
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, certain members or former members of certain occupational pension schemes where the liabilities of the scheme to those members are unlikely or unable to be 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 FAS Information and Payments Regulations”).

Part 2 amends the FAS Regulations. In particular it—

- extends indefinitely the time by which an employer must have an insolvency event in order for their scheme to be eligible for Financial Assistance Scheme (FAS) assistance, subject to a link being established between the insolvency event and the winding up of the scheme;

- amends the description of small self-administered schemes to enable some to be eligible for FAS assistance;

- allows schemes whose trustees entered into an agreement with the relevant employer to compromise the debt that arose against that employer under section 75 of the Pension Act 1995 (c.26) in circumstances where enforcing the full debt would have forced the employer into insolvency, to be eligible for FAS assistance;

- provides that all members of qualifying pension schemes, regardless of how far they were from retirement when their scheme began to wind up, are now eligible to be qualifying members;

- provides that all qualifying members will receive 80 per cent. of their expected pension (calculated in accordance with Schedule 2 to the FAS Regulations), subject to the cap;

- raises the cap to £26,000 and removes the de minimus requirement;

- provides that where the scheme manager is satisfied that increases have been, are being or will be made to the annual rate of annuity and he considers that those increases are not reasonable, he may determine the annual rate of annuity himself, based on the sum which would discharge the liability of the scheme to the beneficiary and such other matters as he considers relevant;

- provides that initial payments may be redetermined where the interim pension being paid by the scheme has changed.

Part 3 amends the FAS Information and Payments Regulations. In particular it—

- provides that information provided to the FAS scheme manager must be provided in the manner and form requested by him; and

- provides that FAS payments made to a person who is not a beneficiary may be suspended and also recovered.

With the exception of regulation 7(3), before making these Regulations the Secretary of State consulted such persons as he considered appropriate. It appeared to the Secretary of State that by reason of urgency, consultation on regulation 7(3) was inexpedient.

An Impact Assessment has not been published for this instrument as it has only a negligible impact on business, charities and voluntary bodies.