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STATUTORY INSTRUMENTS

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**2005 No. 3377**

**The Occupational Pension Schemes  
(Scheme Funding) Regulations 2005**

**Exemption connected with winding up**

**18.**—(1) Where the winding up of a scheme begins on or after the commencement date, the exemption provided for in regulation 17(1)(l) is subject to the condition set out in paragraph (2).

(2) The condition referred to in paragraph (1) is that the trustees or managers of the scheme ensure that they receive, before the end of each scheme year following the scheme year in which the winding up of the scheme begins, the actuary's estimate of the solvency of the scheme as at the end of the preceding scheme year.

(3) In paragraph (2)—

“the actuary's estimate of the solvency of the scheme” means—

- (a) except in the case referred to in sub-paragraph (b), an estimate by the actuary of whether, at the end of the relevant scheme year, the value of assets of the scheme to be taken into account under paragraph (1) of regulation 3 exceeded or fell short of the sum of—
  - (i) the cost of purchasing annuities, of the type described in section 74(3)(c) of the 1995 Act<sup>(1)</sup> and on terms consistent with those in the available market, which would be sufficient to satisfy the liabilities to be taken into account under paragraph (2) of regulation 3, and
  - (ii) the other expenses which, in the opinion of the actuary, would be likely to be incurred in connection with the winding up of the scheme,and the amount of the excess or, as the case may be, the shortfall;
- (b) where the actuary considers that it is not practicable to make an estimate in accordance with sub-paragraph (a), an estimate of the solvency of the scheme at the end of the relevant scheme year made in such manner as the actuary considers appropriate in the circumstances of the case;

“scheme year” means—

- (a) either—
  - (i) a year specified for the purposes of the scheme rules in any document which contains those rules, or
  - (ii) if no such year is specified, the period of 12 months commencing on 1st April or on such date as the trustees or managers select, or
- (b) such other period (if any) exceeding six months but not exceeding 18 months as is selected by the trustees or managers in connection with—
  - (i) the commencement or termination of the scheme, or
  - (ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence.

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(1) Section 74(3)(c) was amended by S.I.2001/3649.

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**Status:** *This is the original version (as it was originally made).*

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