

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

DRAFT STATUTORY INSTRUMENTS

2006 No.

**PENSIONS
SOCIAL SECURITY**

**The Pensions Act 2004 (PPF Payments and FAS
Payments) (Consequential Provisions) Order 2006**

*Made - - - - 2006
Coming into force in accordance with article 1(1)*

This Order is made in exercise of the powers conferred by sections 315(5) and 319(2)(a) of the Pensions Act 2004(1).

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 316(2)(q) of that Act.

Accordingly the Secretary of State for Work and Pensions makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006 and shall come into force on the day after the day on which it is made.

(2) In this Order—

“FAS payments” means payments made under the Financial Assistance Scheme Regulations 2005(2);

“PPF payments” means any payments made in relation to a person—

(a) under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004(3) or Article 146(2) of the Pensions (Northern Ireland) Order 2005(4) (the pension compensation provisions); or

(1) 2004 c.35.

(2) S.I. 2005/1986, amended by S.I. 2005/3256.

(3) Sections 162 and 166 are modified by S.I. 2005/441 as amended by S.I. 2005/993 and 2113.

(4) S.I. 2005/255 (N.I. 1). Articles 146 and 150 are modified by S.R. 2005 No. 91 as amended by S.R. 2005 Nos. 194 and 357.

- (b) under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.).

Amendments of Acts

2. The Schedule to this Order (which contains amendments of provisions of certain Acts relating to pensions and benefit payments and extends those provisions to take into account PPF payments and FAS payments) shall have effect.

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

2006

Minister of State,
Department for Work and Pensions

SCHEDULE

Article 2

Amendments of Acts

PART 1

Amendment of the Social Security Contributions and Benefits Act 1992 (c.4)

- 1.—(1) In section 30DD(5) (incapacity benefit: reduction for pension payments)—
- (a) in the heading to the section after “Incapacity benefit: reduction for pension payments” insert “and PPF periodic payments”;
 - (b) for subsection (1) substitute—
 - “(1) Where—
 - (a) a person is entitled to incapacity benefit in respect of any period of a week or part of a week,
 - (b) there is—
 - (i) a pension payment;
 - (ii) a PPF periodic payment; or
 - (iii) any combination of the payments specified in sub-paragraphs (i) and (ii) above,
 - payable to him in respect of that period (or a period which forms part of that period or includes that period or part of it), and
 - (c) the amount of the payment or payments (or, as the case may be, the amount which in accordance with regulations is to be taken as payable to him by way of pension payments or PPF periodic payments in respect of that period), when taken together exceeds the threshold,
- the amount of that benefit shall be reduced by an amount equal to 50 per cent. of that excess.”; and
- (c) in subsection (4), in paragraphs (b) and (c), in both places after “pension payments” insert “or PPF periodic payments”.
- (2) In section 89(6) (earnings to include occupational and personal pensions for purposes of provisions relating to increases of benefits in respect of adult dependants)—
- (a) in the heading to the section after “personal pensions” insert “etc.”;
 - (b) after subsection (1) insert—
 - “(1A) Except as may be prescribed, in sections 82 to 86A above, and in regulations under section 86A above, any reference to earnings includes a reference to payments by way of PPF periodic payments.”;
 - (c) in subsection (2)—
 - (i) for “subsection (1) above” substitute “subsections (1) and (1A) above”; and
 - (ii) after “occupational or personal pension” insert “or PPF periodic payments”; and
 - (d) after subsection (2) add—

(5) Section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act 1999 (c.30).

(6) Section 89 was amended by paragraph 26 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c.18) and Schedule 6 to the Tax Credits Act 2002 (c.21).

“(3) In this section “PPF periodic payments” means—

- (a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions); or
- (b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.),

other than payments made to a surviving dependant of a person entitled to such compensation.”.

(3) In section 122(1) (interpretation of Parts I to VI and supplementary provisions), after the definition of “pensionable age”(7) insert—

““PPF periodic payments” means—

- (a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions); or
- (b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.);”.

PART 2

Amendment of the Jobseekers Act 1995 (c.18)

2.—(1) In section 4(1) (amount payable by way of a jobseeker’s allowance), in paragraph (b), for “and pension payments” substitute “, pension payments, PPF payments and FAS payments”.

(2) In section 35 (interpretation), in the appropriate alphabetical places, insert—

““FAS payments” means payments made under the Financial Assistance Scheme Regulations 2005;” and

““PPF payments” means any payments made in relation to a person—

- (a) payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions); or
- (b) payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.);”.

PART 3

Amendment of the State Pension Credit Act 2002 (c.16)

3.—(1) In section 7(6) (fixing of claimant’s retirement provision for assessed income period), after paragraph (c) add—

(7) The definition of “pensionable age” was substituted by paragraph 13(a) of Schedule 4 to the Pensions Act 1995 (c.26).

“(d) PPF periodic payments.”.

(2) In section 17(1) (other interpretation provisions), after the definition of “personal pension scheme” insert—

““PPF periodic payments” means—

- (a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions); or
- (b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.);”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Social Security Contributions and Benefits Act 1992 (c.4) (“the Contributions and Benefits Act”), the Jobseekers Act 1995 (c.18) (“the Jobseekers Act”) and the State Pension Credit Act 2002 (c.16) (“the Pension Credit Act”) so as to allow adult dependency increases, incapacity benefit and state pension credit to take into account Pension Protection Fund periodic payments (“periodic PPF payments”), and for contribution-based jobseeker’s allowance to take into account PPF payments and Financial Assistance Scheme payments (“FAS payments”), in a similar way to that in which pensions and benefit payments are treated.

Article 2 introduces the Schedule containing the amendments.

Part 1 of the Schedule amends sections 30DD (incapacity benefit: reduction for pension payments) and 89 (earnings to include occupational and personal pensions for purposes of provisions relating to increases of benefits in respect of adult dependants) of the Contributions and Benefits Act to provide that periodic PPF payments are treated in the same manner as occupational and personal pensions for the purposes of determining whether incapacity benefit and increases of benefit for adult dependants are payable. It also introduces a definition of PPF periodic payments into that Act.

Part 2 of the Schedule amends the Jobseekers Act to specify that, for the purposes of contribution-based jobseeker’s allowance, PPF payments and FAS payments shall be taken into account when calculating the rate of contribution-based jobseeker’s allowance that is to be paid to a claimant. It also introduces definitions of PPF payments and FAS payments into that Act.

Part 3 of the Schedule amends the Pension Credit Act to include periodic PPF payments within the definition of “retirement provision” in section 7(6) (fixing of claimant’s retirement provision for assessed income period) to provide that periodic PPF payments are treated in the same manner as occupational and personal pensions for the purposes of the assessed income period. It also introduces a definition of periodic PPF payments into that Act.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.