
STATUTORY INSTRUMENTS

2010 No. 1149

**The Financial Assistance Scheme
(Miscellaneous Amendments) Regulations 2010**

PART 2

Amendment of the FAS Regulations

Amendment of regulation 17A

9. In regulation 17A (ill health payments)—

- (a) in paragraph (1) omit “in accordance with paragraph 2 of Schedule 2A”;
- (b) in paragraph (5) after “a beneficiary” insert “entitled to an ill health payment in accordance with Schedule 2A”;
- (c) in paragraph (6B) omit “determined in accordance with Schedule 2A”;
- (d) for paragraph (8) substitute—

“**(8)** Subject to paragraph (16), and until such time, if any, as regulation 17F applies, where a beneficiary is entitled to an ill health payment in accordance with this regulation, that ill health payment shall be determined in accordance with—

- (a) Schedule 2A, where none of sub-paragraphs (b) to (i) nor paragraph (16) applies;
- (b) Schedule 5, where—
 - (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a qualifying member who was not receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010; and
- (iii) the sum of—

- (aa) the product of C multiplied by the revalued notional pension in relation to the qualifying member; and
- (bb) the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with paragraph (11),

is higher than the amount of the ill health payment to which that qualifying member would be entitled in accordance with Schedule 2A if that Schedule applied and sub-paragraphs (3A) to (3G) of paragraph 2 of Schedule 2 were omitted;

- (c) Schedule 5, where—
- (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a survivor or surviving dependant; and
 - (iii) the qualifying member in respect of the beneficiary was entitled to an ill health payment in accordance with Schedule 5 immediately before the death of the member;
- (d) Schedule 5, where—
- (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a survivor or surviving dependant;
 - (iii) the qualifying member in respect of the beneficiary—
 - (aa) was not receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010;
 - (bb) was entitled to an ill health payment immediately before the death of the qualifying member; and
 - (cc) died on or after the calculation date and before the day on which the transfer notice was given; and
 - (iv) the sum of—
 - (aa) the product of C multiplied by one half of the revalued notional pension in relation to the qualifying member;
 - (bb) one half of the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the date on which the qualifying member died, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with paragraph (11); and
 - (cc) the total amount of any annual increases which the scheme manager considers could have been paid to a survivor from the day after the day on which the qualifying member died until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with paragraph (11),is higher than the amount of the ill health payment to which a survivor would be entitled in accordance with Schedule 2A if that Schedule applied and paragraph 2(2A) of that Schedule and paragraph 2(3A) to (3G) of Schedule 2 were omitted;
- (e) Schedule 5, where—
- (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a survivor or surviving dependant;
 - (iii) neither the beneficiary nor the qualifying member in respect of the beneficiary was receiving a present payment from the qualifying pension

- scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010;
- (iv) the beneficiary was entitled to an ill health payment immediately before the calculation date; and
 - (v) the sum of—
 - (aa) the survivor notional pension determined in respect of the beneficiary; and
 - (bb) the total amount of annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given,is higher than the amount of the ill health payment to which the beneficiary would be entitled in accordance with Schedule 2A if that Schedule applied and sub-paragraphs (3A) to (3G) of paragraph 2 of Schedule 2 were omitted;
- (f) Schedule 6, where—
- (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a qualifying member who was receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010; and
 - (iii) the sum of—
 - (aa) the notional pension in relation to that qualifying member; and
 - (bb) the total amount of annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the transfer notice is given,is higher than the amount of the ill health payment to which the qualifying member would be entitled in accordance with Schedule 2A if that Schedule applied and paragraph 2(3A) to (3E) of Schedule 2 were omitted;
- (g) Schedule 6, where—
- (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a survivor or surviving dependant;
 - (iii) either—
 - (aa) the beneficiary was receiving a present payment from the qualifying pension scheme under scheme rules as a result of the death of a qualifying member; or
 - (bb) the qualifying member in respect of the beneficiary was receiving a present payment from the qualifying pension scheme under scheme rules,before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010;
 - (iv) the beneficiary was entitled to an ill health payment immediately before the calculation date; and

- (v) the sum of—
 - (aa) the survivor notional pension determined in respect of the beneficiary; and
 - (bb) the total amount of annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given,is higher than the amount of the ill health payment to which the beneficiary would be entitled in accordance with Schedule 2A if that Schedule applied and paragraph 2(3A) to (3E) of Schedule 2 were omitted;
- (h) Schedule 6, where—
 - (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a survivor or surviving dependant;
 - (iii) the qualifying member in respect of the beneficiary—
 - (aa) was receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010;
 - (bb) died on or after the calculation date, but before the day on which the transfer notice was given; and
 - (cc) was entitled to an ill health payment when the qualifying member died; and
 - (iv) the sum of—
 - (aa) the proportion of the notional pension which relates to the beneficiary;
 - (bb) the relevant proportion of the total amount of annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the date on which the qualifying member died; and
 - (cc) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension from the day after the day on which the qualifying member died until the day on which the transfer notice is given,is higher than the amount of the ill health payment to which the beneficiary would be entitled in accordance with Schedule 2A if that Schedule applied and paragraph 2(3A) to (3E) of Schedule 2 were omitted; and
- (i) Schedule 6, where—
 - (i) a transfer notice has been given in respect of the qualifying pension scheme;
 - (ii) the beneficiary is a survivor or surviving dependant;
 - (iii) the qualifying member in respect of the beneficiary—
 - (aa) was receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of

- the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010;
- (bb) died on or after the day on which the transfer notice was given; and
- (cc) was entitled to an ill health payment when the qualifying member died; and
- (iv) the sum of—
- (aa) the proportion of the notional pension which relates to the beneficiary;
- (bb) the relevant proportion of the total amount of annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the transfer notice was given; and
- (cc) the relevant proportion of the total amount of any annual increases to which the qualifying member was entitled on the day on which the qualifying member died,
- is higher than the amount of the ill health payment to which the beneficiary would be entitled in accordance with Schedule 2A if that Schedule applied and paragraph 2(3A) to (3E) of Schedule 2 were omitted.
- (9) For the purposes of paragraphs (8) and (16)—
- (a) a qualifying member is treated as receiving a present payment from a pension scheme before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010, notwithstanding that no payment has been received, if, prior to the coming into force of those Regulations—
- (i) the qualifying member was entitled to a payment under the scheme rules;
- (ii) the trustees or managers of the scheme received confirmation from the qualifying member that payment should commence; and
- (iii) the qualifying member's entitlement became payable, as a result of paragraphs (i) and (ii) being satisfied; and
- (b) a survivor or surviving dependant is treated as receiving a present payment from a pension scheme before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010, notwithstanding that no payment has been received, if, prior to the coming into force of those Regulations, the beneficiary was entitled to ongoing payments as a result of the death of the qualifying member.
- (10) In paragraph (8)(b)(iii) and (d)(iv)—
- “the revalued notional pension” means the aggregate of—
- (a) the notional pension; and
- (b) the revaluation amount for the period—
- (i) beginning on the calculation date; and
- (ii) ending on the earlier of—
- (aa) the day on which the qualifying member became entitled to an ill health payment; and
- (bb) the day on which the qualifying member began to receive a present payment from the scheme; and

“C” means—

- (a) 1, where the qualifying member was—
 - (i) entitled to an ill health payment on the calculation date; or
 - (ii) receiving a present payment from the scheme on the calculation date; and
- (b) the actuarial factor to be applied in respect of the beneficiary in accordance with Schedule 5, where the qualifying member was not receiving a present payment from the scheme on the calculation date and became entitled to an ill health payment after the calculation date.

(11) The revaluation amount for the period referred to in the definition of “the revalued notional pension” in paragraph (10) is—

- (a) where—
 - (i) that period is less than one month; or
 - (ii) the qualifying member became entitled to an ill health payment or began to receive a present payment from the scheme prior to the calculation date, nil; or
- (b) in any other case, the revaluation percentage of the notional pension.

(12) In paragraph (11), “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 paragraph (10); and
- (b) the maximum revaluation rate.

(13) The method for determining the percentage increase in the general level of prices in Great Britain during the revaluation period determined in accordance with paragraph (10) is—

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

where—

- (a) A is the level of the retail prices index for the month which falls two months before the month in which the day from which the qualifying member became entitled to an ill health payment or, as the case may be, began to receive a present payment from the scheme falls; and
- (b) B is the level of the retail prices index for the month which falls two months before the month in which the calculation date falls.

(14) In paragraph (12)(b), “the maximum revaluation rate” 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 paragraph (12)(a) had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period.

(15) In paragraph (8), “relevant date” means—

- (a) where the beneficiary began to receive a payment from the scheme after the calculation date and prior to becoming entitled to an ill health payment under these Regulations, the date on which the beneficiary began to receive a present payment from the scheme;
- (b) where the beneficiary became entitled to an ill health payment after the calculation date and prior to receiving a payment from the scheme, the date on which the beneficiary became so entitled; and

- (c) in all other cases, the date from which the notional pension or survivor notional pension could have been payable as determined in accordance with regulation 27(3) and (4).
- (16) Where a qualifying member entitled to an ill health payment in accordance with this regulation is a qualifying member to whom regulation 17H applied, the ill health payment shall be determined in accordance with—
- (a) Schedule 5, where—
 - (i) the qualifying member was not receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010; and
 - (ii) the payment which was payable to the qualifying member under Schedule 7, taking into account any reduction made to that payment under paragraph 1(2) or (5) of that Schedule, immediately before the qualifying member became entitled to an ill health payment under this regulation is higher than the amount of the ill health payment to which the qualifying member would be entitled in accordance with Schedule 2A if that Schedule applied; and
 - (b) Schedule 6, where—
 - (i) the qualifying member was receiving a present payment from the qualifying pension scheme under scheme rules before the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010; and
 - (ii) the payment which was payable to the qualifying member under Schedule 7, taking into account any reduction made to that payment under paragraph 1(2) or (5) of that Schedule, immediately before the qualifying member became entitled to an ill health payment under this regulation is higher than the amount of the ill health payment to which the qualifying member would be entitled in accordance with Schedule 2A if that Schedule applied.”.