

SCHEDULE 2

Regulations 17 and 18(5)

DETERMINATION OF ANNUAL AND INITIAL PAYMENTS

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of an annual payment or of an initial payment payable to or in respect of qualifying members of qualifying pension schemes.

(2) In this Schedule—

[^{F1}“appropriate person” has the meaning given by regulation 2(1) of the FAS Information and Payments Regulations (interpretation);]

F2 ...

F3 ...

F4 ...

F4 ...

F4 ...

F5 ...

“guaranteed minimum pension” has the meaning given in section 8(2) of the 1993 Act;

[^{F1}“relevant information” means any information—

(a) that is described in any of paragraphs (j) to (l) of the fourth item of the table in paragraph 1(2) of Schedule 1 to the FAS Information and Payments Regulations (information to be provided by appropriate persons);

(b) that is to be provided by an appropriate person to the scheme manager in accordance with regulation 3(3)(a) of those Regulations; and

(c) from which the amount of the actual pension or interim pension of a qualifying member, or of a survivor of a qualifying member, may be derived;]

“scheme rules” means the rules of the qualifying pension scheme.

(3) [^{F6}Paragraphs 2 to 5B] are subject to paragraphs 6 to 9.

^{F7}(4)

^{F7}(5)

Textual Amendments

F1 Words in Sch. 2 para. 1(2) inserted (24.11.2005) by The Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3256), regs. 1(1), 4(6)(a)(ii)

F2 Words in Sch. 2 para. 1(2) omitted (17.7.2008) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/1903), regs. 1, 14(a)

F3 Words in Sch. 2 para. 1(2) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 19(a) (with reg. 37)

F4 Words in Sch. 2 para. 1(2) omitted (19.12.2007) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), 7(1)

F5 Words in Sch. 2 para. 1(2) omitted (16.12.2006) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), 7(1)(a)

F6 Words in Sch. 2 para. 1(3) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 19(b) (with reg. 37)

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F7 Sch. 2 para. 1(4)(5) omitted (4.6.2008) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(3)** (with reg. 8)

Actual pension

2.—^{F8}(1) In this Schedule, “actual pension” means, subject to sub-paragraphs (3), (3A) and (4) and paragraph 2A, the annual rate of annuity which has been, can be or could have been, paid to the beneficiary as at the later of—

- (a) the day from which the beneficiary is entitled to an annual payment; or
- (b) the day on which the qualifying pension scheme began to be wound up,

as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has, or had, been determined.]

(2) The liability of the scheme to the beneficiary shall be determined for the purposes of sub-paragraph (1)—

- (a) in accordance with section 73 of the 1995 Act; or
- (b) where that section does not apply, in accordance with the scheme rules.

(3) The annual rate of annuity which ^{F9}has been, can be or could have been] purchased for the beneficiary for the purposes of sub-paragraph (1) ^{F10}or, as the case may be, paragraph 2A, as a result of the purchase of an annuity] with the assets referred to in that sub-paragraph, shall be determined ^{F11}(or, as the case may be, redetermined)]—

- ^{F12}(a) where the beneficiary was an active or a deferred member of the qualifying pension scheme ^{F13}[on the day before the day on which the qualifying pension scheme began to be wound up], on the basis that the sum which will be, or has been, used to discharge the liability of the scheme to him will only be, or has only been, used to purchase an annuity when the qualifying member attains, or attained, his normal retirement age;]
- (b) where the beneficiary is a survivor ^{F14}[or surviving dependant] of a member of that scheme, having regard to the annual rate of annuity which will come into payment ^{F15}[to that beneficiary on the later of—
 - (i) the day on which an annuity has been purchased from the assets of the scheme; or
 - (ii) the day after the day on which that qualifying member died;]

^{F16}(ba) where the beneficiary is a survivor or surviving dependant, on the basis that any amount (including any lump sum) payable to that beneficiary as a result of the death of the qualifying member being within a period specified in the scheme rules beginning on the day on which the member became entitled to a pension from the scheme or, if later, the day on which the pension was first paid, shall not be taken into account;]

^{F17}(c)

(d) on the basis that there has been no commutation of benefits deriving from the scheme ^{F18}[after the day on which the scheme began to be wound up].

^{F19}(3A) Where the scheme manager is satisfied that the amount of interim pension paid to the beneficiary in respect of any previous year or years in which an annual payment was payable to the beneficiary is higher or lower than the annual rate of annuity determined in accordance with this paragraph, the scheme manager may determine how the actual pension is to be calculated for the purposes of determining the annual payment in respect of each year in which an annual payment is payable to the beneficiary, having regard to—

- (a) the annual rate of annuity determined in accordance with this paragraph;

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- (b) the amount of any interim pension which was, or is due to be, paid to the beneficiary; and
 (c) such other matters as the scheme manager considers relevant.]

(4) Where the scheme manager is satisfied that it is not possible for him to determine the annual rate of annuity for the purposes of sub-paragraph (1) having regard to the information [^{F20}available to it and to such other matters as the scheme manager considers appropriate], [^{F21}it] shall determine the annual rate of annuity on the basis of the sum which would discharge the liability of the scheme to the beneficiary [^{F22}and of such other matters] as [^{F21}it] considers relevant.

[^{F23}(5) Where the scheme manager is satisfied that increases have been, are being, or will be made to the annual rate of annuity, and [^{F21}it] considers that those increases are not reasonable, [^{F21}it] may determine the annual rate of annuity on the basis of the sum which would discharge the liability of the scheme to the beneficiary and of such other matters as [^{F21}it] considers relevant.]

Textual Amendments

- F8** Sch. 2 para. 2(1) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(a)** (with reg. 37)
- F9** Words in Sch. 2 para. 2(3) substituted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(2)(b)(i)**
- F10** Words in Sch. 2 para. 2(3) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(i)** (with reg. 37)
- F11** Words in Sch. 2 para. 2(3) inserted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(2)(b)(ii)**
- F12** Sch. 2 para. 2(3)(a) substituted (24.11.2005) by The Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3256), regs. 1(1), **4(6)(b)(ii)**
- F13** Words in Sch. 2 para. 2(3)(a) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(ii)** (with reg. 37)
- F14** Words in Sch. 2 para. 2(3)(b) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(iii)(aa)** (with reg. 37)
- F15** Words in Sch. 2 para. 2(3)(b) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(iii)(bb)** (with reg. 37)
- F16** Sch. 2 para. 2(3)(ba) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(iv)** (with reg. 37)
- F17** Sch. 2 para. 2(3)(c) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(v)** (with reg. 37)
- F18** Words in Sch. 2 para. 2(3)(d) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(vi)** (with reg. 37)
- F19** Sch. 2 para. 2(3A) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(c)** (with reg. 37)
- F20** Words in Sch. 2 para. 2(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(d)(i)** (with reg. 37)
- F21** Word in Sch. 2 para. 2(4)(5) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F22** Words in Sch. 2 para. 2(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(d)(ii)** (with reg. 37)
- F23** Sch. 2 para. 2(5) added (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(3)(b)**

[^{F24}Annual redetermination

2A.—(1) This paragraph applies where—

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- (a) on the first indexation date following the date on which the beneficiary first became entitled to an annual payment; and
- (b) on any indexation date following that first indexation date;

the annual rate of annuity which has been or could have been paid to the beneficiary as at that indexation date as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has or had been determined, is higher as a result of indexation or revaluation than the annual rate determined in accordance with paragraph 2.

(2) Where this paragraph applies, the scheme manager shall redetermine the annual payment payable to that beneficiary with effect from the indexation date.

(3) When redetermining an annual payment under sub-paragraph (2), the actual pension for the purposes of paragraph 3(2) or 4(2) shall be the annual rate of annuity which has been or could have been paid to the beneficiary as at the indexation date as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has or had been determined, on the basis of, and having regard to, the matters referred to in paragraph 2(3).

(4) In any case where the scheme manager is satisfied, having regard to the information available to it, that it is not possible for it to determine the annual rate of annuity for the purposes of this paragraph, it shall determine that annual rate having regard to such matters as it considers relevant.

(5) Where the scheme manager is satisfied that increases have been, are being, or will be made to the annual rate of annuity, and it considers that those increases are not reasonable, it may determine the annual rate of annuity for the purposes of this paragraph on the basis of the sum which would discharge the liability of the scheme to the beneficiary and of such other matters as it considers relevant.]

Textual Amendments

F24 Sch. 2 para. 2A inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 21 (with reg. 37)

Qualifying members receiving pensions from the qualifying pension scheme

[^{F25}3.—(1) This paragraph applies to—

- (a) a member or former member of a qualifying scheme who—
 - (i) is a qualifying member under regulation 15(1), and
 - (ii) was entitled to present payment of a pension under the scheme rules [^{F26}on the day before the day on which the qualifying pension scheme began to be wound up]; and
- (b) a person who is regarded as a qualifying member under regulation 15(5).]

[^{F27}(2) The annual payment payable to a qualifying member to whom this paragraph applies shall be—

^{F28}

(expected pension x 0.9) - actual pension

.]

[^{F29}(3) Subject to sub-paragraphs (4) and (5) and paragraphs 4A and 4B, in this paragraph “expected pension” means—

- (a) the annual rate of the pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme as at the day before the day on which the qualifying pension scheme began to be wound up; or
- (b) where the day on which the qualifying pension scheme began to be wound up is earlier than 14 May 2004, the aggregate of—
 - (i) the annual rate of the pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme as at the day on which the qualifying pension scheme began to be wound up; and
 - (ii) the revaluation amount for the period beginning on the day on which the qualifying pension scheme began to be wound up and ending on 14 May 2004.]

[^{F29}(3A) In sub-paragraph (3)(b)(ii), the revaluation amount is—

- (a) where that period is less than one month, nil; or
- (b) in any other case, the revaluation percentage of the amount of the annual rate of pension under sub-paragraph (3)(b)(i).

(3B) In sub-paragraph (3A), “the revaluation percentage” means the lesser of—

- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in accordance with sub-paragraph (3)(b)(ii); and
- (b) the maximum revaluation rate.

(3C) The method for determining the percentage increase in the general level of prices in Great Britain during the revaluation period determined in accordance with sub-paragraph (3)(b)(ii) is—

$$(100 \times (A \div B)) - 100$$

where—

A is the level of the retail prices index for March 2004; and

B is the level of the retail prices index for the month two months before the month during which the relevant qualifying pension scheme began to be wound up.

(3D) In sub-paragraph (3B)(b), “the maximum revaluation rate” in relation to the revaluation period is—

- (a) if that period is a period of 12 months, 5%; or
- (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (3B)(a) had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period.]

[^{F30}(4) Where the scheme manager is satisfied that it is not possible for [^{F31}it] to determine the annual rate of the pension for the purposes of sub-paragraph (3) having regard to all the information available to [^{F31}it], [^{F32}it] shall determine that annual rate, having regard to such matters as [^{F32}it] considers relevant.]

[^{F33}(5) Where—

- (a) the annual rate of the pension determined for the purposes of calculating the expected pension under sub-paragraph (2) includes an amount which, under the rules of the qualifying pension scheme, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and
- (b) the liabilities of the scheme in respect of the beneficiary have been discharged (whether by the purchase of an annuity or by other means) in a manner which does not provide for

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a reduction in the annual rate of an annuity from the date on which the amount referred to in paragraph (a) would have ceased to be payable under the rules of the pension scheme, the scheme manager shall determine the expected pension having regard to the expected pension which would have been determined in accordance with paragraph 4A if that paragraph had applied and to such other matters as it considers relevant.]

Textual Amendments

- F25** Sch. 2 para. 3(1) substituted (19.12.2007) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(4)(a)**
- F26** Words in Sch. 2 para. 3(1)(a)(ii) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **22(a)** (with reg. 37)
- F27** Sch. 2 para. 3(2) substituted (19.12.2007) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(4)(b)**
- F28** Word in Sch. 2 substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(2)** (with reg. 8)
- F29** Sch. 2 para. 3(3)-(3D) substituted for Sch. 2 para. 3(3) (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **22(b)** (with reg. 37)
- F30** Sch. 2 para. 3(4) added (16.12.2006) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(3)(d)**
- F31** Word in Sch. 2 para. 3(4) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(4)(c)** (with reg. 37)
- F32** Word in Sch. 2 para. 3(4) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(1)(b)** (with reg. 37)
- F33** Sch. 2 para. 3(5) added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **22(c)** (with reg. 37)

Active and deferred members

4.—(1) This paragraph applies in respect of a qualifying member of a qualifying pension scheme who ^{F34}... was an active member or a deferred member of that scheme [^{F35}on the day before the day on which the qualifying pension scheme began to be wound up].

[^{F36}(2) The annual payment payable to a qualifying member to whom this paragraph applies shall be—

F28

(expected pension x 0.9) - actual pension

.]

(3) In sub-paragraph (2), “expected pension” means, subject to [^{F37}sub-paragraphs (3A)^{F38}... and (4)], the aggregate of—

- (a) the annual rate of the pension to which the qualifying member would have been entitled in accordance with the scheme rules had he attained his normal retirement age when the pensionable service relating to the pension ended;
- (b) the revaluation amount for the first revaluation period (see sub-paragraphs (5) and (6));
^{F39}...
- (c) the revaluation amount for the second revaluation period (see sub-paragraphs (7) to (11));
[^{F40}and]

[^{F40}(d) in any case where 14 May 2004 is later than—

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- (i) the day on which the qualifying pension scheme began to be wound up; and
 - (ii) the day on which the qualifying member attained normal retirement age,
- the revaluation amount for the third revaluation period (see sub-paragraphs (13) to (13D)).]

[^{F41}(3A) Where—

- (a) the annual rate of the pension determined for the purposes of sub-paragraph (3)(a) includes an amount which, under the rules of the qualifying pension scheme, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and
- (b) the liabilities of the scheme in respect of the beneficiary have been discharged (whether by the purchase of an annuity or by other means) in a manner which does not provide for a reduction in the annual rate of an annuity from the date on which the amount referred to in paragraph (a) would have ceased to be payable under the rules of the pension scheme,

the scheme manager shall determine the annual rate for the purposes of sub-paragraph (3)(a) having regard to the expected pension which would have been determined in accordance with paragraph 4A if that paragraph had applied and to such other matters as it considers relevant.]

[^{F42}(3B)

(4) In any case where the scheme manager is satisfied, having regard to the information available to [^{F43}it], that it is not possible for [^{F43}it] to identify any one of the elements in [^{F44}sub-paragraph (3) or (3A) or paragraph 4B][^{F45}it] may determine how the annual payment is to be calculated having regard to such matters as [^{F45}it] considers relevant.

[^{F46}(5) The first revaluation period is the period—

- (a) beginning on the day on which the qualifying member's pensionable service ended; and
- (b) ending on [^{F47}the day before the day on which the qualifying pension scheme began to be wound up.]

(6) The revaluation amount for the first revaluation period is the amount by which the annual rate of the pension under sub-paragraph (3)(a) would fall to be revalued—

- (a) in relation to any guaranteed minimum pension, in accordance with section 16 of the 1993 Act, having regard to the relevant scheme rules; and
- (b) in relation to the remainder of the pension, in accordance with Chapter 2 of Part 4 of the 1993 Act.

[^{F48}(7) The second revaluation period is the period—

- (a) beginning on the day after the date determined in accordance with sub-paragraph (5)(b); and
- (b) ending on—

[^{F49}(i) the day on which the qualifying member attains normal retirement age;]

- (ii) the day from which the qualifying member is entitled to an annual payment in accordance with regulation 17(2)[^{F50}, (3) or (3C) or 17C], whichever is the earlier.]

(8) The revaluation amount for the second revaluation period is, subject to sub-paragraph (12)—

- (a) where that period is less than one month, nil; or
- (b) in any other case, the revaluation percentage of the aggregate of the annual rate of the pension under sub-paragraph (3)(a) and the revaluation amount for the first revaluation period under sub-paragraph (6).

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- (9) In sub-paragraph (8), “the revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices in Great Britain during the second revaluation period determined in accordance with sub-paragraph (7); and
 - (b) the maximum revaluation rate.

(10) The method for determining the percentage increase in the general level of prices in Great Britain during the second revaluation period is—

$$100 \times \frac{A - B}{B}$$

where—

A is the level of the retail prices index for the month which falls two months before the month in which ^{F51}the day from which the qualifying member is entitled to an annual payment] falls;

B is the level of the retail prices index for the month two months before the month during which the relevant qualifying pension scheme began to wind up.

(11) In sub-paragraph (9)(b), “the maximum revaluation rate” in relation to the second revaluation period is—

- (a) if that period is a period of 12 months, 5%; or
- (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (9)(a) had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period.

(12) In determining the revaluation amount for the second revaluation period in accordance with sub-paragraphs (8) to (11), no revaluation shall be made in respect of any benefits which are not subject to revaluation under the scheme rules.

(13) ^{F52}The third revaluation period is the period—

- (a) beginning on the day after the day on which the member attained normal retirement age; and
- (b) ending on 14 May 2004.]

^{F52}(13A) The revaluation amount for the third revaluation period is—

- (a) where that period is less than one month, nil; or
- (b) in any other case, the revaluation percentage of the aggregate of—
 - (i) the annual rate of the pension under sub-paragraph (3)(a);
 - (ii) the revaluation amount for the first revaluation period under sub-paragraph (6); and
 - (iii) the revaluation amount for the second revaluation period under sub-paragraph (8).

(13B) In sub-paragraph (13A), “the revaluation percentage” means the lesser of—

- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in accordance with sub-paragraph (13); and
- (b) the maximum revaluation rate.

(13C) The method for determining the percentage increase in the general level of prices in Great Britain during the revaluation period determined in accordance with sub-paragraph (13) is—

$$100 \times \frac{A - B}{B} - 100$$

where

A is the level of the retail prices index for March 2004; and

B is the level of the retail prices index for the month two months before the month in which the qualifying member attained normal retirement age.

(13D) In sub-paragraph (13B)(b), “the maximum revaluation rate” in relation to the revaluation period is—

- (a) if that period is a period of 12 months, 5%; or
- (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (13B)(a) had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period.]]

Textual Amendments

- F28** Word in Sch. 2 substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(2)** (with reg. 8)
- F34** Words in Sch. 2 para. 4(1) omitted (16.12.2006) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(4)(a)(i)**
- F35** Words in Sch. 2 para. 4(1) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(a)** (with reg. 37)
- F36** Sch. 2 para. 4(2) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(5)**
- F37** Words in Sch. 2 para. 4(3) substituted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(4)(c)**
- F38** Word in Sch. 2 para. 4(3) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(b)(i)** (with reg. 37)
- F39** Word in Sch. 2 para. 4(3) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(b)(ii)** (with reg. 37)
- F40** Sch. 2 para. 4(3)(d) and word added (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(b)(iii)** (with reg. 37)
- F41** Sch. 2 para. 4(3A) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(c)** (with reg. 37)
- F42** Sch. 2 para. 4(3B) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(d)** (with reg. 37)
- F43** Word in Sch. 2 para. 4(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(4)(c)** (with reg. 37)
- F44** Words in Sch. 2 para. 4(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(e)** (with reg. 37)
- F45** Word in Sch. 2 para. 4(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F46** Sch. 2 para. 4(5) substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(4)(a)** (with reg. 8)
- F47** Words in Sch. 2 para. 4(5)(b) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(f)** (with reg. 37)
- F48** Sch. 2 para. 4(7) substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(4)(b)** (with reg. 8)
- F49** Sch. 2 para. 4(7)(b)(i) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(g)** (with reg. 37)
- F50** Words in Sch. 2 para. 4(7)(b)(ii) substituted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(2)**
- F51** Words in Sch. 2 para. 4(10) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(h)** (with reg. 37)
- F52** Sch. 2 para. 4(13)-(13D) substituted for Sch. 2 para. 4(13) (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(i)** (with reg. 37)

Status: Point in time view as at 10/07/2009.

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 2. (See end of Document for details)

^{F53}Bridging pensions

4A.—(1) This paragraph applies where—

- (a) the annual rate of the pension determined for the purposes of calculating the expected pension under paragraph 3(2) or 4(2) includes an amount which, under the scheme rules, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and
- (b) an annuity has been purchased for the beneficiary which provides for payment of a pension to the beneficiary at a lower annual rate from the date on which the amount referred to in paragraph (a) would have ceased to be payable under the rules of the pension scheme.

(2) Where this paragraph applies, the scheme manager shall redetermine the annual payment payable to that beneficiary with effect from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable under the rules of the pension scheme.

(3) When redetermining an annual payment under sub-paragraph (2)—

- (a) the annual rate of the pension for the purposes of paragraph 3(3)(a) shall be the annual rate of pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme less the annual amount which was payable for the shorter period referred to in sub-paragraph (1)(a), as at the day which is the day before the day on which the qualifying pension scheme began to be wound up;
- (b) the annual rate of the pension for the purposes of paragraph 3(3)(b)(i) shall be the amount which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme less the annual amount which was payable for the shorter period referred to in sub-paragraph (1)(a), as at the day on which the qualifying member attained normal retirement age;
- (c) the amount specified in paragraph 4(3)(a) shall be the amount determined in accordance with that paragraph less the amount which is the amount which was payable for the shorter period referred to in sub-paragraph (1)(a);
- (d) the amount which was payable for the shorter period referred to in sub-paragraph (1)(a) shall be disregarded when determining the revaluation amounts; and
- (e) the beneficiary shall be entitled to so much of the total amount of the annual increases determined in accordance with paragraph 9 payable to the beneficiary as at the date referred to in sub-paragraph (2) as are attributable to the amount of expected pension determined in accordance with this paragraph.

(4) In any case where the scheme manager is satisfied, having regard to the information available to it, that it is not possible for it to determine the annual rate of pension for the purposes of sub-paragraph (3)(a) or (b) or any one of the amounts for the purposes of sub-paragraph (3)(c) to (e) it shall determine that annual rate or amount, having regard to such matters as it considers relevant.

(5) In sub-paragraph (3)(d) “the revaluation amounts” means—

- (a) the revaluation amount referred to in paragraph 3(3)(b)(ii); and
- (b) the revaluation amounts referred to in paragraph 4(3)(b) to (d).

Textual Amendments

F53 Sch. 2 paras. 4A, 4B inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, 24 (with reg. 37)

Pension payable at an age other than normal retirement age

4B.—(1) This paragraph applies where any pension or part of a pension would have been payable to the qualifying member for life without actuarial adjustment under the rules of the qualifying pension scheme (disregarding any rule making special provision as to early payment on the grounds of ill health or otherwise) at an age other than the member’s normal retirement age.

(2) Where this paragraph applies—

- (a) paragraphs 3(3) and 4(3) and (3A) shall have effect as if the amount of pension or part of a pension payable at the age other than the member’s normal retirement age were a separate pension;
- (b) paragraph 4(3)(a) shall have effect as if the reference to normal retirement age were a reference to the age at which the pension or part of a pension would be payable to the qualifying member without actuarial reduction under the rules of the qualifying pension scheme (disregarding any rule making special provision as to early payment on the grounds of ill health or otherwise); and
- (c) “expected pension” in paragraphs 3(2) and 4(2) means, subject to paragraph 4(4), the aggregate of the amounts calculated as the expected pension in accordance with paragraphs 3 and 4 in relation to any pension treated as a separate pension in accordance with paragraph (a).

(3) An actuarial factor, determined having regard to such matters as the person determining the factor considers relevant, shall be applied to any amount determined in accordance with sub-paragraph (2)(a).]

Textual Amendments

F53 Sch. 2 paras. 4A, 4B inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 24 (with reg. 37)

Survivors of qualifying members

5.—^{F54}(1) This paragraph applies where—

- (a) immediately before a qualifying pension scheme began to wind up, a qualifying member—
 - (i) was entitled to present payment of a pension under the scheme rules and that pension was attributable—
 - (aa) to the member’s pensionable service; or
 - (bb) (directly or indirectly) to a pension credit to which the member became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits); or
 - (ii) was an active member or a deferred member of that scheme;
- (b) that member dies on or after the day on which the scheme began to wind up; and
- (c) that member—
 - (i) was entitled to an annual payment determined in accordance with this Schedule, or
 - (ii) would have been entitled to such an annual payment had he not died before he became so entitled.]

(2) The annual payment payable to the survivor of a qualifying member to whom this paragraph applies shall be determined in accordance with ^{F55}sub-paragraph (3) or (6A)].

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[^{F56}(3) Except where sub-paragraph (6A) applies, the annual payment payable to a survivor shall be—]

[^{F56}

(expected pension×0.9)+H2–A

]

5.—(4) In sub-paragraph (3), “expected pension” shall, subject to sub-paragraph (5), be determined—

(a) where the qualifying member was entitled to present payment of a pension under the scheme rules [^{F57}on the day before the day on which the qualifying pension scheme began to be wound up] in accordance with paragraph 3(3); or

(b) where the qualifying member was an active member or a deferred member of a qualifying pension scheme [^{F57}on the day before the day on which the qualifying pension scheme began to be wound up] in accordance with [^{F58}sub-paragraph (7)].

(5) In any case where the scheme manager is satisfied that it is not possible for [^{F59}it] to identify either or both elements of the formula in sub-paragraph (3), [^{F60}it] may determine how the annual payment is to be calculated having regard to the scheme rules and such other matters as [^{F60}it] considers relevant.

^{F61}(6)

[^{F62}(6A) Where the qualifying member was a party to a polygamous marriage, the annual payment payable to each survivor shall be—

(E+H)N–B

(6B) In this paragraph—

“A” means the actual pension;

“B” means the sum of the actual pensions of all the survivors of that qualifying member;

“E” means one half of the product of 0.9 multiplied by the expected pension which would be determined in accordance with sub-paragraph (3) if sub-paragraph (6A) did not apply;

“H” means the aggregate of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled before the day on which the qualifying member died;

“N” means the number of survivors of that qualifying member.

(6C) Where a survivor of a qualifying member who was a party to a polygamous marriage dies, the annual payment payable to each survivor of that qualifying member shall be redetermined with effect from the day after the day on which the survivor died.]

[^{F63}(7) For the purposes of sub-paragraph (4)(b), “expected pension” means the aggregate amount of—

(a) the amount specified in paragraph 4(3)(a);

(b) the revaluation amount for the first survivor revaluation period (see sub-paragraphs (8) and (9)); ^{F64}...

(c) the revaluation amount for the second survivor revaluation period (see sub-paragraphs (10) and (11)); [^{F65}and]

[in any case where 14 May 2004 is later than—

^{F65}(d) (i) the day on which the qualifying member died; and

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- (ii) the day on which the qualifying pension scheme began to be wound up, the revaluation amount for the third survivor revaluation period (see sub-paragraphs (12) and (13)).]
- (8) The first survivor revaluation period is the period—
- (a) beginning on the day on which the qualifying member’s pensionable service ended; and
 - (b) ending on—
 - (i) the day before the day on which the scheme began to wind up;
 - (ii) the day from which the qualifying member became entitled to an annual payment in accordance with regulation 17(2)[^{F66}, (3) or (3C) or 17C]; or
 - (iii) the day from which the survivor of the qualifying member became entitled to an annual payment under regulation 17(4),whichever is the earliest.
- (9) The revaluation amount for the first survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(6).
- (10) The second survivor revaluation period is the period—
- (a) beginning on the day after the date determined in accordance with sub-paragraph (8)(b); and
 - [^{F67}(b) ending on—
 - (i) the earlier of—
 - (aa) the day from which the qualifying member became entitled to an annual payment; or
 - (bb) the day from which the survivor of the qualifying member became entitled to an annual payment; or
 - (ii) in any case where 14 May 2004 is later than—
 - (aa) the day on which the qualifying member died; and
 - (bb) the day on which the qualifying pension scheme began to be wound up, the day on which the qualifying member died.]
- (11) The revaluation amount for the second survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(8) to (12).]
- [^{F68}(12) The third survivor revaluation period is the period—
- (a) beginning on the day after the day on which the qualifying member died; and
 - (b) ending on 14 May 2004.
- (13) The revaluation amount for the third survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(13A) to (13D).]

Textual Amendments

- F54** Sch. 2 para. 5(1) substituted (16.12.2006) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(5)(a)**
- F55** Words in Sch. 2 para. 5(2) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **25(a)** (with reg. 37)
- F56** Sch. 2 para. 5(3) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **25(b)** (with reg. 37)

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- F57** Words in Sch. 2 para. 5(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(c)** (with reg. 37)
- F58** Words in Sch. 2 para. 5(4)(b) substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(5)(a)** (with reg. 8)
- F59** Word in Sch. 2 para. 5(5) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(4)(c)** (with reg. 37)
- F60** Word in Sch. 2 para. 5(5) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F61** Sch. 2 para. 5(6) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(d)** (with reg. 37)
- F62** Sch. 2 para. 5(6A)-(6C) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(e)** (with reg. 37)
- F63** Sch. 2 para. 5(7)-(11) inserted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(5)(c)** (with reg. 8)
- F64** Word in Sch. 2 para. 5(7) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(f)(i)** (with reg. 37)
- F65** Sch. 2 para. 5(7)(d) and word added (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(f)(ii)** (with reg. 37)
- F66** Words in Sch. 2 para. 5(8)(b)(ii) substituted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(2)**
- F67** Sch. 2 para. 5(10)(b) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(g)** (with reg. 37)
- F68** Sch. 2 para. 5(12)(13) added (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(h)** (with reg. 37)

[^{F69}Payment for an entitlement under regulation 17C

5A.—(1) This paragraph applies where a qualifying member is entitled to an annual payment in accordance with regulation 17C for a period during which that member has previously received a relevant payment.

(2) The annual payment payable to a qualifying member to whom this paragraph applies is determined in accordance with this Schedule.

(3) For any period for which an annual payment under regulation 17C is due to be paid and a relevant payment has previously been paid, the relevant payment is treated as a payment on account of the annual payment under regulation 17C.

(4) Where the amount of the relevant payment so treated equals the amount of the annual payment payable under sub-paragraph (2), no further payment under regulation 17C is due to the qualifying member.

(5) In this paragraph, “relevant payment” means a payment in accordance with these Regulations other than a payment for a survivor by virtue of regulation 17(4), 17A(3), 17B(2)(b) or 18(4).]

Textual Amendments

- F69** Sch. 2 para. 5A inserted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(3)**

[^{F70}Surviving dependants of qualifying members

5B.—(1) The annual payment payable to a surviving dependant of a qualifying member shall be determined in accordance with sub-paragraphs (2) to (5).

- (2) Where an annual payment is also payable to a survivor of the qualifying member and—
- (a) there is only one surviving dependant, the amount of the annual payment shall be—
E2–B
- (b) there are two or more surviving dependants, the amount of the annual payment shall be—
E–BN
- (3) Where the qualifying member does not have a survivor and—
- (a) there is only one surviving dependant, the amount of annual payment shall be—
E–B
- (b) there are two or more surviving dependants, the amount of the annual payment shall be—
(2×E)–BN
- (4) Where—
- (a) a survivor of a qualifying member, who is not a person who is treated as a survivor under regulation 37 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009, dies; or
- (b) a person ceases to be a surviving dependant of a qualifying member,

the annual payment payable to a surviving dependant of that qualifying member shall be redetermined with effect from the day after the day on which the survivor died or the person ceased to be a surviving dependant.

- (5) In this paragraph—
- “B” means—
- (a) where there is only one surviving dependant, the surviving dependant’s actual pension; or
- (b) where there are two or more surviving dependants, the sum of the actual pensions of all the surviving dependants of that qualifying member;
- “E” means one half of the sum of
G+H
- ;
- “G” means the product of 0.9 multiplied by the expected pension which has been or could have been determined in respect of the survivor in accordance with paragraph 5(3);
- “H” means the aggregate of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled before the day on which the qualifying member died;
- and
- “N” means the number of surviving dependants of that qualifying member.]

Textual Amendments

F70 Sch. 2 para. 5B inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, 26 (with reg. 37)

Exclusion of certain benefits

6.—(1) No account shall be taken of the benefits specified in sub-paragraph (2) when determining, for the purposes of this Schedule—

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- (a) the assets available to be used to discharge a liability of a qualifying pension scheme;
 - (b) the liabilities of such a scheme; and
 - (c) the annual rate of pension from such a scheme.
- (2) The specified benefits are—
- (a) money purchase benefit; ^{F71}and]
 - (b) benefits derived from the payment of voluntary contributions where, on the winding up of the scheme, the assets of the scheme have first been applied to satisfy liabilities in respect of those benefits; ^{F72}...
 - ^{F73}(c)
 - ^{F74}(3)

Textual Amendments	
F71	Word in Sch. 2 para. 6(2)(a) inserted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370) , regs. 1(1), 7(6)(a)
F72	Word in Sch. 2 para. 6(2)(b) omitted (16.12.2006) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370) , regs. 1(1), 7(6)(b)
F73	Sch. 2 para. 6(2)(c) omitted (16.12.2006) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370) , regs. 1(1), 7(6)(c)
F74	Sch. 2 para. 6(3) omitted (16.12.2006) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370) , regs. 1(1), 7(6)(c)

Cap on expected pension and actual pension

7.—^{F75}(1) Where the amount of a qualifying member’s expected pension determined in accordance with the previous provisions of this Schedule multiplied by 0.9 exceeds the FAS cap—

- (a) the amount of the annual payment payable to, or in respect of, that member under paragraphs 3 to 5B shall be determined on the basis that the product of that calculation was the amount of the FAS cap; and
- (b) the expected pension for the purposes of paragraph (b)(i) in the definition of “underlying rate” in paragraph 9 shall be the amount of the FAS cap;]

(2) Where the amount of a qualifying member's actual pension determined in accordance with paragraph 2 exceeds—

- (a) the amount of a qualifying member's expected pension determined in accordance with the previous provisions of this Schedule multiplied by ^{F76}0.9^{F76}...; or
- (b) ^{F77}the FAS cap],

no annual payment shall be payable to, or in respect of, that member.

^{F78}(3) Except where sub-paragraph (5) applies, in this paragraph “the FAS cap” is—

- (a) where the beneficiary became entitled to an annual payment before 1st April 2007, £26,000;
- (b) where the beneficiary became entitled to an annual payment in the period beginning on 1st April 2007 and ending on 31st March 2008, £26,936;
- (c) where the beneficiary became entitled to an annual payment in the period beginning on 1st April 2008 and ending on 31st March 2009, £27,987;

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- (d) where the beneficiary became entitled, or becomes entitled, to an annual payment in the period beginning on 1st April 2009 and ending on 31st March 2010, £29,386; and
 - (e) where the beneficiary becomes entitled to an annual payment in the period after 31st March 2010, the amount determined in accordance with sub-paragraph (4).
- (4) For each successive period of 12 months from 1st April 2010, the FAS cap shall be—
- (a) where paragraph (b) does not apply, the amount of the FAS cap for the previous period of 12 months increased by the percentage increase of the retail prices index for the period of 12 months ending on the 30th September falling within that previous period of 12 months; or
 - (b) where there is no such percentage increase, the amount of the FAS cap for the previous period of 12 months.
- (5) Where a qualifying member dies on or after the day on which that qualifying member became entitled to an annual payment, “the FAS cap” for the purposes of determining the amount of the annual payment payable to a survivor or a surviving dependant of that qualifying member under paragraph 5 or 5B is the amount which was determined in accordance with sub-paragraph (3) for the purposes of determining the amount of the annual payment payable to that qualifying member.
- (6) Where the amount of the FAS cap determined in accordance with sub-paragraph (3)(e) results in a fraction of a pound, that fraction shall be treated as a pound.]

Textual Amendments

- F28** Word in Sch. 2 substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(2)** (with reg. 8)
- F75** Sch. 2 para. 7(1) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **27(a)** (with reg. 37)
- F76** Words in Sch. 2 para. 7(2)(a) omitted (19.12.2007) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(7)(b)**
- F77** Words in Sch. 2 para. 7(2) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **27(b)** (with reg. 37)
- F78** Sch. 2 para. 7(3)-(6) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **27(c)** (with reg. 37)

De minimis rule

^{F79}8.

Textual Amendments

- F79** Sch. 2 para. 8 omitted (19.12.2007) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(8)**

[^{F80}Annual increase to an annual payment

9.—(1) Except where there is no percentage increase in the retail prices index for the period of 12 months ending with 31st May last falling before the indexation date, a beneficiary entitled to an annual amount determined in accordance with paragraphs 2A to 5B shall be entitled, on the indexation date, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date, or

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- (b) where the beneficiary first became entitled to an annual payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the annual payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the retail prices index for the period of 12 months ending with the 31st May last falling before the indexation date; and
- (b) 2.5%;

“underlying rate” means—

- (a) the aggregate of—
- (i) the product of X multiplied by so much of the expected pension as is attributable to post-1997 service;
- (ii) where—
- (aa) the beneficiary is a survivor or a surviving dependant of a qualifying member; and
- (bb) that qualifying member dies on or after the day on which that qualifying member became entitled to an annual payment,
- the product of X multiplied by W; and
- (iii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date; or
- (b) where paragraph 7(1) applies, the aggregate of—
- (i) so much of the expected pension as is, proportionately, attributable to post-1997 service; and
- (ii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date;

“post-1997 service” means—

- (a) pensionable service (whether actual or notional) which occurs on or after 6th April 1997; or
- (b) where the annual payment is payable to, or in respect of, a qualifying member who is, or was, a pension credit member of the scheme, pension credit rights deriving from rights attributable to service (whether actual or notional) which occurred on or after 6th April 1997;

“W” means the amount of any annual increases to which the qualifying member was entitled in accordance with sub-paragraph (1) on the day before the day on which the qualifying member died;

“X” means—

- (a) 0.9, where the beneficiary is the qualifying member;
- (b) 0.45, where the beneficiary is a survivor who is not a survivor to whom paragraph 5(6A) applies;
- (c) the product of 0.45 divided by Y, where the beneficiary is a survivor to whom paragraph 5(6A) applies;
- (d) the product of 0.9 divided by Z, where the beneficiary is a surviving dependant and the qualifying member does not have a survivor; or

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- (e) the product of 0.45 divided by Z, where the beneficiary is a surviving dependant and an annual payment is also payable to a survivor of the qualifying member;

“Y” means the number of survivors of the qualifying member; and

“Z” means—

- (a) where there is only one surviving dependant, 2; or
(b) where there is more than one surviving dependant, the number of surviving dependants of the qualifying member.

(3) In any case where the scheme manager is satisfied, having regard to the information available, that it is not possible for the scheme manager to determine the amount of expected pension which is attributable to post-1997 service for the purposes of this paragraph, the scheme manager shall determine that amount, having regard to such matters as the scheme manager considers relevant.]

Textual Amendments

F80 Sch. 2 para. 9 substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 28 (with reg. 37)

Initial payments

10. The preceding provisions of this Schedule shall apply for the purposes of determining the amount of an initial payment with the following modifications—

- (a) for paragraph 2, substitute—

^{F81c}Interim pension

2.—(1) In this Schedule, “interim pension” means, subject to sub-paragraphs (2) and (3), the annual rate of pension that was in payment, is in payment, or is proposed to be paid, to a qualifying member, or to a survivor ^{F82}or surviving dependant] of that qualifying member, from the assets of the qualifying pension scheme of which that qualifying member is, or was, a member—

- (a) on or after the time when the scheme began to wind up; but
(b) before the day on which the scheme’s liabilities to or in respect of the qualifying member are, or were, discharged.

(2) Where—

- (a) the annual rate of pension referred to in sub-paragraph (1)—

(i) was or is in payment, and

(ii) was determined following commutation^{F83}, after the day on which the qualifying pension scheme began to be wound up,] of some of the benefits deriving from the scheme to which that qualifying member is entitled,

that annual rate shall be redetermined on the basis that there was ^{F84}no such commutation]; and

- (b) the annual rate of pension referred to in sub-paragraph (1) is proposed to be paid, that annual rate shall be determined on the basis that there has been no commutation of benefits ^{F85}after the day on which the scheme began to be wound up].

Status: Point in time view as at 10/07/2009.

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 2. (See end of Document for details)

(3) Where the scheme manager is satisfied that it is not possible for [F86:it] to determine the annual rate of pension for the purposes of sub-paragraph (1) having regard to the information available to [F86:it], [F87:it] shall determine the annual rate of pension on the basis of that portion of the assets of the qualifying pension scheme (of which the qualifying member is, or was, a member) provisionally allocated to the member by the trustees or managers, or survivor [F82:or surviving dependant] of that member—

- (a) on or after the time when the scheme began to wind up; but
- (b) before the day on which the scheme’s liabilities in respect of the qualifying member are, or were, discharged,

and such other matters as the scheme manager considers relevant.”];

(b) for “actual pension”, in each place, substitute “interim pension”;

[F88:(ba) for “[F89:regulation 17(2), (3) or (3C) or 17C]” in each place, substitute “regulation 18(4)”];

[F90:(c)

[F90:(ca)

[F91:(d) for “annual payment”, in each place that it occurs (except in paragraph 1(1)), substitute “initial payment”; and]

[F92:(e) in paragraph 5—

(i) for sub-paragraph (3) substitute—

“(3) The initial payment payable to a survivor of a qualifying member shall be—^{F28}

(expected pension x 0.9)² - interim pension payable to that survivor.”; and; and”

(ii) [F93:for sub-paragraph (4) substitute—

“(4) In sub-paragraph (3), “expected pension” shall, subject to sub-paragraph (5), be the sum of—

(a) the amount determined—

(i) where the qualifying member was entitled to a present payment of a pension under the scheme rules on the day before the day on which the qualifying pension scheme began to be wound up, in accordance with paragraph 3(3); or

(ii) where the qualifying member was an active member or a deferred member of a qualifying pension scheme on the day before the day on which the qualifying pension scheme began to be wound up, in accordance with paragraph 4(3); and

(b) the product of the aggregate of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled on the day before the day on which the qualifying member died divided by 0.9.”.]

Textual Amendments

F28 Word in Sch. 2 substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, 7(2) (with reg. 8)

F81 Sch. 2 para. 10(a) substituted (16.12.2006) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), 7(9)(a)

Status: Point in time view as at 10/07/2009.

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 2. (See end of Document for details)

- F82** Words in Sch. 2 para. 10(a) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(a)(i)** (with reg. 37)
- F83** Words in Sch. 2 para. 10(a) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(a)(ii)** (with reg. 37)
- F84** Words in Sch. 2 para. 10(a) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(9)(a)**
- F85** Words in Sch. 2 para. 10(a) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(a)(iii)** (with reg. 37)
- F86** Word in Sch. 2 para. 10(a) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(4)(c)** (with reg. 37)
- F87** Word in Sch. 2 para. 10(a) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F88** Sch. 2 para. 10(ba) substituted (17.7.2008) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/1903), regs. 1, **14(b)**
- F89** Words in Sch. 2 para. 10(ba) substituted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(5)**
- F90** Sch. 2 para. 10(c)(ca) omitted (19.12.2007) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(9)(c)**
- F91** Sch. 2 para. 10(d)(e) added (24.11.2005) by The Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3256), regs. 1(1), **4(6)(e)(ii)**
- F92** Sch. 2 para. 10(e) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(9)(d)**
- F93** Sch. 2 para. 10(e)(ii) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(b)** (with reg. 37)

[^{F94}Shared initial payments

10A.—(1) Where two or more survivors of a qualifying member are entitled to a shared initial payment by virtue of regulation 18(4B), the amount of each survivor’s shared initial payment shall be—

Z–YN

(2) In this paragraph—

“N” means the number of survivors of the qualifying member;

“Y” means the sum of the interim pensions of all the survivors which would have been determined in accordance with paragraph 5(3) had that paragraph applied to the survivors; and

“Z” means the product of 0.9 multiplied by the expected pension which would have been determined in accordance with paragraph 5(3) had that paragraph applied to the survivors.]

Textual Amendments

- F94** Sch. 2 para. 10A inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **30** (with reg. 37)

Rounding

11. Where the amount of an annual payment or an initial payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

Status:

Point in time view as at 10/07/2009.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 2.