
STATUTORY INSTRUMENTS

2005 No. 1986

The Financial Assistance Scheme Regulations 2005

PART 4

QUALIFYING MEMBERS

Qualifying members

15.—(1) A member or a former member of a qualifying pension scheme is a qualifying member of that scheme for the purposes of these Regulations where—

- (a) he is a member of the scheme in respect of whom that scheme's pension liabilities are unlikely to be satisfied in full because the scheme has insufficient assets; or
- (b) he had ceased to be a member of the scheme and in respect of whom that scheme's pension liabilities were not satisfied in full, at the time he ceased to be a member, because the scheme had insufficient assets,

and the conditions in paragraphs (2) to (4) are satisfied in relation to that member or former member.

(2) The condition in this paragraph is that the member or former member must have an accrued right to a benefit under the scheme.

(3) The condition in this paragraph is that the member or former member—

- (a) was a member of the qualifying pension scheme immediately before the scheme began to wind up; or
- (b) was not a member of the scheme at that time but became a pension credit member of the scheme on or after the day on which the scheme began to wind up.

(4) The condition in this paragraph is that the member or former member—

- (a) had attained his normal retirement age for the scheme of which he is or was a member as at 14th May 2004;
- (b) had not attained that age as at that date but would attain that age on or before 14th May 2007; or
- (c) had died before attaining that age but would have attained that age on or before 14th May 2007.

(5) A person who is not a member or a former member of a qualifying pension scheme is to be regarded as a qualifying member of such a scheme for the purposes of these Regulations where—

- (a) he was entitled to a present payment from a qualifying pension scheme immediately before the scheme began to wind up;
- (b) that payment was attributable to the pensionable service of a former member of that scheme who has died;
- (c) the scheme's pension liabilities in respect of that person are unlikely to be satisfied in full because the scheme has insufficient assets; and

- (d) that person, as at 14th May 2004—
 - (i) had attained the normal retirement age for the member of that scheme in respect of whose pensionable service the payment from that scheme was attributable; or
 - (ii) had not attained that age but would attain that age on or before 14th May 2007.

Insufficient assets

16.—(1) A scheme has or had insufficient assets for the purposes of regulation 15 if—

- (a) in relation to a scheme which is winding up, at any time during the period beginning immediately before the scheme began to wind up and ending immediately before the liabilities of the scheme were discharged; or
- (b) in relation to a scheme which has wound up, immediately before the liabilities of the scheme were discharged,

the assets of the scheme are, or were, insufficient to satisfy in full the liabilities of the scheme.

(2) The liabilities of the scheme which are to be taken into account for the purposes of paragraph (1) are the liabilities of the scheme estimated by reference to the scheme rules but disregarding—

- (a) any provision of the scheme rules which limits the amount of its liabilities by reference to the amount of its assets; and
- (b) any liabilities in respect of money purchase benefits.

(3) The amount or value of the liabilities referred to in paragraph (2) must be estimated on the assumption that the liabilities will be, or have been, discharged by the purchase of annuities of the kind described in section 74(3)(c) of the 1995 Act (discharge of liabilities: annuity purchase).

(4) The liabilities of the scheme which are to be taken into account under paragraph (2) include all expenses (except the cost of the annuities referred to in paragraph (3)) which—

- (a) in the opinion of the trustees or managers of the scheme, are likely to be incurred in connection with the winding up of the scheme; or
- (b) in the case of a wound up scheme, were so incurred.