
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Assistance Scheme Regulations 2005 (S.I. 2005/1986, as amended) (“the FAS Regulations”) which allow for payments to be made to, or in respect of, members or former members of certain occupational pension schemes where the liabilities of the scheme to those members have not been satisfied in full.

They also amend the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005 (S.I. 2005/2189, as amended), the Financial Assistance Scheme (Internal Review) Regulations 2005 (S.I. 2005/1994, as amended) and the Financial Assistance Scheme (Appeals) Regulations (S.I. 2005/3273, as amended) in relation to the financial assistance scheme (“the FAS”).

Part 2 and Schedules 1 and 2 amend the FAS Regulations. In particular they—

- (a) make amendments so that the Regulations extend to members and former members in respect of whom the scheme’s liabilities could be satisfied in full if the scheme were to wind up in the usual way (regulation 6);
- (b) place certain limitations on qualifying schemes making transfer payments, winding up lump sum payments and trivial commutation payments in respect of defined benefit pension rights (regulation 14(b));
- (c) make provision for the scheme manager to require a valuation of the assets and liabilities of certain qualifying pension schemes (Schedule 1 – inserted regulations 21 to 26);
- (d) make provision for these schemes to transfer their assets to the Secretary of State after a valuation has been completed (through modification of section 161 of, and Schedule 6 to, the Pensions Act 2004 in regulation 15);
- (e) make provision for the scheme manager to calculate a notional pension that could be paid to, or in respect of, qualifying members using the scheme’s assets (Schedule 1 – inserted regulations 27 and 28);
- (f) amend the provisions of the FAS Regulations governing how payments are to be calculated (including the insertion of 5 new Schedules to cover how payments are to be calculated in different circumstances) to take account of the notional pension that has been calculated (regulations 8, 9, 16 and 17 and Schedule 2);
- (g) allow certain members to commute a part of their payment for a lump sum (regulation 10);
- (h) allow for the scheme manager to make payments in respect of death benefit guarantees in certain cases (regulation 11).

Part 3 amends the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005. In particular it amends the information which must be provided to the scheme manager (or to a person authorised by the scheme manager) to support the changes being made to the FAS and provides the scheme manager with the discretion to waive information requirements where circumstances make them unnecessary or burdensome.

Part 4 amends the Financial Assistance Scheme (Internal Review) Regulations 2005 and the Financial Assistance Scheme (Appeals) Regulations 2005 in order to ensure that new determinations created by the changes to the FAS are subject to internal review and appeals procedures. These include determinations in relation to the valuation of a scheme, determinations in relation to the

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 No. 1149

amount of a lump sum that may be taken, determinations in relation to indexation and determinations in relation to eligibility for a payment.

Before making these Regulations the Secretary of State consulted such persons as the Secretary of State considered appropriate.

An impact assessment has been published for this instrument and is available on the DWP website: <http://www.dwp.gov.uk>.