EXPLANATORY NOTE

(This note is not part of the Regulations)

The Financial Assistance Scheme Regulations 2005 ("the 2005 Regulations") establish a financial assistance scheme ("FAS") which allows 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 have not been satisfied in full. The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 ("the 2010 Regulations") amended the 2005 Regulations so that, amongst other things—

- the property, rights and liabilities of those occupational pension schemes are to be transferred to the Secretary of State in certain circumstances, and
- the FAS will be able to pay lump sums that are similar to some of the lump sums that registered pension schemes are permitted to pay.

These Regulations make certain tax provisions as a consequence of the 2010 Regulations.

Regulation 2 provides that a registered pension scheme which transfers its property, rights and liabilities to the Secretary of State does not make an unauthorised payment that would result in the scheme administrator incurring an income tax charge under Part 4 of the Finance Act 2004.

Regulation 3 provides that where, following a transfer an employer is required to make payments to the Secretary of State that would otherwise have been made to the trustees or managers of the registered pension scheme, the employer can benefit from the same tax relief on those payments that would have been available if the payment had been made to the trustees or managers.

Apart from when a tax charge is generated under regulation 5, regulation 4 provides that the new lump sums that the FAS will pay will not generate a charge to income tax for the recipient.

Regulation 5 provides that the provisions in and made under Part 4 of the Finance Act 2004 which in certain circumstances impose a charge to tax – known as a lifetime allowance charge – on members of registered pension schemes will also apply where an individual receives payments from the FAS, including the new lump sums provided for by the 2010 Regulations. These provisions include the imposition of penalties for failures to report certain events in relation to the lifetime allowance charge.

Regulations 6 to 10 make adjustments to the provisions on the lifetime allowance charge to ensure that they work in the context of the FAS. In particular, regulation 7 sets out the circumstances in which an assistance payment from the FAS will count towards the assessment of whether an individual is liable to the lifetime allowance charge in place of the equivalent provisions for registered pension schemes in the Finance Act 2004.

Regulations 11 to 18 contain a bespoke reporting mechanism under which information must be provided in relation to the lifetime allowance charge to the scheme manager of the FAS, to and in respect of those who receive assistance from the FAS and to Her Majesty's Revenue and Customs. These arrangements operate in place of the usual reporting arrangements in respect of the lifetime allowance charge and registered pension schemes. The penalties for failures to make the reports – or to make them correctly – that apply in relation to registered pensions schemes are also imposed.

Regulation 19 contains a minor consequential provision to ensure that in certain cases individuals cannot benefit from an extra tax free payment from the FAS in addition to tax free lump sums paid from a registered pension scheme.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.