

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (PPF PAYMENTS AND FAS PAYMENTS)
(CONSEQUENTIAL AMENDMENTS) REGULATIONS 2006**

2006 No. 1069

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These regulations make amendments to the Social Security Benefit (Dependency) Regulations 1977, the Social Security (Incapacity Benefit) Regulations 1994, the Social Security (Incapacity Benefit - Increases for Dependants) Regulations 1994 and the Jobseeker's Allowance Regulations 1996.
 - 2.2 The amendments provide for Pension Protection Fund (PPF) periodic payments to be treated in the same way as occupational pension income in respect of Incapacity Benefit and Adult Dependency Increases in respect of Incapacity Benefit, Maternity Allowance, State Pensions, Carer's Allowance and Severe Disablement Allowance.
 - 2.3 In addition these regulations make amendments to Jobseeker's Allowance Regulations 1996 to provide for PPF payments and Financial Assistance Scheme (FAS) payments to be treated in the same way as occupational pension income in respect of contribution-based Jobseeker's Allowance.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 These regulations will ensure equity of treatment for individuals in receipt of certain income-related and contributory benefits and PPF or FAS payments with individuals who are currently in receipt of an occupational pension and income-related and contributory benefits.
 - 4.2 Specifically, these regulations will modify provisions:
 - by amending existing secondary legislation so that when an individual's occupational pension is replaced by PPF or topped up by FAS payments, then income-related and contributory benefits can take these payments into account in the same way as they would an occupational pension. These regulations also mirror occupational pension income treatment where PPF or FAS payments are made to a surviving spouse or civil partner following the death of the original qualifying scheme member.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The Pensions Act 2004 received Royal Assent on 18 November 2004. The provisions of that Act established the PPF, a statutory fund run by the Board of the PPF, which became operational on 6 April 2005. The PPF aims to provide compensation for members of defined benefit occupational pension schemes and the defined benefit element of hybrid pension schemes should the employer become insolvent and the pension scheme is underfunded at a certain level.

7.2 When an employer has an insolvency event an assessment period is triggered during which time the scheme's assets and liabilities are valued to determine whether the PPF should assume responsibility for the scheme. The assessment period must last at least 12 months. This means that the earliest the PPF can assume responsibility for a scheme and begin paying compensation is 12 months from 6 April 2005, being 6 April 2006. However, the PPF is not expected to assume responsibility for its first scheme until mid/late 2006.

7.3 The FAS offers help to some people who have lost out on their defined benefit occupational pension, because their scheme was underfunded when it wound up and the employer is insolvent or no longer exists. In addition, it also provides assistance for certain surviving spouses and civil partners. The FAS is aimed at pension schemes that began to wind up between 1 January 1997 and 5 April 2005. Schemes that begun winding up after this period may be eligible for help from the PPF.

7.4 In most cases, FAS payments will not begin until the recipient's 65th birthday, but payments can be granted earlier to qualifying members who are terminally ill and unlikely to live for longer than 6 months, or to the surviving spouse or civil partner of a qualifying member who has died.

7.5 Where an individual's pension scheme enters the PPF and their occupational pension is replaced by PPF compensation, these regulations introduce changes to ensure that PPF payments are taken into account in the same way as occupational pension is taken into account. A similar change is also provided to take account of any payments received from the FAS.

7.6 Without a change to secondary legislation, PPF and FAS beneficiaries will be better off in the benefit system than individuals who are in receipt of an occupational pension as PPF and FAS payments would not be taken into account in the calculation of certain income-related and contributory benefits without a change to legislation.

Consultation

7.7 The regulations were considered by the Social Security Advisory Committee at its meeting on 1 March 2006. The Committee agreed that proposals in respect of these regulations should not be referred to it.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

8.2 The impact on the public sector is negligible. These Regulations maintain a consistency on the impact on income-related and contributory benefits to prevent an increase on the burden to public funds from the loss of an occupational pension where PPF payments are made in replacement of lost occupational pensions, or FAS payments are made to top up lost occupational pensions.

9. Contact

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