



# Pensions Act 2007

## 2007 CHAPTER 22

### PART 2

#### OCCUPATIONAL AND PERSONAL PENSION SCHEMES

##### *Financial assistance scheme*

### 18 Financial assistance scheme: increased levels of payments

(1) Section 286 of the Pensions Act 2004 (c. 35) (financial assistance scheme for members of certain pension schemes) is amended as follows.

(2) After subsection (1) insert—

“(1A) The Secretary of State must, in particular, make provision for securing that (subject to any relevant restriction) the aggregate amount of—

- (a) any annual payment payable to a qualifying member of such a scheme, and
- (b) the member's actual pension (if any),

is not less than 80% of the member's expected pension, irrespective of the date of his attaining normal retirement age (or the date when he would have attained that age if he dies before attaining it).

(1B) A “relevant restriction” means any provision of the regulations which—

- (a) operates to restrict the amount of an annual payment by means of a cap on the product of the calculation of a specified fraction of the member's expected pension, or
- (b) provides for an annual payment not to be payable where the member's actual pension exceeds any specified amount.”

(3) In subsection (2), before the definition of “qualifying member” insert—

““actual pension” and “expected pension”, in relation to a qualifying member of a qualifying pension scheme, mean the amounts which, in

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accordance with regulations under subsection (1), are to be taken into account as the member's actual pension and expected pension, respectively, in determining the amount of any annual payment payable to the member;

“annual payment” has the meaning given by regulations under subsection (1);”.

- (4) Subsections (5) and (6) below apply where the scheme manager has determined that an initial payment may be made under the FAS regulations to or in respect of a qualifying member of a qualifying pension scheme, and they so apply whether the determination—
- (a) has been made, or
  - (b) relates to a period beginning, before or after the passing of this Act.
- (5) Subject to any relevant restriction, the amount of any such initial payment payable to the member is to be—
- (a) the amount of the member's expected pension multiplied by [<sup>F1</sup>0.9], less
  - (b) the amount of the member's interim pension (if any),
- irrespective of the date of the member attaining normal retirement age (or the date when he would have attained that age if he dies before attaining it).
- (6) The amount of any such initial payment payable to the survivor of the member is to be—
- (a) whichever is the smaller of—
    - (i) one-half of the product of the calculation in subsection (5)(a), or
    - (ii) one-half of the product of that calculation as reduced by virtue of any relevant restriction,
 less
  - (b) the amount of the interim pension payable to the survivor (if any),
- irrespective of the date of the member attaining normal retirement age (or the date when he would have attained that age if he dies before attaining it).
- (7) In subsections (5) and (6) “relevant restriction” means any provision of the FAS regulations which—
- (a) operates to restrict the amount of an initial payment by means of a cap on the product of the calculation of a specified fraction of the member's expected pension, or
  - (b) provides for an initial payment not to be payable where the member's interim pension exceeds any specified amount;
- but for the purposes of those subsections any such specified fraction is to be taken to be [<sup>F1</sup>0.9].
- (8) Any provision of the FAS regulations which is inconsistent with subsection (5) or (6) is of no effect to the extent of the inconsistency.
- (9) The Secretary of State may by regulations—
- (a) amend subsection (5) so as to substitute for the fraction for the time being specified there such fraction as is specified in the regulations, and
  - (b) make a corresponding amendment in subsection (7).

[<sup>F2</sup>(9A) The Secretary of State may by regulations—

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- (a) prescribe circumstances in which subsections (5) and (6) do not apply where the scheme manager has made a determination as specified in subsection (4), and
- (b) make alternative provision for the amount of any initial payment payable to the member or the survivor of the member in those circumstances,
- and, accordingly, subsection (8) does not apply in those circumstances.]
- (10) No regulations may be made under subsection (9) [<sup>F3</sup>or (9A)] unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (11) In this section—
- “expected pension” and “interim pension”, in relation to a qualifying member of a qualifying pension scheme, mean the amounts which, in accordance with the FAS regulations, are to be taken into account as the member's expected pension and interim pension, respectively, in determining the amount of any initial payment payable to, or in respect of, the member;
- “the FAS regulations” means regulations under section 286(1) of the Pensions Act 2004 (c. 35);
- “initial payment” has the meaning given by the FAS regulations;
- “interim pension”, in relation to the survivor of a qualifying member of a qualifying pension scheme, means the amount which, in accordance with the FAS regulations, is to be taken into account as the interim pension payable to the survivor in determining the amount of any initial payment payable to the survivor;
- “qualifying member”, “qualifying pension scheme” and “scheme manager” have the same meanings as in section 286 of the Pensions Act 2004 (c. 35);
- “survivor” has the meaning given by the FAS regulations.

#### Textual Amendments

- F1** Word in s. 18(5)(7) substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), [reg. 3](#) (with [reg. 8](#))
- F2** [S. 18\(9A\)](#) inserted (3.1.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 23\(2\)](#), 38(4); [S.I. 2011/3034](#), [art. 3\(e\)](#)
- F3** Words in [S. 18\(10\)](#) inserted (3.1.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 23\(3\)](#), 38(4); [S.I. 2011/3034](#), [art. 3\(e\)](#)

#### Commencement Information

- I1** [S. 18](#) wholly in force at 14.12.2007; [s. 18\(4\)-\(11\)](#) in force at 26.7.2007, see [s. 30](#); [s. 18\(1\)-\(3\)](#) in force at 14.12.2007 by [S.I. 2007/3512](#), [art. 2](#)

## 19 Temporary restriction on purchase of annuities

- (1) The Secretary of State must by regulations make provision for securing that, during the period of 9 months beginning with the date on which the regulations come into force, the trustees of relevant pension schemes are prohibited from purchasing, or agreeing to purchase, annuities on behalf of qualifying members, unless—
- (a) before that date they have entered into a binding commitment to purchase the annuities, or
- (b) the purchase of the annuities is approved in pursuance of subsection (2).

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- (2) The regulations must make provision—
  - (a) for enabling the trustees of a relevant pension scheme to apply to the scheme manager for approval of the purchase of annuities on behalf of qualifying members;
  - (b) for authorising the scheme manager to approve the purchase of any such annuities if the scheme manager thinks it appropriate to do so.
- (3) For the purposes of this section an occupational pension scheme is a “relevant pension scheme” at any time during the period mentioned in subsection (1) if at that time the scheme is a qualifying pension scheme which has not been fully wound up.
- (4) Regulations under this section—
  - (a) must be made as soon as is reasonably practicable after the passing of this Act;
  - (b) may make such consequential, incidental, supplemental or transitional provision as the Secretary of State considers appropriate.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “occupational pension scheme”, “qualifying member”, “qualifying pension scheme” and “scheme manager” have the same meanings as in section 286 of the Pensions Act 2004.

**Changes to legislation:**

There are currently no known outstanding effects for the Pensions Act 2007, Cross Heading:  
Financial assistance scheme.