
DRAFT STATUTORY INSTRUMENTS

2009 No.

**The Financial Assistance Scheme
(Miscellaneous Provisions) Regulations 2009**

PART 6

Transitional provisions

Transitional provisions – payments to beneficiaries

38.—(1) Except where paragraph (4) applies, where a beneficiary was a beneficiary to whom regulation 8 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 applied before the coming into force of these Regulations, the amount of that beneficiary's initial payment or annual payment shall be the amount to which the beneficiary was entitled before the coming into force of these Regulations.

(2) Except where paragraph (4) applies, where a beneficiary—

- (a) was not a beneficiary to whom regulation 8 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 applied;
- (b) had received an instalment of an annual payment or ill health payment before the date on which these Regulations come into force; and
- (c) was entitled to a higher amount by way of annual payment or ill health payment before these Regulations come into force,

the amount of that beneficiary's annual payment or ill health payment shall be the amount to which the beneficiary was entitled before the coming into force of these Regulations.

(3) Except where paragraph (4) applies, where a qualifying member to whom paragraph (1) or (2) applies dies, the expected pension and actual pension for the purposes of determining any payment to a survivor or surviving dependant of that qualifying member shall be the amounts which were the expected pension and actual pension for the purposes of the determination of the payment in respect of the qualifying member.

(4) This paragraph applies where the amount of the annual payment, initial payment or ill-health payment to which the beneficiary would be entitled if paragraphs (1) to (3) did not apply would be higher than the amount to which the beneficiary is entitled in accordance with paragraphs (1) to (3).

(5) Where paragraph (1) or (2) applies, the beneficiary's expected pension and actual pension shall be the amounts determined in accordance with the FAS Regulations and regulation 8 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 as if these Regulations had not come into force.