

《英國退休金法》——
有關提供款項的最低水平規定

立法局秘書處
資料研究及圖書館服務部
一九九五年十一月

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背景

麥士維(Maxwell)事件發生後，英國社會保障大臣於一九九二年六月成立了一個退休金法律檢討委員會。該委員會由葛德(Roy Goode)教授擔任主席，負責檢討英國有關職業退休計劃的現行法例。委員會的報告書(一般稱為葛德報告書)成爲一九九四年六月英國發表的白皮書及一九九四年年底提交英國國會審議的退休金法案的基礎。

2. 葛德報告書及退休金法案涵蓋各項有關職業退休計劃的題目，範圍十分廣泛。本文件只集中研究有關提供款項的最低水平規定，而該部分與議員就本港大學教育資助委員會各資助院校的退休金計劃資金問題進行的討論最有關連。

葛德報告書在提供款項方面所提出的最低水平規定

3. 葛德報告書就界定利益退休計劃在提供款項方面的規定作出以下重要的建議：

- 須訂立償付能力的最低水平規定，以保障參與計劃成員在退休金方面的權益
- 每項計劃的資產應足以支付該計劃的負債
- 償付能力範圍介乎100%與90%之間的計劃，應於三年內將其償付能力回復100%的水平
- 償付能力低於90%的計劃，應於三個月內將其償付能力回復90%的水平，並於三年內回復100%的水平

英國政府的反應

4. 上述建議已獲英國政府接納，並已載入〈保障，平等，選擇：退休金的未來〉白皮書內。社會保障大臣因應白皮書發表後所收到的意見，已於一九九四年年底就回復所規定的提供款項水平的限期及資產和負債的估值方法，修訂有關細節。現將社會保障大臣的建議引述如下：

- 「關於將計劃的提供款項水平提升，以回復償付能力的法定最低水平規定的至少90%及100%，有關限期應分別延長至一年及五年」
- 「償付能力的法定最低水平規定的計算法應以數月內的平均市值計算，而非根據某一日的市值計算」

退休金草擬法案在一九九四年十二月發表，經於上議院進行首讀後，已將該等建議列入。

《退休金法》

5. 退休金草擬法案於一九九五年七月十七日獲英女皇批准。有關提供款項的最低水平規定的條文載於附錄I。根據第56條，界定利益退休計劃的資產須足以清繳負債。

6. 英國社會保障部表示，有關提供款項的最低水平規定的實施細節，部分會以規例形式闡述，部分則會以精算須知形式闡述。該等規例旨在解釋計劃在資產及負債估值方面的總體原則，而精算須知會闡述計算的方法。英國有關當局現正就規例內容諮詢提供退休金計劃行業的主要代表。有關部門會根據諮詢結果，制備規例擬稿，以便展開進一步的諮詢工作。該等規例應於一九九六年四月或之前備妥。

7. 根據諮詢文件，將資金不足的計劃提升，以回復提供款項的最低水平的限期及該計劃在資產和負債方面估價的原則如下：

- 某計劃所持的資金，如低於提供款項的最低水平規定的90%，其提供款項水平須於一年內回復至規定最低水平的90%，並於五年內回復至100%；
- 資產和負債的價值會以七個月內的平均值計算，該段時期可在估值日之前或之後。

結論

8. 退休金法律檢討委員會建議訂立有關提供款項的最低水平規定，以保障參與計劃成員的退休金權益。新通過的《退休金法》訂明此項規定。有關提供款項的最低水平規定的實施細節，會以規例及精算須知的形式闡述，此等規例及精算須知會於一九九六年四月或之前完成最後定稿。現時英國政府認為，可容許資金不足的計劃將其提供款項的水平在一年內提升，以回復提供款項的最低規定水平的90%，並在五年內回復至該規定水平的100%。為減輕市場波動所造成的影響，英國政府已在現階段建議，計劃的資產及負債應以七個月期間的

平均市值計算(可根據估值當日之前或之後的市值)，而非根據某一估值日的市值計算。

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參考資料

英國社會保障部於一九九四年十二月八日所發出的〈社會保障大臣李秉德詳述未來退休金法案的變動〉(“**Peter Lilley details changes to future Pensions Bill**”)新聞稿

英國社會保障部，〈保障，平等，選擇：退休金的未來〉白皮書

英國社會保障部，〈有關提供款項的最低水平規定的規例說明〉

《英國1995年退休金法》

《英國1995退休金法》*Minimum funding requirement*

56. - (1) Every occupational pension scheme to which this section applies is subject to a requirement (referred to in this Part as "the minimum funding requirement") that the value of the assets of the scheme is not less than the amount of the liabilities of the scheme. Minimum funding requirement

- (2) This section applies to an occupational pension scheme other than -
- (a) a money purchase scheme, or
 - (b) a scheme falling within a prescribed class or description.

(3) For the purposes of this section and sections 57 to 61, the liabilities and assets to be taken into account, and their amount or value, shall be determined, calculated and verified by a prescribed person and in the prescribed manner.

(4) In calculating the value of any liabilities for those purposes, a provision of the scheme which limits the amount of its liabilities by reference to the amount of its assets is to be disregarded.

(5) In sections 57 to 61, in relation to any occupational pension scheme to which this section applies -

- (a) the amount of the liabilities referred to in subsection (1) is referred to as "the amount of the scheme liabilities",
- (b) the value of the assets referred to in that subsection is referred to as "the value of the scheme assets",
- (c) an "actuarial valuation" means a written valuation prepared and signed by the actuary of the scheme of the assets and liabilities referred to in subsection (1), and
- (d) the "effective date" of an actuarial valuation is the date by reference to which the assets and liabilities are valued.

Valuation and
Certification of
assets and
liabilities.

57. - (1) The trustees or managers of an occupational pension scheme to which section 56 applies must -
- (a) obtain, within a prescribed period, an actuarial valuation and afterwards obtain such a valuation before the end of prescribed intervals, and
 - (b) on prescribed occasions or within prescribed periods, obtain a certificate prepared by the actuary of the scheme -
 - (i) stating whether or not in his opinion the contributions payable towards the scheme are adequate for the purpose of securing that the minimum funding requirement will continue to be met throughout the prescribed period or, if it appears to him that it is not met, will be met by the end of that period, and
 - (ii) indicating any relevant changes that have occurred since that last actuarial valuation was prepared.
- (2) Subject to subsection (3), the trustees or managers must -
- (a) if the actuary states in such a certificate that in his opinion the contributions payable towards the scheme are not adequate for the purpose of securing that the minimum funding requirement will continue to be met throughout the prescribed period or, if it appears to him that it is not met, will be met by the end of that period, or
 - (b) in prescribed circumstances, obtain an actuarial valuation within the period required by subsection (4).
- (3) In a case within subsection (2) (a), the trustees or managers are not required to obtain an actuarial valuation if -
- (a) in the opinion of the actuary of the scheme, the value of the scheme assets is not less than 90 per cent. of the amount of the scheme liabilities, and
 - (b) since the date on which the actuary signed the certificate referred to in that subsection, the schedule of contributions for the scheme has been revised under section 58(3)(b).
- (4) If the trustees or managers obtain a valuation under subsection (2) they must do so-
- (a) in the case of a valuation required by paragraph (a), within the period of six months beginning with the date on which the certificate was signed, and
 - (b) in any other case, within a prescribed period.
- (5) A valuation or certificate obtained under subsection (1) or (2) must be prepared in such manner, give such information and contain such statements as may be prescribed.
- (6) The trustees or managers must secure that any valuation or certificate obtained under this section is made available to the employer within seven days of their receiving it.
- (7) Where, in the case of an occupational pension scheme to which section 56 applies, subsection (1), (2) or (6) is not complied with -
- (a) section 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
 - (b) section 10 applies to any trustee or manager who are failed to take all such steps.

58. - (1) The trustees or managers of an occupational pension scheme to which section 56 applies must secure that there is prepared, maintained and from time to time revised a scheduled (referred to in sections 57 to 59 as a "schedule of contributions") showing -

- (a) the rates of contributions payable towards the scheme by or on behalf of the employer and the active members of the scheme, and
- (b) the dates on or before which such contributions are to be paid.

(2) The schedule of contributions for a scheme must satisfy prescribed requirements.

(3) The schedule of contributions for a scheme -

- (a) must be prepared before the end of a prescribed period beginning with the signing of the first actuarial valuation for the scheme,
- (b) may be revised from time to time where the revisions are previously agreed by the trustees or managers and the employer and any revision in the rates of contributions is certified by the actuary of the scheme, and
- (c) must be revised before the end of a prescribed period beginning with the signing of each subsequent actuarial valuation

(4) The matters shown in the schedule of contributions for a scheme -

- (a) must be matters previously agreed by the trustees or managers and the employer, or
- (b) if no such agreement has been made as to all the matters shown in the schedule, must be -
 - (i) rates of contributions determined by the trustees or managers, being such rates as in their opinion are adequate for the purpose of securing that the minimum funding requirement will continue to be met throughout the prescribed period or, if it appears to them that it is not met, will be met by the end of that period, and
 - (ii) other matter determined by the trustees or managers; and the rates of contributions shown in the schedule must be certified by the actuary of the scheme

(5) An agreement for the purposes of subsection (4)(a) is one which is made by the trustees or managers and the employer during the prescribed period beginning with the signing of the last preceding actuarial valuation for the scheme.

(6) The actuary may not certify the rates of contributions shown in the schedule of contributions-

- (a) in a case where on the date he signs the certificate it appears to him that the minimum funding requirement is met, unless he is of the opinion that the rates are adequate for the purpose of securing that the requirement will continue to be met throughout the prescribed period, and
- (b) in any other case, unless he is of the opinion that the rates are adequate for the purpose of securing that the requirement will be met by the end of that period.

(7) The Authority may in prescribed circumstances extend (or further extend) the period referred to in subsection (6).

(8) Where, in the case of any occupational pension scheme to which section 56 applies, this section is not complied with -

- (a) section 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
- (b) section 10 applies to any trustee or manager who has failed to take all such steps.

Determination of contributions: supplementary

59. - (1) Except in prescribed circumstances, the trustees or managers of an occupational pension scheme to which section 56 applies must, where any amounts payable by or on behalf of the employer or the active members of the scheme in accordance with the schedule of contributions have not been paid on or before the due date, give notice of that fact, within the prescribed period, to the Authority and to the members of the scheme.

(2) Any such amounts which for the time being remain unpaid after that date (whether payable by the employer or not) shall, if not a debt due from the employer to the trustees or managers apart from this subsection, be treated as such a debt.

(3) If, in the case of an occupational pension scheme to which section 56 applies, it appears to the trustees or managers, at the end of any prescribed period that the minimum funding requirement is not met, they must prepare a report giving the prescribed information about the failure to meet that requirement.

(4) If in the case of any such scheme, subsection (1) or (3) is not complied with -

- (a) section 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
- (b) section 10 applies to any trustee or manager who has failed to take all such steps.

60.- (1) Subsection (2) applies where, in the case of an occupational pension scheme to which section 56 applies, an actuarial valuation shows that, on the effective date of the valuation, the value of the scheme assets is less than 90 per cent. of the amount of the scheme liabilities (the difference shown in the valuation being referred to in this section as "the shortfall").

(2) The employer must -

- (a) be making an appropriate payment to the trustees or managers, or
- (b) by a prescribed method,

secure an increase in the value of the scheme assets which, taken with any contributions paid, is not less than the shortfall.

(3) The required increase in that value must be secured -

- (a) before the end of a prescribed period beginning with the signing of the valuation, or
- (b) if the actuarial valuation was obtained by reason of such a statement in a certificate as is referred to in section 57(2), before the end of a prescribed period beginning with the signing of the certificate.

(4) Except in prescribed circumstances, if the employer fails to secure the required increase in value before the end of the period applicable under subsection (3), the trustees or managers must, within the period of fourteen days (or such longer period as is prescribed) beginning with the end of that period, give written notice of that fact to the Authority and to the members of the scheme.

(5) If the employer fails to secure the required increase in value before the end of the period applicable under subsection (3), then so much of the shortfall as, at any subsequent time, has not been met by an increase in value under subsection (2) made -

- (a) by making an appropriate payment to the trustees or managers,
- (b) by a prescribed method, or
- (c) by contributions made before the end of that period,

shall, if not a debt due from the employer to the trustees or managers apart from this subsection, be treated at that time as such a debt.

(6) Where an increase in value is secured by a prescribed method, the increase is to be treated for the purposes of this section as being of an amount determined in accordance with regulation.

(7) The Authority may in prescribed circumstances extend (or further extend) the period applicable under subsection (3).

(8) If subsection (4) is not complied with-

- (a) section 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
- (b) section 10 applies to any trustee or manager who has failed to take all such steps.

Sections 56 to 60:
Supplementary.

61. Regulations may modify sections 56 to 60 as they apply in prescribed circumstances.