
STATUTORY INSTRUMENTS

2008 No. 1432

**The Financial Assistance Scheme
(Miscellaneous Provisions) Regulations 2008**

PART 3

Amendment of the FAS Regulations

Amendment of the FAS Regulations

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

Amendment of Part 1

5. After paragraph (1) of regulation 2 (interpretation) insert—
- “(1A) In these Regulations, “normal retirement age” means, subject to paragraph (1B), in relation to a member of an occupational pension scheme, the age specified in the rules of that scheme at which that member will normally retire.
- (1B) Where the normal retirement age—
- (a) determined in accordance with paragraph (1A) is—
- (i) more than 65, that age shall be 65;
- (ii) less than 60, that age shall be 60 except for the purposes of paragraph 2(3)(a) of Schedule 2;
- (b) cannot be determined in accordance with paragraph (1A) from the rules of the qualifying pension scheme, that age shall be such age as the scheme manager shall determine having regard to the rules of that scheme and to such other information as he considers relevant.”.

Amendment of Part 5

- 6.—(1) In regulation 17 (annual payments)—
- (a) in paragraph (2)—
- (i) after “paragraph (3)” insert “or (3A)”; and
- (ii) for “the age of 65” substitute “normal retirement age”;
- (b) after paragraph (3) insert—
- “(3A) Where a person is regarded as a qualifying member under regulation 15(5)—
- (a) that member shall be entitled to an annual payment determined in accordance with Schedule 2 from—
- (i) 14th May 2004; or

- (ii) the date on which he became entitled to a present payment from the qualifying pension scheme;
- whichever is the later; and
- (b) monthly instalments of the annual payment which would have been payable to that member shall cease to be payable from the date on which that member would have ceased to be entitled to the payment referred to in regulation 15(5)
 - (a) in accordance with the rules of the qualifying pension scheme.
- (3B) Where the date referred to in paragraph (3A)(b) cannot be determined from the rules of the qualifying pension scheme, the date on which annual payments shall cease to be payable shall be such date as the scheme manager shall determine having regard to the rules of that scheme and to such other information as he considers relevant.”; and
- (c) in paragraph (6)(1), for “paragraph (5B)” substitute “paragraphs (3A)(b) and (5B)”.
- (2) In regulation 18 (initial payments)(2)—
 - (a) in paragraph (1)(a)(i), for “the age of 64” substitute “the age which is one year less than normal retirement age”;
 - (b) at the end of paragraph (1)(a) omit “or”;
 - (c) after paragraph (1)(a) insert—
 - “(aa) a person is regarded as a qualifying member under regulation 15(5); or”;
 - (d) in paragraph (4)—
 - (i) at the beginning of sub-paragraph (a) insert “except where sub-paragraph (c) applies,”;
 - (ii) in sub-paragraph (a)(ii)(aa), for “the age of 65” substitute “normal retirement age”;
 - and
 - (iii) after sub-paragraph (b) insert—
 - “(c) if the qualifying member is regarded as a qualifying member under regulation 15(5), to that member with effect from whichever is the later of—
 - (i) 14 May 2004; or
 - (ii) the date on which he became entitled to a present payment from the qualifying pension scheme.”.

Amendment of Schedule 2

- 7.—(1) Schedule 2 (determination of annual and initial payments)(3) is amended in accordance with this regulation.
- (2) In each place it occurs(4), for “0.8” substitute “0.9”.
- (3) In paragraph 1 (introductory) omit sub-paragraphs (4) and (5).
- (4) In paragraph 4 (active and deferred members)—
 - (a) for sub-paragraph (5) substitute—
 - “(5) The first revaluation period is the period—

(1) Regulation 17(6) was amended by [S.I. 2005/3256](#).

(2) Regulation 18 was substituted by [S.I. 2005/3256](#) and paragraph (1) was amended by [S.I. 2006/3370](#).

(3) Schedule 2 was amended by [S.I. 2005/3256](#), [2006/3370](#) and [2007/3581](#).

(4) The figure 0.8 occurs in paragraphs 3(2), 4(2), 5(3), 7(1), 7(2) and 10(e). Paragraph 5(3) applies to both annual payments for survivors of qualifying members and as modified by paragraph 10(e) of Schedule 2 for the purposes of determining the amount of initial payments to such survivors.

- (a) beginning on the day on which the qualifying member’s pensionable service ended; and
- (b) ending on the earlier of—
 - (i) the day before the day on which the scheme began to wind up; or
 - (ii) the day from which the qualifying member is entitled to an annual payment in accordance with regulation 17(2) or (3).”;
- (b) for sub-paragraph (7) substitute—
 - “(7) The second revaluation period is the period—
 - (a) beginning on the day after the date determined in accordance with sub-paragraph (5)(b); and
 - (b) ending on—
 - (i) the certification date; or
 - (ii) the day from which the qualifying member is entitled to an annual payment in accordance with regulation 17(2) or (3),whichever is the earlier.”.
- (5) In paragraph 5 (survivors of qualifying members)—
 - (a) in sub-paragraph (4)(b), for “paragraph 4(3)” substitute “sub-paragraph (7)”;
 - (b) in sub-paragraph (6)(b)(i), for “the age of 65” substitute “normal retirement age”;
 - (c) after sub-paragraph (6) insert—
 - “(7) For the purposes of sub-paragraph (4)(b), “expected pension” means the aggregate amount of—
 - (a) the amount specified in paragraph 4(3)(a);
 - (b) the revaluation amount for the first survivor revaluation period (see sub-paragraphs (8) and (9)); and
 - (c) the revaluation amount for the second survivor revaluation period (see sub-paragraphs (10) and (11)).
- (8) The first survivor revaluation period is the period—
 - (a) beginning on the day on which the qualifying member’s pensionable service ended; and
 - (b) ending on—
 - (i) the day before the day on which the scheme began to wind up;
 - (ii) the day from which the qualifying member became entitled to an annual payment in accordance with regulation 17(2) or (3); or
 - (iii) the day from which the survivor of the qualifying member became entitled to an annual payment under regulation 17(4),whichever is the earliest.
- (9) The revaluation amount for the first survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(6).
- (10) The second survivor revaluation period is the period—
 - (a) beginning on the day after the date determined in accordance with sub-paragraph (8)(b); and
 - (b) ending on—

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- (i) the day from which the qualifying member became entitled to an annual payment in accordance with regulation 17(2) or (3); or
 - (ii) the day from which the survivor of the qualifying member became entitled to an annual payment under regulation 17(4),
- whichever is the earlier.

(11) The revaluation amount for the second survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(8) to (12).”.

(6) In paragraph 9(2A) (revaluation)(5), for the words “where that qualifying member was in receipt of an annual payment at the time of his death” substitute “where an annual payment was payable to that qualifying member immediately before his death”.

(5) Paragraph 9(2A) was inserted by [S.I. 2006/3370](#).