
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a financial assistance scheme, allowing for payments to be made to, or in respect of, certain members or former members of certain occupational pension schemes where the liabilities of the scheme to those members are unlikely to be satisfied in full.

Part 1 makes provision for citation, commencement and extent, and also for interpretation of words and phrases used in the Regulations. In particular, it prescribes when a scheme is deemed to have started to wind up for the purposes of these Regulations (regulation 3), applies parts of Parts 1 and 2 of the Pensions Act 2004 (c. 35) for the purposes of these Regulations with the modifications prescribed in Schedule 1 and makes special provision for Northern Ireland (regulation 4).

Part 2 establishes the financial assistance scheme. It provides that the scheme is to be managed by the Secretary of State (regulation 5), that there is to be a fund out of which payments are to be made which shall consist both of monies allocated by Parliament and other amounts which may be provided by third parties on a voluntary basis (regulation 6), that the Secretary of State must report to Parliament on the operation of the financial assistance scheme in respect of each financial year (regulation 7) and that the scheme manager may delegate performance of his functions arising under, or by virtue of, these Regulations to another person on his behalf (regulation 8).

Part 3 prescribes which occupational pension schemes are to be regarded as qualifying pension schemes for the purposes of these Regulations. It both lists the basic criteria (regulation 9) and describes certain types of scheme which are not to be regarded as qualifying pension schemes (regulation 10). It also prescribes the conditions which must apply to the employer for a scheme to be so regarded (regulations 11 and 12), what are to be insolvency events for the purposes of these Regulations (regulation 13) and what details about the scheme must be provided to the scheme manager before the scheme can be regarded as a qualifying pension scheme (regulation 14).

Part 4 prescribes which persons are to be regarded as qualifying members for the purposes of these Regulations (regulation 15) and the basis for ascertaining when a scheme is regarded as having insufficient assets for discharging its liability to the member (regulation 16).

Part 5 prescribes that annual payments are payable to, or in respect of, qualifying members of qualifying pension schemes, that the amounts of those payments are to be determined in accordance with Schedule 2 and that those payments are payable for the life of the beneficiary (regulation 17). It also prescribes that initial payments can be made to qualifying members in certain circumstances (regulation 18).

Part 6 deals with the administration of payments. It prescribes how and when annual payments and initial payments are to be paid (regulation 19), and the arrangements for making payments by direct credit transfer (regulation 20).

The modifications in Schedule 1—

allow an inspector on behalf of the Pensions Regulator to collect information on behalf of the scheme manager (paragraph 1);

allow the Regulator to disclose restricted information to facilitate the scheme manager's functions (paragraphs 2 and 3);

allow for regulations to be prescribed which allow amounts overpaid from the financial assistance scheme to be recovered and payments from the financial assistance scheme to be suspended (paragraph 4);

allow for regulations to be prescribed to require certain information to be supplied to the scheme manager (paragraph 5);

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

allow notices to be issued requiring the provision of such information and for enforcement action to be taken if such information is not provided (paragraphs 6 to 9);

allow the scheme manager to use information (paragraph 10) and to disclose restricted information in certain circumstances and for certain purposes (paragraphs 11 to 14);

allow for regulations to require the scheme manager and other persons to disclose certain information in certain circumstances (paragraph 15);

make appropriate interpretation provisions (paragraph 16).

Schedule 2 prescribes the method for calculating the amount of an annual payment under these Regulations for each category of qualifying member or their survivor (paragraphs 1 to 5). It also prescribes certain benefits which are not to be taken into account in determining the annual payment (paragraph 6), for a cap to be imposed on the amount of expected or actual pension to be taken into account (paragraph 7) and for no payment to be made if the amount of the annual payment does not exceed a certain amount (paragraph 8). It also prescribes the method for calculating initial payments (paragraph 10).

A regulatory impact assessment has not been published for this instrument as it has only a negligible impact on business, charities and voluntary bodies.

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