(a) or 2.1(c) above, the actuary must bring to the attention of the *trustees* those matters in the lists in paragraphs 75, 79, or 102 of the *Code of Practice* respectively on which he or she has not given advice.
- 2.4 The actuary's obligation in advising on 2.1(e) above is limited to the implications (of modifying benefits for the future) for the statement of funding principles, the recovery plan, and the schedule of contributions.
- 2.5 The actuary must confirm in writing all *relevant advice* that is given orally so the *trustees* have proof of their compliance with their duties under section 230(1) of the Act.

3 Information required prior to giving advice

- 3.1 The actuary must bring to the attention of the *trustees* that, prior to obtaining his or her advice, they must provide sufficient and up to date information concerning the scheme and the employer(s).
- 3.2 If, in the opinion of the actuary, insufficient information has been provided, the actuary must (having first taken reasonable steps to obtain the missing information) make it clear to the *trustees* where and to what extent he or she has felt it appropriate to make assumptions with regard to the missing information and the effect on the advice given. The advice may have to be limited in scope if insufficient information has been provided. It must be made clear to the *trustees* that the actuary will only be able to accept responsibility for the advice based on the information that has been provided, the nature of which must be summarised.
- 3.3 If the actuary believes that the *trustees* are not complying with their obligation to provide adequate information, the actuary must consider what other actions it would be appropriate to take. Depending on the circumstances, appropriate actions might include making a report to the *Regulator* under Section 70 of the Act or resigning his or her appointment.

Appendix A: Northern Ireland Legislation

GB Provision

Pensions Act 1995 (c. 26)

Section 47

Pensions Act 2004 (c. 35)

Section 222

Section 223

Section 226

Section 227

Section 229

Section 230

Occupational Pension Schemes (Scheme Funding) Regulations 2005, SI 2005/3377.

NI Provision

Pensions (Northern Ireland) Order 1995, SI 1995/3213 (NI 22)

Article 47

Pensions (Northern Ireland) Order 2005, SI 2005/255 (NI 1)

Article 201

Article 202

Article 205

Article 206

Article 208

Article 209

Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005, SR 2005 No 568.