Draft Regulations laid before Parliament under section 316(2)(n) of the Pensions Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

PENSIONS

The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006

Made - - - - 2006

Coming into force in accordance with regulation 1(1)

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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) 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.

Before making these Regulations the Secretary of State consulted such persons as he considered appropriate(**b**).

PART 1

Introductory

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 and shall come into force on the day after the day on which they are made.

(2) These Regulations extend to Northern Ireland.

(3) In these Regulations—

"the FAS Regulations" means the Financial Assistance Scheme Regulations 2005(**c**);

"the FAS Internal Review Regulations" means the Financial Assistance Scheme (Internal Review) Regulations 2005(**d**); and

"the FAS Appeals Regulations" means the Financial Assistance Scheme (Appeals) Regulations 2005(**e**).

PART 2

Amendment of the FAS Regulations

Amendment of the FAS Regulations

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

Amendment of Part 1

3. In regulation 2(1) (interpretation)—

(a) after the definition of "the ICTA" insert—

""the FAS Information and Payments Regulations" means the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005(**f**);";

(b) for the definitions of ""multi-employer scheme" and "relevant public authority"" substitute—

(**a**) 2004 c.35. 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). Section 318(1) is cited because of the meaning there given to "modifications", "prescribed" and "regulations".
(**b**) *See* section 317(1) of the Pensions Act 2004.
(**c**) S.I. 2005/1986, amended by S.I. 2005/3256.
(**d**) S.I. 2005/1994, amended by S.I. 2005/3256 and 2006/349.
(**e**) S.I. 2005/3273.
(**f**) S.I. 2005/2189, amended by S.I. 2005/3256.

""multi-employer scheme" means an occupational pension scheme in relation to which there is or has been—

(a) a principal employer and at least one employer (who is not the principal employer in relation to that scheme); or

(b) more than one employer,

at the same time;";

(c) omit the definition of "notification period";

(d) immediately before the definition of "qualifying member" insert—

""principal employer" has the meaning given in regulation 12(6)"; and

(e) after the definition of "qualifying pension scheme" insert—

""relevant public authority" has the meaning given in section 307(4) or, as the case may be, Article 280(4);".

Amendment of Part 3

4.—(1) In regulations 11(1) (condition to be satisfied by employer), 12(1) and (2) (condition to be satisfied: multi-employer schemes) and 13(2)(b) and (4) (insolvency events), for "the last day of the notification period" substitute "28th February 2007".

(2) In regulation 11(2) for "includes every", in both places it occurs, substitute "is to the".

(3) In regulation 12—

(a) in paragraph (1), for sub-paragraphs (a), (b) and (c) substitute—

"(a) in relation to the principal employer in that section; or

(b) where either there is no principal employer in that section or, where the principal employer is not an employer, there has been no insolvency event in relation to such a principal employer in that section—

(i) in relation to the employer in that section; or

(ii) where there is more than one employer in that section, in relation to all the employers in that section.";

(b) in paragraph (2), for sub-paragraph (b) substitute—

"(b) where either there is no principal employer or, where the principal employer is not an employer, there has been no insolvency event in relation to such a principal employer—

(i) in relation to the employer; or

(ii) where there is more than one employer, in relation to all the employers.";

(c) in paragraphs (3) and (4)—

(i) after "references to the employer" insert "(other than in the phrase "principal employer")";

(ii) omit "are"; and

(iii) for "to the person" substitute "include every person"; and

(d) in—

(i) paragraph (5), for "in paragraphs (1)(b) and (c)" substitute "(who may or may not be an employer within the meaning of paragraph (3) or (4)) in paragraphs (1)"; and

(ii) paragraph (5) and the definition of "principal employer" in paragraph (6), for "the employer" in each place it occurs, substitute "the person".

(4) After regulation 13(3) insert—

"(3A) Where the scheme manager is satisfied that the employer in relation to an occupational pension scheme is unlikely to continue as a going concern, the scheme manager may treat an insolvency event as having occurred in relation to that employer for

the purposes of regulations 11 and 12 where he is satisfied that on 28th February 2007 or on some earlier date all of the following circumstances applied to that employer—

(a) no insolvency event referred to elsewhere in this regulation has occurred or is likely to occur in relation to the employer;

(b) the value of the assets of the employer is less than the amount of its liabilities, taking into account its contingent and prospective liabilities; and

(c) the employer is unable to pay its debts as they fall due or have fallen due.".

(5) After regulation 13(4) insert—

"(4A) An insolvency event also occurs for the purposes of regulations 11 and 12 where the scheme manager is satisfied that on or before 28th February 2007—

(a) an event has occurred in any jurisdiction outside the United Kingdom, in relation to an employer, that substantially corresponds to any event referred to in—

(i) section 121(2) to (4) (other than subsection (3)(f) of that section),

(ii) Article 105(2) to (4) and (12) (other than paragraph (3)(f) of that Article), and

(iii) paragraph (4) of this regulation; and

(b) that employer is unlikely to continue as a going concern.".

(6) In paragraph (6), after the definition of "administration order" insert—

""employer" includes a person who is a principal employer for the purposes of regulation 12;".

Amendment of Part 4

5. In regulation 15 (qualifying members)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (a) omit "or";

(ii) at the end of sub-paragraph (b) insert—

"; or

(c) he died before the date of the coming into force of these Regulations, but would have satisfied the condition in either sub-paragraph (a) or (b)";

(iii) after "that member or former member" insert ", or would have been satisfied where sub-paragraph (c) applies"; and

(b) in paragraphs (4)(b) and (c) and (5)(d)(ii), for "2007" substitute "2019".

Amendment of Part 5

6.—(1) In regulation 17 (annual payments), for paragraph (5A) substitute—

"(5A) In determining the amount of annual payment that is payable to, or in respect of, a beneficiary for any previous year or years ("arrears payable")—

(a) the total of all monthly instalments of an initial payment that have been made to, or in respect of, the beneficiary for any previous year or years is to be deducted from the amount of arrears payable to that beneficiary; and

(b) if the total of all such monthly instalments is greater than that amount of arrears payable—

(i) the amount to be paid in respect of arrears payable is nil, and

(ii) the difference between that total and the amount of arrears payable is recoverable from the beneficiary in accordance with regulation 7 of the FAS Information and Payments Regulations (recovery of overpayments).".

(2) In regulation 18 (initial payments)—

(a) in paragraph (1), at the beginning, insert "Subject to paragraph (4A),";

(b) in paragraph (2)(a), after "or his survivor" insert ", and on account of such a payment";

(c) after paragraph (4) insert—

"(4A) Paragraphs (1)(a)(i) and (4)(a)(ii)(aa) do not apply in relation to Group 2 qualifying members or Group 3 qualifying members.";

(d) after paragraph (5) insert—

"(5A) Where the trustees or managers have determined the amount of interim pension that would be paid to the qualifying member or the survivor of that qualifying member, but do not propose to pay that interim pension for administrative reasons, the scheme manager may, in exercising his discretion under paragraph (4) and in determining the amount of initial payment under Schedule 2, deem that member or that survivor to be receiving that interim pension, if in the scheme manager's opinion it is reasonable to do so.";

(e) after paragraph (9) insert—

"(9A) If, having determined that an initial payment may be made under paragraph (4), the scheme manager subsequently determines, in accordance with Schedule 2, that no annual payment is payable to or in respect of that qualifying member or his survivor, then the total of all monthly instalments of an initial payment made to or in respect of that qualifying member or his survivor is recoverable in accordance with regulation 7 of the FAS Information and Payments Regulations."; and

(f) for paragraph (10) substitute—

"(10) In this regulation—

"Group 2 qualifying member" and "Group 3 qualifying member" have the meanings given in paragraph 1(2) of Schedule 2; and

"interim pension" has the meaning given in paragraph 2 of Schedule 2(**a**).".

Amendment of Schedule 2

7.—(1) In paragraph 1(2) of Schedule 2 (determination of annual and initial payments – introductory)—

(a) omit the definition of "the FAS Information and Payments Regulations"; and

(b) after the definition of "the certification date" insert—

""the crystallisation date" has the same meaning as in paragraphs (6) and (7) of regulation 4 of the Occupational Pension Schemes (Winding Up) Regulations 1996, as those paragraphs were in force on 5th April 2005(**b**);

"Group 1 qualifying member" means a qualifying member of a qualifying pension scheme who—

(a) will have attained his normal retirement age on or before 14th May 2011, or

(b) died before attaining that age but would have attained that age on or before that date;

"Group 2 qualifying member" means a qualifying member of a qualifying pension scheme who—

(a) will attain his normal retirement age during the period beginning on 15th May 2011 and ending on 14th May 2015, or

(b) died before attaining that age but would have attained that age during that period;

(**a**) Paragraph 2 is modified by paragraph 10(a) of Schedule 2.

(**b**) S.I. 1996/3126; although regulation 4 was substituted by S.I. 2005/706 (as amended by S.I. 2005/2159) that substitution does not have effect in relation to any scheme which was regarded, by virtue of regulation 2 of S.I. 1996/3126 or in accordance with the Pensions Act 1995 (c.26), s. 124(3A)–(3E) (as inserted by s.49(2) of the Child Support, Pensions and Social Security Act 2000 (c.19) and amended by paragraph 69(3) and (4) of Schedule 12 to the Pensions Act 2004), as having begun to be wound up before 6th April 2005 (see regulation 1(2) and (3) of S.I. 2005/706).

"Group 3 qualifying member" means a qualifying member of a qualifying pension scheme who—

(a) will attain his normal retirement age during the period beginning on 15th May 2015 and ending on 14th May 2019, or

(b) died before attaining that age but would have attained that age during that period;".

(2) In paragraph 2 of that Schedule (determination of annual and initial payments – actual pension)—

(a) in sub-paragraph (1)—

(i) for "sub-paragraph (3)" substitute "sub-paragraphs (3) and (4)", and

(ii) after "which has been," insert "can be"; and

(b) in sub-paragraph (3)—

(i) for "can be" substitute "has been, can be or could have been",

(ii) after "shall be determined" insert "(or, as the case may be, redetermined)"; and

(iii) in paragraph (a), for "immediately before that scheme began to wind up" substitute "on the crystallisation date".

(3) In paragraph 3 of that Schedule (determination of annual and initial payments – qualifying members receiving pensions from the qualifying pension scheme)—

(a) in sub-paragraph (1)—

(i) omit "immediately before a qualifying pension scheme began to wind up,"; and

(ii) after "under the scheme rules" add "on the crystallisation date";

(b) for sub-paragraph (2), substitute—

"(2) The annual payment payable to a qualifying member to whom this paragraph applies who is—

(a) a Group 1 qualifying member shall be—

$$(\text{exp}\,ected\ pension\ x\ 0.8) \quad - \quad actual\ pension\ ;$$

(b) a Group 2 qualifying member shall be—

$$(\text{exp}\,ected\ pension\ x\ 0.65) \quad - \quad actual\ pension\ ;\ \text{and}$$

(c) a Group 3 qualifying member shall be—

$$(\text{exp}\,ected\ pension\ x\ 0.5) \quad - \quad actual\ pension\ .";$$

(c) in sub-paragraph (3), after ""expected pension" means", insert ", subject to sub-paragraph (4),"; and

(d) after sub-paragraph (3), add—

"(4) Where the scheme manager is satisfied that it is not possible for him to determine the annual rate of the pension for the purposes of sub-paragraph (3) having regard to all the information available to him, he shall determine that annual rate, having regard to such matters as he considers relevant.".

(4) In paragraph 4 of that Schedule (determination of annual and initial payments – active and deferred members)—

(a) in sub-paragraph (1)—

(i) omit "immediately before a qualifying pension scheme began to wind up,"; and

(ii) after "a deferred member of that scheme" add "on the crystallisation date";

(b) for sub-paragraph (2), substitute—

"(2) The annual payment payable to a qualifying member to whom this paragraph applies who is—

(a) a Group 1 qualifying member shall be—

$$(\text{exp}\,ected\ pension\ x\ 0.8) \quad - \quad actual\ pension\ ;$$

(b) a Group 2 qualifying member shall be—

$$(\text{exp}\,ected\ pension\ x\ 0.65) \quad - \quad actual\ pension\ ;\ \text{and}$$

(c) a Group 3 qualifying member shall be—

$$(\text{exp}\,ected\ pension\ x\ 0.5) \quad - \quad actual\ pension\ .\text{”};$$

(c) in sub-paragraph (3), for “sub-paragraph (4)” substitute “sub-paragraphs (3A), (3B) and (4)”;

(d) after sub-paragraph (3), insert—

“(3A) In a case to which sub-paragraph (13) applies, “expected pension” means, subject to sub-paragraph (4), the aggregate of the amount specified in sub-paragraph (3)(a) and the revaluation amount for the revaluation period specified in sub-paragraph (13).

(3B) In a case where the certification date is on or before the day on which the qualifying member’s pensionable service ended, “expected pension” means, subject to sub-paragraph (4), the amount specified in sub-paragraph (3)(a).”;

(e) in sub-paragraph (4), after “sub-paragraph (3),” insert “(3A) or (3B),”; and

(f) after sub-paragraph (12), insert—

“(13) This sub-paragraph applies to a case where the certification date falls before the day on which the scheme began to wind up, and in such a case—

(a) the revaluation period is the period beginning on the day on which the qualifying member’s pensionable service ended and ending on the certification date; and

(b) the revaluation amount for the period specified in paragraph (a) shall be calculated in accordance with sub-paragraph (6)(a) and (b).”.

(5) In paragraph 5 of that Schedule (determination of annual and initial payments – survivors of qualifying members)—

(a) for sub-paragraph (1), substitute—

“(1) This paragraph applies where—

(a) immediately before a qualifying pension scheme began to wind up, a qualifying member—

(i) was entitled to present payment of a pension under the scheme rules and that pension was attributable—

(aa) to the member’s pensionable service; or

(bb) (directly or indirectly) to a pension credit to which the member became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999(**a**) (creation of pension debits and credits); or

(ii) was an active member or a deferred member of that scheme;

(b) that member dies on or after the day on which the scheme began to wind up; and

(c) that member—

(i) was entitled to an annual payment determined in accordance with this Schedule, or

(ii) would have been entitled to such an annual payment had he not died before he became so entitled.”;

(b) for sub-paragraph (3) substitute—

(**a**) 1999 c.30.

"(3) Where the qualifying member dies before the date on which the liabilities of the scheme in respect of that member are discharged (whether by entry into an annuity contract or by other means) and—

(a) that member is a Group 1 qualifying member, the annual payment payable to his survivor shall be—

$$\frac{(\exp ected\ pension\ x\ 0.8)}{2;} - actual\ pension$$

(b) that member is a Group 2 qualifying member, the annual payment payable to his survivor shall be—

$$\frac{(\exp ected\ pension\ x\ 0.65)}{2;} - actual\ pension$$

(c) that member is a Group 3 qualifying member, the annual payment payable to his survivor shall be—

$$\frac{(\exp ected\ pension\ x\ 0.5)}{2} - actual\ pension\ .";$$

(c) in sub-paragraph (4), for "immediately before his death", in both places it occurs, substitute "on the crystallisation date"; and

(d) in sub-paragraph (6), for "after the certification date" substitute "on or after the date on which the liabilities of the scheme in respect of that member were discharged".

(6) In paragraph 6 of that Schedule (determination of annual and initial payments – exclusion of certain benefits)—

(a) at the end of sub-paragraph (2)(a), insert "and";

(b) at the end of sub-paragraph (2)(b) omit "and", and

(c) omit sub-paragraphs (2)(c) and (3).

(7) In paragraph 7 of that Schedule (determination of annual and initial payments – cap on expected pension and actual pension), after "multiplied by 0.8" in each place it occurs, insert "(where the qualifying member is a Group 1 qualifying member), 0.65 (where the qualifying member is a Group 2 qualifying member), or 0.5 (where the qualifying member is a Group 3 qualifying member)".

(8) In paragraph 9 of that Schedule (determination of annual and initial payments – revaluation)—

(a) after sub-paragraph (2) insert—

"(2A) But sub-paragraph (2) does not apply to an annual payment payable to a beneficiary who is the survivor of a qualifying member where that qualifying member was in receipt of an annual payment at the time of his death."; and

(b) in sub-paragraph (3)(a), for "second revaluation period determined in accordance with paragraph 4(7)" substitute "period referred to in sub-paragraph (2)".

(9) In paragraph 10 of that Schedule (determination of annual and initial payments – initial payments)—

(a) for sub-paragraph (a), substitute—

"(a) for paragraph 2, substitute—

"Interim pension

2.—(1) In this Schedule, "interim pension" means, subject to sub-paragraphs (2) and (3), the annual rate of pension that was in payment, is in payment, or is proposed

to be paid, to a qualifying member, or to a survivor of that qualifying member, from the assets of the qualifying pension scheme of which that qualifying member is, or was, a member—

(a) on or after the time when the scheme began to wind up; but

(b) before the day on which the scheme's liabilities to or in respect of the qualifying member are, or were, discharged.

(2) Where—

(a) the annual rate of pension referred to in sub-paragraph (1)—

(i) was or is in payment, and

(ii) was determined following commutation of some of the benefits deriving from the scheme to which that qualifying member is entitled,

that annual rate shall be redetermined on the basis that there was no such communication; and

(b) the annual rate of pension referred to in sub-paragraph (1) is proposed to be paid, that annual rate shall be determined on the basis that there has been no commutation of benefits.

(3) Where the scheme manager is satisfied that it is not possible for him to determine the annual rate of pension for the purposes of sub-paragraph (1) having regard to the information available to him, he shall determine the annual rate of pension on the basis of that portion of the assets of the qualifying pension scheme (of which the qualifying member is, or was, a member) provisionally allocated to the member by the trustees or managers, or survivor of that member—

(a) on or after the time when the scheme began to wind up; but

(b) before the day on which the scheme's liabilities in respect of the qualifying member are, or were, discharged,

and such other matters as the scheme manager considers relevant.".";

(b) after sub-paragraph (c), insert—

"(ca) for "0.65", in each place, substitute "0.5";"; and

(c) for sub-paragraph (e), substitute—

"(e) in paragraph 5—

(i) for sub-paragraph (3) substitute—

"(3) The initial payment payable to a survivor of a qualifying member shall be—

(a) where that qualifying member was a Group 1 qualifying member—

$$\frac{(\text{exp}\,ected\ pension\ x\ 0.6)}{2} - \text{int}\,erim\ pension\ payable\ to\ that\ survivor$$; and

(b) in any other case—

$$\frac{(\text{exp}\,ected\ pension\ x\ 0.5)}{2} - \text{int}\,erim\ pension\ payable\ to\ that\ survivor$$.";

(ii) omit sub-paragraphs (2) and (6).".

PART 3

Amendment of the FAS Internal Review Regulations

Amendment of the FAS Internal Review Regulations

8.—(1) The FAS Internal Review Regulations are amended in accordance with this regulation.

(2) In regulation 1(3) (interpretation), after "potential beneficiary" insert ", except where the context otherwise requires,".

(3) In regulation 2(1) (reviewable determinations)—

(a) at the end of sub-paragraph (c) omit "or"; and

(b) at the end of sub-paragraph (d) insert—

"; or

(e) whether or not the scheme manager is satisfied that a qualifying member of a qualifying pension scheme is terminally ill for the purposes of regulations 17(3) (annual payments: terminally ill qualifying member) and 18(1)(a)(ii)(bb) (initial payments: terminally ill qualifying member) of the FAS Regulations ("terminal illness eligibility")".

(4) In—

(a) regulation 2(2), for "and member assessment" substitute ", member assessment and terminal illness eligibility";

(b) regulations 3(1)(b), 5(1)(c)(ii), 11(2) and 16(1)(b) and (2)(b), for "or member assessment" substitute ", member assessment or terminal illness eligibility"; and

(c) regulation 6(1)(b), for "member assessment or member eligibility" substitute "member eligibility, member assessment or terminal illness eligibility".

(5) In regulation 3 (notice of a reviewable determination)—

(a) in paragraph (1)(b), after "the scheme manager must" insert ", subject to paragraph (1A),";

(b) after paragraph (1) insert—

"(1A) Where a reviewable determination referred to in paragraph (1) relates to a member eligibility decision, the notice referred to in paragraph (1)(b) may be—

(a) issued on the Financial Assistance Scheme website(**a**); and

(b) addressed to the members, or to a class of members, of a named scheme as a group, rather than to an individual or individuals,

if in the opinion of the scheme manager it is reasonable to do so."; and

(c) in paragraph (2), for "paragraph (1)(a)(i) or (b)" substitute "paragraph (1)(a)(i) or (b) or (1A)".

(6) In regulation 6(1) (applications for a review of a reviewable determination)—

(a) in sub-paragraph (a)(i)(aa) and (ii), after "any person who is a" insert "beneficiary or"; and

(b) in sub-paragraph (b), after "a potential beneficiary", omit "of the financial assistance scheme".

(**a**) The Financial Assistance Scheme website address is: www.dwp.gov.uk/lifeevent/penret/penreform/fas/.

PART 4

Amendment of the FAS Appeals Regulations

Amendment of the FAS Appeals Regulations

9.—(1) The FAS Appeals Regulations are amended in accordance with this regulation.

(2) In regulation 2 (interpretation), after the definition of "survivor" add—

> ""terminal illness eligibility decision" means a review decision made by the scheme manager under the FAS Internal Review Regulations which relates to a determination as to whether or not the scheme manager is satisfied that a qualifying member is terminally ill for the purposes of regulations 17(3) (annual payments: terminally ill qualifying member) and 18(1)(a)(ii)(bb) (initial payments: terminally ill qualifying member) of the FAS Regulations.".

(3) In regulations 6(2)(b) (notice of appeal) and 17(4)(a) (time and place of oral hearings), for "or a member eligibility decision" substitute ", a member eligibility decision or a terminal illness decision".

(4) In regulation 19(9)(b) (further provisions relating to attendance at oral hearings where appeal relates to scheme notification decision or scheme eligibility decision), after "11(1)(a) and (3)," insert "12(2),".

(5) In regulation 26(7)(b) (further provisions relating to combining appeals where appeal relates to scheme notification decision or scheme eligibility decision), after "7(3)(a)(i)," insert "11(1)(a) and (3),".

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

Minister of State,
2006 Department for Work and Pensions

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"), the Financial Assistance Scheme (Internal Review) Regulations 2005 (S.I. 2005/1994, as amended) ("the FAS Internal Review Regulations"), and the Financial Assistance Scheme (Appeals) Regulations 2005 (S.I. 2005/3273) ("the FAS Appeals Regulations").

Part 1 makes provision for citation, commencement, extent, and also interpretation.

Part 2 amends the FAS Regulations. In particular it—

> amends the definition of multi-employer scheme (regulation 3),
>
> makes provision for an employer in relation to a scheme that has not formally had an insolvency event to be treated as having had an insolvency event for the purposes of regulation 13 of the FAS Regulations, as long as the scheme manager is satisfied that the value of its assets is less than the amount of its liabilities, that it cannot pay its debts as they fall due or have fallen due, and that it is unlikely to continue as a going concern; and also for an employer (in relation to a scheme) that has had an overseas insolvency event that the scheme manager is satisfied substantially corresponds to a qualifying insolvency event (as set out in regulation 13 of the FAS Regulations) also to be treated as having had a qualifying insolvency event as long as the scheme manager is also satisfied that that employer is unlikely to continue as a going concern (regulation 4),

clarifies that a member of a qualifying pension scheme who satisfies the relevant conditions will still be a qualifying member even if he died before the coming into force of the FAS Regulations, as long as he would have satisfied those conditions; it also extends eligibility for assistance to members who were within 15 years of their normal retirement age for their scheme at 14th May 2004 (regulation 5),

clarifies that initial payments are on account of annual payments, clarifies the circumstances under which overpayments will be recoverable, provides that the scheme manager may deem a member or survivor to be receiving an interim pension for the purposes of calculating the amount of initial payments in certain circumstances, and provides that some of the members to whom the extension set out in regulation 5 applies will not be eligible for initial payments (regulation 6), and

amends Schedule 2 to set out how the amount of annual payments is to be calculated for the members and survivors to whom the extension set out in regulation 5 applies, and makes some other amendments in respect of payments to survivors (regulation 7).

Part 3 amends the FAS Internal Review Regulations. In particular it clarifies the definition of potential beneficiary, provides for a right of review and appeal of a decision as to whether or not a member is terminally ill by adding a new reviewable determination, and provides that the scheme manager may issue certain notices via the FAS website where in his opinion it is reasonable to do so (regulation 8).

Part 4 amends the FAS Appeals Regulations by making some consequential amendments to take account of the new reviewable determination in relation to terminal illness, and to ensure consistency as to when an interested person is to be treated as a party to the appeal (regulation 9).

Before making these Regulations the Secretary of State consulted such persons as he considered appropriate.

A regulatory impact assessment has not been published for this instrument as it has only a negligible impact on business, charities and voluntary bodies.

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