

GN3: Retirement Benefit Schemes - Contracting-out Certificates for Schemes where Wind-up commenced before 6 April 1997

Classification

Practice Standard

MEMBERS ARE REMINDED THAT EVERY GUIDANCE NOTE MUST BE READ IN THE CONTEXT OF THE PROFESSIONAL CONDUCT STANDARDS (PCS)

Application

Any actuary responsible for signing a certificate indicating the sufficiency of scheme resources for the Inland Revenue, for a scheme where wind-up commenced before 6 April 1997.

Legislation or Authority

Pensions Act 1995 (c.26). Section 47(1)(b).

The Occupational Pension Schemes (Contracting-out) Regulations 1996, SI 1996/1172.

The Occupational Pension Schemes (Investment) Regulations 1996, SI 1996/3127.

Inland Revenue. *Cessation of contracted-out pension schemes manual*. CA15. April 1999.

Northern Ireland has its own body of law relating to pensions and, in relation to Northern Ireland, references to the Great Britain legislation contained in this Guidance Note should be read as including references to the corresponding Northern Ireland legislation. The Appendix shows Northern Ireland legislation equivalent to the Great Britain legislation mentioned in this Guidance Note.

Author

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Status

Approved under Due Process (Technical Amendment).

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Adopted by BAS on 19.05.06

Ceased to apply from 30.11.08

1 Introduction

- 1.1 The Inland Revenue (specifically, the National Insurance Services to Pensions Industry (NISPI), part of the National Insurance Contributions Office) has, under section 9(2B)(c)(i) and section 53 of the Pension Schemes Act 1993, responsibility for satisfying itself about the sufficiency of resources of pension schemes which hold contracted-out rights.
- 1.2 For schemes where wind-up commenced before 6 April 1997, NISPI relies on Certificate C. This Guidance Note has been prepared to assist actuaries in the signing of this certificate; the Guidance Note supplements and does not supersede the information given in the NISPI guidance.

2 Level of Responsibility

- 2.1 Only the Scheme Actuary (with certain exceptions where the provisions of Section 47(1)(b) of the Pensions Act 1995 do not apply) may sign this certificate.

3 Particular Considerations

- 3.1 Attention is drawn to the following particular considerations. (The list should not be taken to be exhaustive.)
- 3.1.1 The actuary must have particular regard to:
- (i) the possibility of advances in priority under the scheme's rules, for example if deferred members' pensions come into payment or as a result of increases to benefits which may arise from inflation;
 - (ii) the critical level at which the exercise of any remaining options not requiring consent might cause the certificate to be invalidated; and
 - (iii) the expenses of winding-up a scheme, including possible costs arising from the appointment of an independent trustee.
- 3.1.2 In signing a Certificate C, the actuary must interpret the words 'likely in the normal course of events' bearing in mind the following:
- (i) the wording must be qualified by the assumption that the winding-up will be completed within three years.
 - (ii) 'events' includes events external to the scheme, eg economic and financial developments.

- (iii) the meaning must comprehend a prudent view of the future without taking into account every conceivable unfavourable development. The actuary must regard these words as excluding the possibility of events which he or she cannot possibly be expected to have allowed for in a conservative approach.
- 3.1.3 The actuary must bear in mind the necessity to make whatever enquiries he or she considers appropriate in order to be satisfied that he or she has been supplied with all the relevant information including changes likely to materialise in future, as well as those already effective, in membership, early retirement policy, augmentations of benefits, etc. However, the actuary need not allow for possible drastic changes which are not currently envisaged by the trustees or employer, if one exists in relation to the scheme, and which would not be in keeping with recent experience.
- 3.1.4 The actuary signing a Certificate C must have regard to any mismatching of investments, particularly in relation to the contracted-out and higher priority liabilities, which appears likely to arise in the light of the investment policy of the trustees and any likely changes in that policy.
- 3.1.5 When signing Certificate C the actuary must give careful consideration to the value to be placed on any employer-related investments or particular assets which constitute a relatively high proportion of investments. In determining the value to be placed on such assets the actuary must consider their possible realisable value.
- 3.1.6 If the assets of the fund take the form of insurance policies, and the actuary is signing a certificate related to the ability to provide benefits in the form of annuities, he or she should take into account the practice of the office in winding-up pension contracts and how it might alter in the external events mentioned in 3.1.2 above. If the certificate is not related to benefits in the form of annuities it will be the practice of the office as regards surrender values which is material.
- 3.1.7 The actuary is not under a duty to monitor the progress of the scheme after he or she has signed a Certificate C. However, there is a statutory requirement on the trustees of a pension scheme to provide the Scheme Actuary with information which could be of financial significance. If there exists an employer in relation to the scheme, the employer is obliged by regulation 15 of the Contracting-out Regulations 1996 to supply a new actuarial certificate to the NISPI where the existing certificate is invalidated, or, where this is not possible, to notify the NISPI that the scheme no longer meets the contracting-out conditions. The actuary who is notified of the occurrence or possible occurrence of significant events during the currency of a certificate must consider whether the certificate might be invalidated and, if necessary, advise the employer of the need to conduct a new investigation. If such investigation shows that the certificate is invalidated, the actuary must

complete a new certificate or, if unable to provide such a certificate, inform the NISPI of the circumstances.

Appendix : Northern Ireland Legislation

GB Provision

NI Provision

Section 53 of the Pension Schemes Act 1993

Section 49 of the Pension Schemes (Northern Ireland) Act 1993 (c.49)

Section 47(1)(b) of the Pensions Act 1995

Article 47(1)(b) of the Pensions (Northern Ireland) Order 1995

The Occupational Pension Schemes (Contracting-out) Regulations 1996 (SI 1996/1172)

The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (SR 1996 No.493)

The Occupational Pension Schemes (Investment) Regulations 1996 (SI 1996/3127)

The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996 (SR 1996 No.584)