



Information Note Pensions Authority Guidance on Section 48A

1. Overview

Section 48A of the Pensions Acts 1990, as amended (the “**Act**”) provides for the payment of certain amounts by the Minister for Finance to the trustees of a scheme, in circumstances where the resources of the scheme are not sufficient to discharge liabilities in relation to certain benefits. In order to be eligible to apply for a payment under section 48A, the scheme must have wound up after 25 December 2013 and at this date the employer is also insolvent (usually referred to as double insolvency).

2. Guidance on process

Section 48A envisages both the Minister for Social Protection (the “**Minister**”) and the Pensions Authority issuing guidance on the section 48A process.

i. Ministerial Guidelines

The Act requires the Minister to make guidelines regarding (1) the statement prepared by the scheme actuary (the “**Statement**”); (2) the application by the trustees to the Pensions Authority (the “**Application**”); and (3) the certification of the amount claimed by the trustees (the “**Certification**”) (collectively, the “**Ministerial Guidelines**”). The Ministerial Guidelines issued on 24 March 2016 and are available [here](#).

The Ministerial Guidelines on the Statement and the Application contain the broad requirements in relation to the preparation of the Statement by the Actuary and the Application process. Applications must be made by trustees no later than 9 months after the date of winding up the scheme. The Minister has issued separate guidelines on the Certification process. These outline the information which must be furnished by the trustees to the Pensions Authority.

ii. The Pensions Authority Guidance

The Act also refers to the creation of guidelines by the Pensions Authority on (1) the Statement; and (2) the Application (the “**Authority’s Guidance**”). The Authority’s Guidance and the Ministerial Guidelines in relation to the Statement and Application are prescribed by the Occupational Pension Schemes (Section 48A) Regulations 2016 and therefore trustees are required to comply with this guidance.

The Authority has now issued this guidance under section 10 of the Act. The Authority’s Guidance prescribes more detailed requirements on the underlying calculation basis to be used in the Statement and in particular, the rules surrounding the calculation of liabilities. The Statement must be completed in the form attached to the Authority’s Guidance. The Authority’s Guidance also prescribes the information which must be furnished by trustees when making



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an Application and trustees should use the application form on the Authority's website for this purpose.

When trustees are making an application under section 48A, the Ministerial Guidelines and the Authority's Guidance should be considered together.