GN3A(ROI): FUNDING PROPOSAL UNDER THE PENSIONS ACT 1990 (AS AMENDED)

Classification

Practice Standard

Legislation or Authority

The Pensions Act 1990 and Regulations issued from time to time in relation to that Act.

Application

Any Actuary responsible for certifying that a funding proposal being submitted to the Pensions Board meets the requirements set out in the Pensions Act 1990.

Version	**Effective from**
1.0	01.06.95

1. INTRODUCTION

The Pensions Act 1990 requires that

(i) Where the trustees of a scheme submit an actuarial funding certificate which certifies that at the effective date of the certificate the scheme does not satisfy the funding standard, they shall submit to the Board a funding proposal.

(ii) A funding proposal shall-

(a) contain a proposal designed to ensure that, in the opinion of the actuary, the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate, and

(b) be certified by the actuary as meeting the requirements of paragraph (a).

The funding proposal shall be signed by the employer and submitted by the Trustees to the Pensions Board with the funding certificate.

2. GENERAL

2.1 The importance of the funding proposal places a high level of responsibility on the profession. Any actuary, before certifying that a funding proposal meets the requirements of the Pensions Act must consider carefully in the light of his previous experience and work whether doing so would be in line with proper professional behaviour and standards. Of prime importance to this consideration will be the period of time he has spent at a senior level working on Irish pension schemes and his experience of the detailed requirements of the Pensions Act 1990; it is the duty of any actuary who is in doubt as to his proper course of action to seek help from another actuary with relevant experience or from the Honorary Secretary of the Society of Actuaries in Ireland. It is emphasised, however, that the responsibility for certifying that a funding proposal meets the requirements of the Pensions Act is his and his alone. The profession's rules of conduct make it clear that every actuary in his professional capacity, whether remunerated by salary or fee, has a duty to his profession and his responsibility to his employer or client must be consistent with this.

2.2 The actuary, in certifying that a funding proposal meets the requirements of the Pensions Act, is in a special position in that as well as the normal responsibility to his employer or client he has responsibilities and obligations laid on him by the Act. These notes highlight the issues arising for actuaries and in particular, the issues that should be addressed as part of a funding proposal, and the considerations to be taken into account in the interpretation of the words 'could reasonably be expected'.

2.3 The actuary should take particular care to notify the trustees and the employer of the key assumptions made and in particular of the factors to which the funding proposal is especially sensitive. They should also be made aware of the need for advice if experience is out of line with the actuary's assumptions in these key areas.

2.4 In certifying that a funding proposal satisfies the requirements of the Pensions Act the actuary should have regard to Guidance Note 3 (ROI).

2.5 The funding proposal should relate to the legislation in force at the date of signing the funding proposal. Therefore any change in the legislation governing the funding standard between the effective date of the funding certificate which gave rise to the funding proposal and the date of signing the proposal must be taken into account. However where proposed changes in the legislation which are likely to affect the ability of the scheme to meet the funding standard at the intended effective date of the next actuarial funding certificate are known to the actuary at the time of signing the funding proposal he should consider the implications and advise the trustees and employer accordingly. Similarly, at the time of signing the funding proposal the trustees and employer should be made aware of the need for advice if the legislation governing the funding standard changes before the intended effective date of the next funding certificate.

2.6 The actuary is not required, for the purposes of the funding proposal, to express an opinion as to the status of the scheme should it wind up at any stage prior to the intended effective date of the next funding certificate. Neither is the actuary under a statutory obligation to monitor the progress of the scheme after he has certified that a funding proposal meets the requirements of the Pensions Act. As part of his wider professional responsibilities, however, the actuary may deem it appropriate to advise on the implications of a scheme wind up in the intervening period, or to alert the trustees to the benefit of carrying out reviews on a periodic basis during this period.

2.7 The Pensions Board has been made aware of the existence of these guidance notes. It is intended to review them, and to discuss them with the Board from time to time in the light of experience gained and of the Board's continuing responsibility under the Pensions Act 1990.

3. THE FUNDING PROPOSAL

3.1 In certifying that a funding proposal meets the requirements of the Pensions Act, the actuary certifies that in his opinion the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate. The proposal should state the intended effective date of the next actuarial funding certificate.

3.2 The funding proposal should contain a statement to the effect that the proposal has been prepared on the basis that the legislation governing the funding standard will not change in the period between the date of signing the funding proposal and the intended effective date of the next funding certificate.

3.3 The funding proposal should set out the key assumptions made by the actuary in certifying that the proposal meets the requirements of the Pensions Act.

3.4 The funding proposal should clearly state the rate(s) and/or amount(s) of contribution that should be paid to the scheme over the period to the intended effective date of the next actuarial funding certificate, the relevant earnings to which any such rate(s) should be applied (if appropriate) and the timing/frequency of contribution payments.

3.5 The actuary should consider whether it is appropriate to deal with any other matters as part of the funding proposal. For example, if considered appropriate, the funding proposal should contain a proposal relating to discretionary practices, e.g. the granting of pension increases over the period to the intended effective date of the next funding certificate. A proposal may also be required regarding the investment policy to be pursued by the scheme over the period to the intended effective date of the next funding certificate.

3.6 A sample outline funding proposal is attached to this note.

4. CONSIDERATIONS

Attention is drawn to the following particular considerations (the list should not be taken to be exhaustive):

4.1 The meaning which the actuary attaches to the words 'could reasonably be expected' should comprehend a prudent view of future events taking into account the considerations surrounding the certification of a funding proposal including in particular those set out below, but not taking into account every conceivable unfavourable development. The actuary should be conscious that an excessively cautious approach could result in an unnecessary reduction in benefits. 'Events' includes events external to the scheme, e.g. economic and financial developments.

4.2 The Pensions Act requires that a second or subsequent actuarial funding certificate should have an effective date not later than three and a half years after the effective date of the immediately preceding certificate. The Act places the responsibility for submitting an actuarial funding certificate to the Pensions Board on the trustees of a scheme and as a consequence the trustees decide on the effective date of each funding certificate within the requirements of the Act. Given that the funding proposal is designed to relate to the position at the date of the next funding certificate the actuary should discuss with the trustees the intended effective date of the next funding certificate prior to preparing a funding proposal.

4.3 The actuarial funding certificate relates to the position in the event of the winding up of the scheme, so that in certifying a funding proposal the actuary must have particular regard to the priority rule and to the effect on the priority class of benefits of the following :

(i) Advances in the priority class of certain benefits will normally take place during the currency of a funding proposal e.g. on retirement the excess of the total pension under the scheme over the statutory preserved benefit is advanced in priority. Also, increases in the amounts of benefits in the priority class may arise from increases in earnings and increases in pensions in payment and deferred pensions.

(ii) When a winding up occurs some scheme members might well have options which they would otherwise have no occasion to take or exercise. Included here might be a unilateral right to immediate early retirement pensions on wind up or an option which is only available subject to the consent of the trustees or employer. In this context the definition of normal pensionable age as contained in the Act should be carefully noted.

If the actuary is in any doubt as to the interpretation of the winding up rule (or any other relevant rules) of the scheme, appropriate advice should be sought before the funding proposal is certified.

4.4 Where appropriate the actuary should advise the trustees and the employer of the financial significance of permitting members to exercise options requiring the consent of either the trustees or the employer, for example on early retirement.

4.5 The actuary should consider the suitability of the assets held and the investment policy being pursued having regard to the funding position of the scheme and the requirement to meet the minimum funding standard (which relates to wind up) at the intended effective date of the next funding certificate.

4.6 (a) As set out in GN3(ROI) on Actuarial Funding Certificates, the actuary must make whatever enquiries he considers appropriate to satisfy himself that he has been supplied with all the relevant data and information to enable him to establish the position at the effective date of the funding certificate to which the funding proposal relates.

(b) In addition, the actuary should bear in mind the necessity to make whatever enquiries he considers appropriate to satisfy himself that he has been supplied with information concerning changes likely to materialise in future, as well as those which have already occurred in the period since the effective date of the funding certificate to which the funding proposal relates, in any aspect of the scheme that may affect its ability to satisfy the funding standard at the intended effective date of the next funding certificate. These could include :

- any change in the rules of the scheme affecting contribution or benefit levels or the degree of priority accorded to benefits in the event of the winding up of the scheme
- any change in the definition of pensionable earnings and any unexpected change in the general remuneration levels of scheme members
- any increase or decrease in the number of members or pensioners resulting, for example, from the acquisition or sale of participating companies or through early retirement
- any discretionary augmentations of benefits on early, normal or late retirement or on the death of a member
- any discretionary increase to pensions in payment and/or deferred pensions
- any change in investment policy

He need not allow for possible extreme changes which are not currently envisaged by the trustees or employer and which would not be in keeping with recent experience.