

The Financial Assistance Scheme – An In Depth Guide for Trustees and Pension Professionals

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Introduction

This leaflet is an in depth guide to the Financial Assistance Scheme. It sets out the procedure for determining if occupational pension schemes are qualifying pension schemes and, in particular, the role of scheme trustees or those carrying out scheme administration in that process. It can be read in conjunction with leaflet FAS P1: *A Guide for Individual Scheme Members* which gives more general information on the FAS.

What is the Financial Assistance Scheme?

The Financial Assistance Scheme (FAS) offers help to some people who have lost out on their pension because the scheme of which they were a member is underfunded and the employer is insolvent or no longer exists. FAS does not attempt to replicate the rules or benefits of any particular scheme but provides assistance to those who have lost out and are in most urgent need.

The FAS pays up to 80% of core pension benefits, although the maximum top-up level will depend on how near an individual was to their normal retirement age on 14th May 2004. Payments are made monthly and top-up scheme pensions to a maximum combined total of £12,000 per annum. The FAS will not make payments if an award is less than £520 per annum (or £10 a week). FAS payments are not index linked and are subject to tax at source.

The FAS is administered by the Department for Work and Pensions and is managed by a national FAS Operational Unit (FAS OU).

Qualifying Pension Schemes

To qualify for the FAS an occupational pension scheme must not be a money purchase scheme and must have commenced wind up between 1st January 1997 and 5th April 2005. Certain types of scheme are ineligible for assistance and these are listed at Annex A – you should check that your scheme does not fall into one of these categories before attempting to qualify for the FAS.

Except in certain limited circumstances involving employers like trade unions and charities which cannot become insolvent, the employer relating to the scheme must also have experienced an insolvency event of a certain type on or before 28th February 2007. A list of qualifying insolvency events and the circumstances in which a formal UK insolvency event may not be necessary is included at Annex B – you should check that the employer meets these criteria before attempting to qualify for the FAS.

The employer that is considered in relation to FAS qualification depends on whether the scheme has had more than one employer (which can include a principal employer who was not necessarily actively employing members within the scheme) at the same time. If the scheme has not had more than one employer at the same time then it is a single employer scheme and that single employer is the relevant employer for FAS purposes.

If the scheme has had more than one employer (which can include a principal employer) at the same time, then the scheme is considered to be a multi-employer scheme. In most cases, for multi-employer schemes, the relevant employer is the principal employer. However, there are circumstances in which the scheme can qualify even if the principal employer has not been subject to insolvency, usually if the last employer of active members within the scheme has had an

insolvency event. Different rules apply if the multi-employer scheme is considered to be a sectionalised scheme.

Further information on the insolvency qualifying condition and how it applies to multi-employer schemes can be obtained from the FAS Operational Unit.

Determining who is eligible for the FAS is a two part process involving notification and qualification. Both parts must be met.

Notification

For an occupational pension scheme to be considered under the FAS rules, details of the scheme need to have been notified to FAS OU in the prescribed manner. This notification should have taken place between 1st September 2005 and 28th February 2006 although the scheme manager can accept late notification in exceptional circumstances.

Details of schemes that have completed the notification requirements are available on the FAS website at www.dwp.gov.uk/fas

Qualification

When a scheme has notified all the required details, FAS OU makes a decision on whether the scheme is a qualifying pension scheme. It should be remembered that successful notification does not automatically mean that a scheme will qualify, although no scheme can qualify without successfully completing notification. The information FAS OU needs to make a decision on qualification can be found at Annex C

Assessment

When a scheme has satisfied the qualification conditions for the FAS, FAS OU begins the process of determining which of the scheme's individual members are eligible for assistance and the amount of any payments due to them. Scheme trustees or those administering the scheme are required to provide FAS OU with the necessary data to make this assessment and to do so in a prescribed format. FAS OU cannot assist with any costs incurred in supplying the required data.

A scheme which is determined to be a qualifying pension scheme will be assigned a dedicated Account Manager by FAS OU. The Account Manager will ensure that FAS OU has access to relevant data from the most appropriate source.

In most cases, when wind up is complete or close to completion, schemes will be required to complete a form called an S1 (obtainable from FAS OU). This form is also used to provide member data during wind-up in relation to 'initial payments'. At the end of wind-up, information is required on every member (including pensioner, pension credit members, deferred members and any beneficiaries who were receiving survivors' or dependents' pensions before wind-up). Copies of the S1 and explanatory notes are available on the FAS website at www.dwp.gov.uk/fas.

Once full information is received on scheme members, the FAS OU can decide on the eligibility of individual members and, if appropriate, make an award.

Eligibility of Individual Members

Although FAS OU will deal directly with individual members once their eligibility has been determined (based on information submitted by their pension scheme), it is important that schemes manage their members' expectations as to whether or not individuals will be eligible. Schemes should also make their members aware that personal data is being passed to FAS OU to enable assessments to be carried out. Scheme trustees are encouraged to keep their members informed of their dealings with FAS and are required to inform members whether or not their scheme is a qualifying pension scheme. Trustees may wish to make use of leaflet FAS P1 which is aimed at members and includes frequently asked questions to help people determine whether they might be eligible for FAS assistance. Copies are available from FAS OU or from the FAS website at www.dwp.gov.uk/fas

The key eligibility criteria are that an individual should:

- Belong (or have belonged) to a qualifying scheme
- Be within fifteen years of their normal retirement age or older on 14th May 2004

Surviving husbands, wives or civil partners of those scheme members who met these conditions (or would have met these conditions had they lived) may also be considered for assistance.

Award Calculation

For members of qualifying schemes within seven years of their scheme normal retirement age on 14th May 2004, the FAS tops up any scheme pension that will be paid or is already in payment to 80% of expected core pension, subject to a cap of £12,000 per annum and a minimum payment of £520 per annum. The cap includes any scheme pension that is or will be paid i.e. if a member was due £15,000 from their scheme and receives £10,000 from that scheme, FAS will only make an award of £2,000. If the member was due £15,000 and receives nothing from the scheme, the FAS award will be £12,000. FAS operates a de minimis rule which means that awards of less than £520 per annum are not payable.

Members who expected to reach their scheme normal retirement age between 15th May 2011 and 14th May 2014 will see any pension they receive topped up to 65% of their expected core pension.

Members who expected to reach their scheme normal retirement age between 15th May 2014 and 14th May 2019 will see any pension they receive topped up to 50% of their expected core pension.

FAS payments begin from the recipients 65th birthday. If the member is already 65 the award will be backdated to their 65th birthday or the 14th May 2004 (whichever is later). If appropriate, a revaluation based on the Retail Prices Index (capped at 5% compound per year) will take place prior to payment. Early payments can be made to eligible members who are suffering from terminal illnesses and not expected to live for more than six months.

Initial Payments to Eligible Members of Scheme in Wind up

Where a scheme is still winding up and therefore unable to provide FAS OU with definitive information on pensions that will be paid, the FAS Scheme Manager has the discretion to make initial payments to eligible members at an initial rate of 60% of expected core pension (subject to the benefit cap and de minimis rule). In general, initial payments can only be made to members when they reach 65 but early access to these payments may be made where members are terminally ill. Initial payments can also be made to eligible survivors of qualifying members who have died.

In all cases, it is for trustees to request initial payments on behalf of eligible beneficiaries. There is an expectation that schemes should, where funds allow, be paying interim pensions to relevant beneficiaries if the FAS Scheme Manager is approached to consider initial payments from FAS.

FAS contact details

Financial Assistance Scheme (FAS)
PO Box 702
York
YO32 9XR

Telephone: 0845 6019941
Textphone: 0845 6019942
Website: www.dwp.gov.uk/fas

Opening hours: FAS is open from 9.00a.m. – 5.30. p.m.
Monday to Friday.

Please note that calls to FAS may be recorded for staff training purposes and to ensure consistent service levels

This leaflet can be obtained in languages other than English, in Braille, large print and audio versions. Please contact FAS for further details and to obtain alternative versions

How we collect and use information

The Department for Work and Pensions collects information for the purposes of dealing with social security, child support, vaccine-damage issues, employment and training, private pensions policy, retirement planning and the Financial Assistance Scheme. The information we collect about you depends on the reason for your business with us, but we may use the information for any of these purposes.

We may check information about you with other information we have. We may get information about you from other people and certain other organisations, as the law allows, to:

- check the accuracy of information
- prevent or detect crime
- protect public funds in other ways, and
- use in research and statistics

These other organisations include other government departments, local authorities, and private-sector bodies such as banks and organisations that may lend you money. We will not give information about you to anyone outside our department unless the law allows us to.

The Department for Work and Pensions is the data controller for the purposes of the Data Protection Act.

If you want to know more about what information we have about you, or the way we use your information, please contact us. You can contact any of our offices and ask for leaflet **GL33** *Data Protection Act 1998 – It affects you*. Or you can find a copy of the leaflet on our website. The address is www.dwp.gov.uk

Annex A

Schemes that were of the following type immediately before they started to wind up are **not** eligible for assistance from the Financial Assistance Scheme:

1. A money purchase scheme or a scheme that offers only money purchase benefits
2. A public service pension scheme where there is no requirement for assets related to the intended rate or amount of benefit under the scheme to be set aside in advance (disregarding requirements relating to additional voluntary contributions)
3. A scheme which is made under section 7 of the Superannuation Act 1972 or under Article 9 of the Superannuation (Northern Ireland) Order 1972 (superannuation of persons employed in local government service etc) and provides pensions to persons employed in local government service
4. A scheme which is made under section 2 of the Parliamentary and Other Pensions Act 1987 (power to provide for pensions for Members of the House of Commons etc)
5. A scheme which is established under section 48 of the Northern Ireland Act 1998 (pensions of members), or which was established under Part 2 of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965 or Article 3 of the Assembly Pensions (Northern Ireland) Order 1976

6. A scheme in respect of which a relevant public authority has given a guarantee or made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet its liabilities

7. A scheme which provides relevant benefits within the meaning of section 612(1) of the Income and Corporation Taxes Act 1988 but which is neither a tax approved scheme nor a relevant statutory scheme within the meaning of section 611A of that Act (definition of "relevant statutory scheme")

8. A scheme (a) which has been categorised before 18th April 2005, by the Commissioners of Inland Revenue, and on or after that date, by the Commissioners of Her Majesty's Revenue and Customs, for the purposes of its approval as a centralised scheme for non-associated employers; (b) which is not contracted-out in accordance with section 9 of the Pension Schemes Act 1993; and (c) under the provisions of which the only benefits that may be provided on or after retirement (other than money purchase benefits derived from the payment of voluntary contributions by any person) are lump sum benefits which are not calculated by reference to a member's salary

9. A scheme the only benefits provided by which (other than money purchase benefits) are death benefits, and under the provisions of which no member has accrued rights (other than rights to money purchase benefits)

10. A scheme with such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1998 (exemption from tax in respect of certain pensions)

11. A scheme which does not have its main place of administration registered in the United Kingdom
12. A scheme with fewer than two members
13. A scheme which is a small self-administered scheme for the purposes of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-Administered Schemes) Regulations 1991 as in force on 1st September 2005

Annex B

Insolvency events

The following tables list insolvency events for the purposes of the Financial Assistance Scheme Regulations 2005. The tables list insolvency events for each of the following entities:

1. Individuals
2. Partnerships
3. Companies
4. Relevant bodies¹

¹ "relevant body" means-

- a) a credit union within the meaning given in section 31(1) of the Credit Unions Act 1979(d) or Article 2(2) of the Credit Unions (Northern Ireland) Order 1985(e) (interpretation);
- b) a limited liability partnership within the meaning given in section 57(6) or Article 53(6) (partnerships and limited liability partnerships);
- c) a building society within the meaning given in section 119 of the Building Societies Act 1986 (interpretation);
- d) a person who has permission to act under Part 4 of the FSMA (permission to carry out regulated activities);
- e) the society of Lloyd's and Lloyd's members who have permission under Part 19 of the FSAM (Lloyd's);
- f) a friendly society within the meaning given in the Friendly Societies Act 1992; or
- g) a society which is registered as an industrial and provident society under the Industrial and Provident Societies Act 1965 or under the Industrial and Provident Societies Act (Northern Ireland) 1969

5. Public bodies²

6. Trade unions

7. Charities

8. Employers of any type that are unlikely to continue as a going concern

Column 1 of each table describes the kinds of insolvency events that may occur.

Column 2 specifies the legislative provisions that contain the descriptions.

When you notify us of the kind of insolvency event that has occurred (using form FAS A1), you should do so by referring to the legislative provision specified in Column 2.

² "public body" means a government department or any non-departmental public body established by –

- a) in relation to Great Britain, an Act of Parliament or by a statutory instrument made under an Act of Parliament to perform functions conferred on it under, or by virtue of, that Act or instrument or any other Act or instrument;
- b) in relation to Northern Ireland, a statutory provision to perform functions conferred on it under that statutory provision or any other statutory provision

Table 1: Individuals

An insolvency event occurs in relation to an individual where—

Column 1	Column 2
1. he is adjudged bankrupt or sequestration of his estate has been awarded; or	Pensions Act 2004, section 121 (2) (a)
he is adjudged bankrupt	Pensions (Northern Ireland) Order 2005, article 105 (2) (a)
2. the nominee in relation to a proposal for a voluntary arrangement under Part 8 of the Insolvency Act 1986 submits a report to the court under section 256(1) or 256A(3) of that Act which states that in his opinion a meeting of the individual's creditors should be summoned to consider the debtor's proposal; or	Pensions Act 2004, s.121 (2) (b)
the nominee in relation to a proposal for a voluntary arrangement under Chapter 2 of Part VIII of the Insolvency (Northern Ireland) Order 1989 submits a report to the Court under Article 230(1) or 230A(3) of that Order which states that in his opinion a meeting of the individual's creditors should be summoned to consider the debtor's proposal	Pensions (Northern Ireland) Order 2005, a.105(2) (b)

Column 1	Column 2
3. a deed of arrangement made by or in respect of the affairs of the individual is registered in accordance with the Deeds of Arrangement Act 1914; or	Pensions Act 2004, s.121 (2) (c)
a deed of arrangement made by, for, or in respect of the affairs of the individual is registered under Chapter 1 of Part VIII of the Insolvency (Northern Ireland) Order 1989;	Pensions (Northern Ireland) Order 2005, a.105 (2) (c)
4. he executes a trust deed for his creditors or enters into a composition contract; or	Pensions Act 2004, s.121 (2) (d)
he executes a trust deed for his creditors or enters into a composition contract	Pensions (Northern Ireland) Order 2005, a.105 (2) (d)
5. he has died and an insolvency administration order is made in respect of his estate in accordance with an order under section 421 of the Insolvency Act 1986; or	Pensions Act 2004, s.121 (2) (e) (i)

Column 1	Column 2
<p>he has died and an insolvency administration order is made in respect of his estate in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989</p>	<p>Pensions (Northern Ireland) Order 2005, a.105 (2) (e)</p>
<p>6. he has died and a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide the individual's estate among his creditors</p>	<p>Pensions Act 2004, s.121 (2) (e) (ii)</p>

Table 2: Partnerships

An insolvency event occurs in relation to a partnership where—

Column 1	Column 2
<p>1. an order for the winding up of the partnership is made by the court under any provision of the Insolvency Act 1986 (as applied by an order under section 420 of that Act (insolvent partnerships)); or</p>	<p>Pensions Act 2004, section 121 (4) (a)</p>
<p>an order for the winding up of the partnership is made by the Court under any provision of the Insolvency (Northern Ireland) Order 1989 (as applied by an order under Article 364 of that Order (insolvent partnerships))</p>	<p>Pensions (Northern Ireland) Order 2005, article 105 (4) (a)</p>
<p>2. sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors</p>	<p>Pensions Act 2004, s.121 (4) (b)</p>

Column 1	Column 2
<p>3. the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986 (as applied by an order under section 420 of that Act) submits a report to the court under section 2 of that Act (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the members of the partnership and the partnership's creditors should be summoned to consider the proposal; or</p>	<p>Pensions Act 2004, s.121 (4) (c)</p>
<p>the nominee in relation to a proposal for a voluntary arrangement under Part II of the Insolvency (Northern Ireland) Order 1989 (as applied by an order under Article 364 of that Order) submits a report to the Court under Article 15 of that Order (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the members of the partnership and the partnership's creditors should be summoned to consider the proposal</p>	<p>Pensions (Northern Ireland) Order 2005, a.105 (4) (b)</p>

Column 1	Column 2
4. the members of the partnership file with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 to the Insolvency Act 1986 (moratorium where directors propose voluntary arrangement) (as applied by an order under section 420 of that Act); or	Pensions Act 2004, s.121 (4) (d)
the members of the partnership file with the Court documents and statements in accordance with paragraph 18(1) of Schedule A1 to the Insolvency (Northern Ireland) Order 1989 (moratorium where directors propose voluntary arrangement) (as applied by an order under Article 364 of that Order)	Pensions (Northern Ireland) Order 2005, a.105 (4) (c)
5. an administration order under Part 2 of the Insolvency Act 1986 (as applied by section 420 of that Act) is made in relation to the partnership; or	Pensions Act 2004, s.121 (4) (e)
an administration order under Part III of the Insolvency (Northern Ireland) Order 1989 (as applied by Article 364 of that Order) is made in relation to the partnership	Pensions (Northern Ireland) Order 2005, a.105 (4) (d)

Table 3: Companies

An insolvency event occurs in relation to a company where—

Column 1	Column 2
<p>1. the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986 submits a report to the court under section 2 of that Act (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the company and its creditors should be summoned to consider the proposal; or</p>	<p>Pensions Act 2004, section 121 (3) (a)</p>
<p>the nominee in relation to a proposal for a voluntary arrangement under Part II of the Insolvency (Northern Ireland) Order 1989 submits a report to the Court under Article 15 of that Order (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the company and its creditors should be summoned to consider the proposal</p>	<p>Pensions (Northern Ireland) Order 2005, article 105 (3) (a)</p>

Column 1	Column 2
<p>2. the directors of the company file (or in Scotland lodge) with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 to the Insolvency Act 1986 (moratorium where directors propose voluntary arrangement); or</p>	<p>Pensions Act 2004, s.121 (3) (b)</p>
<p>the directors of the company file with the Court documents and statements in accordance with paragraph 18(1) of Schedule A1 to the Insolvency (Northern Ireland) Order 1989 (moratorium where directors propose voluntary arrangement)</p>	<p>Pensions (Northern Ireland) Order 2005, a.105(3)(b)</p>
<p>3. an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 is appointed in relation to the company; or</p>	<p>Pensions Act 2004, s.121 (3) (c)</p>
<p>an administrative receiver within the meaning of Article 5 of the Insolvency (Northern Ireland) Order 1989 is appointed in relation to the company³</p>	<p>Pensions (Northern Ireland) Order 2005, a.105 (3) (c)</p>

³ Paragraph 12 of Article 105 of the Pensions (Northern Ireland) Order 2005 states that “in relation to any time before the coming into operation of Article 3 of the Insolvency (Northern Ireland) Order 2005, paragraph (3) shall have effect as if for sub-paragraph (d) there were substituted “ (d) an administration order is made by the Court under Article 21 of that Order;”.

Column 1	Column 2
4. the company enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to the Insolvency Act 1986; or	Pensions Act 2004, s.121 (3) (d)
the company enters administration within the meaning of paragraph 2(2)(b) of Schedule B1 to the Insolvency (Northern Ireland) Order 1989	Pensions (Northern Ireland) Order 2005, a.105 (3) (d)
5. a resolution is passed for voluntary winding up of the company without a declaration of solvency under section 89 of the Insolvency Act 1986; or	Pensions Act 2004, s.121 (3) (e)
a resolution is passed for a voluntary winding up of the company without a declaration of solvency under Article 75 of the Insolvency (Northern Ireland) Order 1989	Pensions (Northern Ireland) Order 2005, a.105 (3) (e)
6. an order for the winding up of the company is made by the court under Part 4 or 5 of the Insolvency Act 1986; or	Pensions Act 2004, s.121 (3) (g)
an order for the winding up of the company is made by the Court under Part V or VI of the Insolvency (Northern Ireland) Order 1989	Pensions (Northern Ireland) Order 2005, A.105 (3) (g)

Column 1	Column 2
<p>7. where an administration order is made— (aa) by the court in relation to the company under, or by virtue of any enactment which applies, Part 2⁴ of the 1986 Act (administration orders) (with or without modification); or</p>	<p>Financial Assistance Scheme Regulations 13 (4) (a) (i) (aa)</p>
<p>(bb) by the High Court in relation to the company under, or by virtue of any statutory provision which applies, Part 3 of the Insolvency (Northern Ireland) Order 1989(administration orders) (with or without modification)</p>	<p>Financial Assistance Scheme Regulations 13 (4) (a) (bb)</p>
<p>8. where a resolution is passed for a voluntary winding up of the company with a declaration of solvency under section 89 of the 1986 Act or under Article 75 of the Insolvency (Northern Ireland) Order</p>	<p>Financial Assistance Scheme Regulations 13 (4) (a) (ii)</p>

⁴ Paragraph 5 of regulation 13 states that “a reference to Part 2 of the 1986 Act (administration orders) shall, in so far as it relates to a company or society listed in section 249(1) of the Enterprise Act 2002[] (special administration regimes), have effect as if it referred to Part 2 of the 1986 Act as it had effect immediately before the coming into force of section 248 of the Enterprise Act 2002 (replacement of Part 2 of the 1986 Act)”

Column 1	Column 2
9. where notice is published in the Gazette that the company has been struck off the register pursuant to section 652 or 652A of the Companies Act 1985 or Article 603 or 603A of the Companies (Northern Ireland) Order 1986	Financial Assistance Scheme Regulations 13 (4) (a) (iii)

Table 4: Relevant Bodies

An insolvency event occurs in relation to a ‘relevant body’ where:

Column 1	Column 2
<p>1. (i) any of the events referred to— (aa) in section 121(3) of the Pensions Act 2004 in relation to that body by virtue of the application (with or without modification) of any provision of the 1986 Act or by or under any other enactment</p>	<p>Financial Assistance Scheme Regulations 13 (4) (b) (i) (aa)</p>
<p>(i) any of the events referred to— in Article 105 (3) (insolvency events) of the Pensions (Northern Ireland) Order 2005 occurs in relation to that body by virtue of the application (with or without modification) of any provision of the Insolvency (Northern Ireland) Order 1989 or by or under any other statutory provision</p>	<p>Financial Assistance Scheme Regulations 13 (4) (b) (i) (bb)</p>
<p>2. an administration order is made by the court in respect of the relevant body by virtue of any enactment which applies Part 2 of the 1986 Act or Part 3 of the Insolvency (Northern Ireland) Order (with or without modification)</p>	<p>Financial Assistance Scheme Regulations 13 (4) (b) (ii)</p>

Column 1	Column 2
3. in relation to a limited liability partnership, where notice has been published in the Gazette that the partnership has been struck off the register pursuant to section 652 or 652A of the Companies Act 1985 or Article 603 or 603A of the Companies (Northern Ireland) Order 1986	Financial Assistance Scheme Regulations 13 (4) (c)
4. in relation to a building society, where there is dissolution by consent of the members under section 87 of the Building Societies Act 1986 (dissolution by consent);	Financial Assistance Scheme Regulations 13 (4) (d)
5. in relation to a friendly society, where there is dissolution by consent of the members under section 20 of the Friendly Societies Act 1992 (dissolution by consent)	Financial Assistance Scheme Regulations 13 (4) (e)
6. in relation to an industrial and provident society, where there is dissolution by consent of the members under section 58 of the Industrial and Provident Societies Act 1965 or section 67 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (instrument of dissolution)	Financial Assistance Scheme Regulations 13 (4) (f)

Table 5: Public Bodies

An insolvency event occurs in relation to a ‘public body’ (in relation to which it is not possible for an insolvency event within the meaning of section 121 of the Pensions Act 2004 or Article 5 of the Pensions (Northern Ireland) Order 2005 to occur and which is not the employer in relation to an occupational pension scheme in respect of which a relevant public authority has either given a guarantee in relation to any part of the scheme, any benefits payable under the scheme or any member of the scheme; or made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities) where—

Column 1	Column 2
1. that employer was unlikely to continue as a going concern and that situation applied to that employer on or before the 28th February 2007	Financial Assistance Scheme Regulations 13 (2) (a) (b)

Table 6: Trade Unions

An insolvency event occurs in relation to a trade union⁵ where—

Column 1	Column 2
1. that employer was unlikely to continue as a going concern and that situation applied to that employer on or before the 28th February 2007	Financial Assistance Scheme Regulations 13 (2) (a)

Table 7: Charities

An insolvency event occurs in relation to a charity⁶ where—

Column 1	Column 2
1. that employer was unlikely to continue as a going concern and that situation applied to that employer on or before the 28th February 2007	Financial Assistance Scheme Regulations 13 (2) (a)

⁵ Regulation 13 (3) (c) defines a trade union as follows: “a trade union within the meaning given in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 or in Article 3(1) of the Industrial Relations (Northern Ireland) Order 1992 in relation to which it is not possible for an insolvency event within the meaning of section 121 [of the Pensions Act 2004] or Article 105 [of the Pensions (Northern Ireland) Order 2005] to occur.”

⁶ Regulation 13 (3) (b) defines a charity as follows: “a charity (as construed in accordance with the Charities Act 1993 or the Charities Act (Northern Ireland) 1964) which is not a company or other body corporate”

Table 8: Employers of any type that are unlikely to continue as a going concern

An insolvency event occurs in relation to an employer where

Column 1	Column 2
<p>1. the scheme manager is satisfied that the employer in relation to an occupational pension scheme is unlikely to continue as a going concern and that on 28th February 2007 or on some earlier date all of the following circumstances applied to that employer –</p> <p>a) no insolvency event has occurred or is likely to occur in relation to the employer;</p> <p>b) the value of the assets of the employer is less than the amount of its liabilities, taking into account its contingent and prospective liabilities; and</p> <p>c) the employer is unable to pay its debts as they fall due or have fallen due</p>	<p>Financial Assistance Scheme Regulations 13 (3A)</p>

Column 1	Column 2
2. the scheme manager is satisfied that on or before 28th February 2007 an event has occurred in relation to an employer in any jurisdiction outside the United Kingdom that substantially corresponds to a qualifying insolvency event for FAS and the scheme manager is satisfied that that employer is unlikely to continue as a going concern	Financial Assistance Scheme Regulations 13 (4A)

Annex C

Qualification

The following information is required for FAS OU to make a decision on qualification:

- Name of pension scheme
- When the scheme began winding up
- Name of employer(s) in relation to the scheme
- Whether the employer is a company, partnership, individual etc
- The date of the employer's insolvency event
- The nature of the insolvency event
- Whether the application is being made in relation to an entire scheme or a section of a scheme
- Whether the scheme or section has tax approval

FAS OU will also need to see documentary evidence of the following:

- The scheme's trust deed and rules
- Evidence confirming wind up dates (in the case of wind up triggered by the trustees either a resolution to wind up the scheme signed by the trustees, or minutes from the trustee meeting that determined wind up; in the case of wind up that was automatically triggered, legal advice confirming that the scheme has started to wind up; or, in the case of wind up triggered as a result of an order of the court or by OPRA, a copy of this order)
- Evidence relating to tax approval (a letter confirming tax approval from Her Majesty's Revenue and Customs, formerly Inland Revenue)

- Evidence of the employer to which a scheme or section relates (where this is not included in the scheme rules or has been amended since the publication of the copy of the scheme rules provided, we will require a copy of the deed certifying the change of employer)
- Evidence confirming employer insolvency as follows:
 - a) For companies that have entered an insolvency event as set out in Section 121 of the Pensions Act 2004
 - a copy of the notice of the appointment of an insolvency practitioner
 - a proxy to vote at creditors' meetings,
 - or copies of reports of creditors' meetings (preferred), or
 - a print out of the 'insolvency history' page from the Companies House website
 - b) For companies/limited liability partnerships that have been dissolved
 - a copy of the relevant notice from the London, Edinburgh or Belfast Gazette

For 'relevant bodies' that have entered the equivalent of an insolvency event as set out in Section 121 of the Pensions Act 2004

- evidence as described under a)

- c) For individuals / partnerships that have entered an insolvency event as set out in Section 121 of the Pensions Act 2004
 - the bankruptcy order
 - minutes of creditors' meetings
 - winding up orders, or
 - a relevant extract from the London, Edinburgh or Belfast Gazette

- d) For public bodies, charities or Trade Unions
 - evidence that they are being discontinued

FAS OU must receive the details needed to make a decision on qualification within 6 months of a scheme completing the notification requirements. Details of qualifying pension schemes are available on the FAS website at www.dwp.gov.uk/fas. Trustees are required to make their members aware whether or not their scheme is a qualifying pension scheme.



Remember that this leaflet is only a guide to the FAS and is not a full statement of the law. We have made every effort to make sure that the information in this leaflet is correct at the date shown on this page.

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Produced by the Department for Work and Pensions

Printed in the UK

December 2006

FAS P2