
STATUTORY INSTRUMENTS

2005 No. 1986

The Financial Assistance Scheme Regulations 2005

PART 4

QUALIFYING MEMBERS

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.