

2008 No. 1432

PENSIONS

The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008

Made - - - - 3rd June 2008

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 286, 315(2) and (4) and 318(1) of the Pensions Act 2004(a) and sections 18(9) and 25(2) of the Pensions Act 2007(b).

In accordance with section 316(2)(n) of the Pensions Act 2004 and section 18(10) of the Pensions Act 2007, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with section 317(1) of the Pensions Act 2004 and section 25(3)(b) of the Pensions Act 2007, the Secretary of State has consulted such persons as he considers appropriate.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 and shall come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

“annual payment” means the amount payable to a beneficiary in respect of each year determined in accordance with regulation 17 of, and Schedule 2 to, the FAS Regulations;

“beneficiary” means a qualifying member or, after his death, his survivor;

“initial payment” means a payment made to a beneficiary in accordance with regulation 18 of, and Schedule 2 to, the FAS Regulations;

“qualifying member” shall be construed in accordance with regulation 15 of the FAS Regulations;

(a) 2004 c. 35 Section 286 was amended by section 18(2) and (3) of the Pensions Act 2007 (c. 22), is modified in its application to multi-employer schemes by S.I. 2005/441 (amended by S.I. 2005/993 and 2005/2113) and extends to England, Wales, Scotland and Northern Ireland. Section 318(1) is cited because of the meanings given to “prescribed” and “regulations”.

(b) 2007 c. 22. Section 18 extends to England, Wales, Scotland and Northern Ireland.

“survivor” means, in relation to a member or former member of a qualifying pension scheme who has died—

- (a) the member’s widow or widower; or
- (b) the member’s surviving civil partner,

but shall not include a person who comes within paragraph (a) or (b) but who is regarded as a qualifying member by virtue of regulation 15(5) of the FAS Regulations;

“the FAS Regulations” means the Financial Assistance Scheme Regulations 2005(a).

[Regulation 3 amends section 18 of the Pensions Act 2007.]

[Regulation 4 makes various amendments to S.I. 2005/1986.]

[Regulation 5 amends regulation 2 of S.I. 2005/1986.]

[Regulation 6 amends regulation 17 of S.I. 2005/1986.]

[Regulation 7 amends Schedule 2 of S.I. 2005/1986.]

¹Part 4 omitted by reg. 35 of S.I. 2009/1851 as from 10.7.09.



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

3rd June 2008

Mike O’Brien
Minister of State,
Department for Work and Pensions

(a) S.I. 2005/1986, amended by S.I. 2005/3256, 2006/3370 and 2007/3581.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend section 18 of the Pensions Act 2007 and the Financial Assistance Scheme Regulations 2005 (S.I. 2005/1986, as amended) ("the FAS Regulations"), which provide 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.

Part 2 amends section 18 of the Pensions Act 2007 to increase from 0.8 to 0.9 the fraction used to calculate the amount of a person's initial payment.

Part 3 amends the FAS Regulations. In particular, it—

- (a) increases from 0.8 to 0.9 the fraction used in the calculation of annual payments and initial payments;
- (b) changes the date from which qualifying members (who are not terminally ill or members by virtue of regulation 15(5) of the FAS Regulations) are entitled to financial assistance scheme payments from the later of 14 May 2004 and age 65 to the later of 14 May 2004 and normal retirement age (normal retirement age is subject to a lower limit of 60 and an upper limit of 65);
- (c) makes changes to payments to members who are qualifying members by virtue of regulation 15(5) of the FAS Regulations, to provide that such payments start from the later of 14 May 2004 and the date on which such members would have been entitled to payments under scheme rules and end when payments to them would have ceased under scheme rules;
- (d) makes a corresponding change so that a request for initial payments can be made from one year before normal retirement age for qualifying members or at any time where the member is regarded as a qualifying member under regulation 15(5) of the FAS Regulations;
- (e) makes changes to the way payments are revalued.

Part 4 makes a transitional provision providing that the FAS Regulations and section 18 of the Pensions Act 2007 continue to have effect as if these Regulations had not been made in certain cases where the previous provisions result in higher annual payments or higher initial payments.

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 business, charities and voluntary bodies.

