
STATUTORY INSTRUMENTS

2005 No. 3377

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

Determination of assets and liabilities

3.—(1) The assets of a scheme to be taken into account for the purposes of Part 3 of the 2004 Act are the assets attributed to the scheme in the relevant accounts, excluding—

- (a) any resources invested (or treated as invested by or under section 40 of the 1995 Act) in contravention of section 40(1) of the 1995 Act (employer-related investments);
- (b) any amounts treated as a debt due to the trustees or managers under section 75(2) or (4) of the 1995 Act⁽¹⁾ (deficiencies in the assets) or section 228(3) of the 2004 Act (amounts due in accordance with a schedule of contributions) which are unlikely to be recovered without disproportionate cost or within a reasonable time, and
- (c) where it appears to the actuary that the circumstances are such that it is appropriate to exclude them, any rights under an insurance policy.

(2) The liabilities of a scheme to be taken into account for the purposes of Part 3 of the 2004 Act are any liabilities—

- (a) in relation to a member of the scheme by virtue of—
 - (i) any right that has accrued to or in respect of him to future benefits under the scheme rules, or
 - (ii) any entitlement to the present payment of a pension or other benefit which he has under the scheme rules, and
- (b) in relation to the survivor of a member of the scheme, by virtue of any entitlement to benefits, or right to future benefits which he has under the scheme rules in respect of the member.

(3) For the purposes of paragraph (2)—

“right” includes a pension credit right, and

“the survivor” of a member is a person who—

- (a) is the widow, widower or surviving civil partner of the member, or
- (b) has survived the member and has any entitlement to benefit, or right to future benefits, under the scheme in respect of the member.

(4) Where rights under an insurance policy are excluded under paragraph (1)(c), the liabilities secured by the policy shall be disregarded for the purposes of paragraph (2).

(5) Where arrangements are being made by the scheme for the transfer to or from it of accrued rights and any pension credit rights, until such time as the trustees or managers of the scheme to which the transfer is being made (“the receiving scheme”) have received assets of the full amount agreed by them as consideration for the transfer, it shall be assumed—

- (a) that the rights have not been transferred, and

(1) Section 75 was amended by section 271 of the Pensions Act 2004.

- (b) that any assets transferred in respect of the transfer of those rights are assets of the scheme making the transfer and not of the receiving scheme.