

2009 No. 792

PENSIONS

SOCIAL SECURITY

The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009

Made - - - - 26th March 2009

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 30DD(5)(c) and 175(3) of the Social Security Contributions and Benefits Act 1992(a) and sections 190(1)(a) and (2), 286, 315(2) and (4) and 318(1) of the Pensions Act 2004(b).

In accordance with section 176(1)(a)(c) of the Social Security Contributions and Benefits Act 1992 and section 316(2)(n) of the Pensions Act 2004, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State has consulted such persons as the Secretary of State considers appropriate in accordance with section 317(1) of the Pensions Act 2004.

The Social Security Advisory Committee has agreed that the proposal in respect of regulation 2 should not be referred to it(d).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 and shall come into force on the day after the day on which they are made.

(2) Regulation 2 does not apply in relation to Northern Ireland.

(a) 1992 c. 4. Section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by S.I.s 2006/343 and 745; there is provision in Schedule 8 to the Welfare Reform Act 2007 for this section to be repealed, but that provision has not yet been commenced as at the date of coming into force of these Regulations.

(b) 2004 c. 35. Section 190 is modified by S.I. 2005/1986 and section 286 was amended by section 18(2) and (3) of the Pensions Act 2007 (c. 22) and section 124(2) to (6) of the Pensions Act 2008 (c. 30) (although of those subsections, only (2) and (6) have been commenced, for certain purposes, as at the date of coming into force of these Regulations), and is modified by S.I. 2005/441. Section 318(1) is cited because of the meanings it gives to “prescribed” and “regulations”.

(c) Section 30DD(5)(c) was inserted by paragraph 25 of Schedule 2 to the Welfare Reform and Pensions Act 1999.

(d) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

**FINANCIAL ASSISTANCE SCHEME AND INCAPACITY BENEFIT
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2009**

[Regulation 2 amends regulation 20 of S.I. 1994/2946.]

[Regulations 3 - 9 makes various amendments to S.I. 2005/1986.]

[Regulation 10 amends various regulations to S.I. 2005/1994.]

[Regulation 11 amends Schedules 1 & 2 to S.I. 2005/2189.]

[Regulation 12 amends regulations 2, 6 and 17 to S.I. 2005/3273.]

Signed by authority of the Secretary of State for Work and Pensions.

26th March 2009

Jonathan Shaw
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Incapacity Benefit) Regulations 1994 (S.I. 1994/2946), the Financial Assistance Scheme Regulations 2005 (S.I. 2005/1986) (“the FAS Regulations”), the Financial Assistance Scheme (Internal Review) Regulations 2005 (“the FAS Internal Review Regulations”), the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005 (“the FAS Information and Payments Regulations”), and the Financial Assistance Scheme (Appeals) Regulations 2005 (“the FAS Appeals Regulations”).

The financial assistance scheme provides for payments to be made to, or in respect of, certain members or former members (or their survivors) of certain occupational pension schemes where the liabilities of the scheme to those people are unlikely or unable to be satisfied in full.

Regulation 2 of these Regulations amends the Social Security (Incapacity Benefit) Regulations 1994 to provide that for the purposes of section 30DD of the Social Security Contributions and Benefits Act 1992 a “pension payment” includes a payment under the FAS Regulations made to anyone who first becomes entitled to such a payment on or after the date on which these Regulations came into force.

Regulations 3 to 9 amend the FAS Regulations. In particular—

Regulation 4 amends regulation 17 of the FAS Regulations to insert paragraphs (3C), (3D) and (3E) and make consequential amendments. The new paragraphs provide for a new category of annual payment; that is, they provide for payments to be made to certain persons who meet the conditions set out. This will enable certain persons who suffer from a progressive disease, and as a consequence are likely to have a reduced life expectancy, to receive a payment under the FAS Regulations earlier than they otherwise would have;

Regulations 5 and 6 make minor amendments consequential on the new category of annual payment;

Regulation 7 inserts new regulation 17C into the FAS Regulations. This is a transitional provision which allows certain persons, who may already be receiving a payment under the FAS Regulations, to request to receive instead the new category of annual payment. It also enables certain persons to receive the new category of annual payment in respect of a past period, provided the scheme manager is satisfied that certain conditions are met;

Regulation 8 makes further consequential amendments to regulation 18 of the FAS Regulations; and

Regulation 9 amends Schedule 2 to the FAS Regulations, to insert a new paragraph to provide that where a person requests the new category of annual payment under the new transitional provision, regulation 17C, any payment under the FAS Regulations already received by that person is treated as having been paid on account of the new annual payment.

Regulations 10 and 12 amend the FAS Internal Review Regulations and the FAS Appeals Regulations consequentially, to take account of the new category of annual payment.

Regulation 11 amends the FAS Information and Payments Regulations to require certain medical information, to be provided to the scheme manager when requesting the new type of annual payment.

With the exception of regulation 2, before making these Regulations the Secretary of State consulted such persons as he considers appropriate.

An impact assessment has not been published for this instrument as it has only a negligible impact on the private and voluntary sectors.

