

2007 No. 3581

PENSIONS

The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007

Made - - - - 18th December 2008

Coming into force in accordance with regulation 1(1)

CONTENTS

PART 1

Introductory

1. Citation, commencement and interpretation

PART 2

Amendment of the FAS Regulations

2. Amendment of the FAS Regulations
3. Amendment of Part 1 (general)
4. Amendment of Part 3 (qualifying pension schemes)
5. Amendment of Part 4 (qualifying members)
6. Amendment of Part 5 (annual and initial payments)
7. Amendment of Schedule 2 (determination of annual and initial payments)

PART 3

Amendment of the FAS Information and Payments Regulations

8. Amendment of the FAS Information and Payments Regulations

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 168, 190(1)(a) and (2), 286, 315(2), (4) and (5) and 318(1) and (4)(a) of the Pensions Act 2004(a).

In accordance with section 316(2)(n) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

(a) 2004 c. 35. Sections 168 and 190 are modified by S.I. 2005/1986; section 286 is modified in its application to multi-employer schemes by S.I. 2005/441 (amended by S.I. 2005/993, 2005/2113 and 2006/566), and is amended by section 18(2) and (3) of the Pensions Act 2007 (c. 22). Section 318(1) is cited because of the meaning there given to “modifications”, “prescribed” and “regulations”.

With the exception of regulation 7(3), before making these Regulations the Secretary of State consulted such persons as he considered appropriate. Regulation 7(3) was not subject to consultation because it appeared to the Secretary of State that by reason of urgency consultation was inexpedient(a).

PART 1

*Introductory***Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 and shall come into force on the day after the day on which they are made.

(2) In these Regulations—

“the FAS Regulations” means the Financial Assistance Scheme Regulations 2005(b);

“the FAS Information and Payments Regulations” means the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005(c).

PART 2

*Amendment of the FAS Regulations***Amendment of the FAS Regulations**

2. The FAS Regulations are amended in accordance with this Part.

[Regulation 3 amends regulation 2 of S.I. 2005/1986.]

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

[Regulation 5 amends regulation 15 of S.I. 2005/1986.]

[Regulation 6 amends regulations 17 and 18 of S.I. 2005/1986.]

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

PART 3

Amendment of the FAS Information and Payments Regulations

[Regulation 8 amends regulations 5, 7, and 8 of S.I. 2005/2189.]

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

Mike O'Brien

Minister of State,

Department for Work and Pensions

18th December 2007

(a) See section 317(1) and (2)(b) of the Pensions Act 2004.

(b) S.I. 2005/1986, amended by S.I. 2005/3256 and 2006/3370.

(c) S.I. 2005/2189, amended by S.I. 2005/3256.

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.

