

**2005 No. 3256**

**PENSIONS**

**The Financial Assistance Scheme (Modifications and  
Miscellaneous Amendments) Regulations 2005**

*Made* - - - - - *23rd November 2005*

*Coming into force in accordance with regulation 1(1)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 168, 190(1)(a) and (2), 203(1), 286(1) and (3)(d) and (j), 315(2), (4) and (5) and 318(1) 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.

This instrument contains regulations made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which the regulations are made(b).

**Citation, commencement, extent and interpretation**

1.—(1) These Regulations may be cited as the Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005 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 Act” means the Pensions Act 2004;

“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);

“the FAS Information and Payments Regulations” means the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005(e).

---

(a) 2004 c.35. Section 286 is modified in its application to multi-employer schemes by S.I. 2005/441 as amended by S.I. 2005/993 and 2005/2113; section 318(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(b) See section 317(2) of the Pensions Act 2004 (“the Act”) which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of the Act (other than Part 8). This duty does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of the Act by virtue of which the regulations are made.

(c) S.I. 2005/1986.

(d) S.I. 2005/1994.

(e) S.I. 2005/2189.

## **Application of Part 2 of the Act**

2.—(1) The provisions of Part 2 of the Act set out in regulation 3 shall apply, with the modifications there specified, for the purposes of any regulations in relation to appeals against any determination, or failure to make a determination, in connection with the financial assistance scheme.

(2) In so far as they do not extend to Northern Ireland, the provisions of Part 2 of the Act which are applied by paragraph (1) shall apply, as modified by regulation 3, to Northern Ireland, for the purposes of any regulations in relation to appeals referred to in paragraph (1), as if those provisions extended to Northern Ireland.

## **Modifications to Part 2 of the Act**

3.—(1) In section 209(4) of the Act—

- (a) paragraph (d) shall apply as if, after “the PPF Ombudsman” there were inserted “except any function conferred on him in relation to appeals in connection with the financial assistance scheme”;
- (b) paragraph (f) shall apply as if, after “his functions” there were inserted “, except any function conferred on him in relation to appeals in connection with the financial assistance scheme”; and
- (c) paragraph (g) shall apply as if, after “held by him” there were inserted “except information held by him in relation to any appeal in connection with the financial assistance scheme”.

(2) Section 212 of the Act shall apply as if, in subsection (1), after “discharge of his functions” there were inserted “, and a separate report on the discharge of his functions in relation to appeals in connection with the financial assistance scheme,”.

(3) Section 213(4)(d) of the Act (costs) shall apply as if it provided for regulations under that section to make provision for the costs or expenses of prescribed persons incurred in connection with an appeal under regulations made under section 286 of the Act (financial assistance scheme for members of certain pension schemes).

(4) Section 215 of the Act (referral of questions of law) shall apply as if it provided for the PPF Ombudsman to refer any question of law arising for determination in connection with an appeal under regulations made under section 286 of the Act—

- (a) in England and Wales, or in Northern Ireland, to the High Court; or
- (b) in Scotland, to the Court of Session.

(5) Section 216(2) of the Act (publication) shall apply as if it provided that, for the purposes of the law of defamation, the publication of any matter by the PPF Ombudsman in connection with an appeal under regulations made under section 286 of the Act shall be absolutely privileged.

(6) Section 217(1) of the Act (determinations of the PPF Ombudsman – right of appeal) shall apply as if it provided that a person bound by a determination or direction by the PPF Ombudsman by virtue of regulations made under section 286 of the Act may appeal on a point of law arising from the determination or direction—

- (a) in England and Wales, or in Northern Ireland, to the High Court; or
- (b) in Scotland, to the Court of Session.

(7) Section 217(2) of the Act (determinations of the PPF Ombudsman – enforcement) shall apply as if it provided that any determination or direction of the PPF Ombudsman made under regulations made under section 286 of the Act is enforceable—

- (a) in England and Wales, or in Northern Ireland, in a county court as if it were a judgment or order of that court; and
- (b) in Scotland, in like manner as an extract registered decree arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(8) Section 218 of the Act (obstruction etc of the PPF Ombudsman) shall apply as if—

- (a) in subsection (1)(b), for “section 213 or 214” there were substituted “section 286”; and
- (b) in subsection (5)(a), after “in England and Wales” there were inserted “, or in Northern Ireland”.

**Amendment of the FAS Regulations**

4.—(1) The FAS Regulations shall be amended in accordance with this regulation.

(2) In regulation 2 (interpretation)—

- (a) in paragraph (1), in the definition of “survivor”, after “member” insert “or former member”;
- (b) in paragraph (7)—
  - (i) for “In these Regulations,” substitute “Subject to paragraph (8), in these Regulations,”, and
  - (ii) for “potential”, in each place that it occurs, substitute “possible”; and

(c) after paragraph (7), add—

“(8) If a beneficiary or a possible beneficiary appoints a person under sub-paragraph (a) of paragraph (7), and then—

- (a) dies, or
- (b) becomes otherwise incapable of acting for himself,

the person appointed under sub-paragraph (a) of that paragraph is deemed to have been appointed under sub-paragraph (b) of that paragraph.

(9) For the purposes of these Regulations, a person is “terminally ill” at any time if at that time he suffers from a progressive disease and his death, in consequence of that disease, can reasonably be expected within six months.”.

(3) In regulation 17 (annual payments)—

- (a) in paragraph (3), omit “within the meaning given in section 66(2)(a) of the Social Security Contributions and Benefits Act 1992”;
- (b) after paragraph (5), insert—

“(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”), 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.

(5B) From the day after the day on which a beneficiary dies, any further monthly instalments of an annual payment that would have been payable to that beneficiary, in respect of that year, cease to be payable.”;

(c) in paragraph (6), for “Annual” substitute “Subject to paragraph (5B), annual”; and

(d) after paragraph (6), add—

“(7) Paragraphs 7 and 8 of Schedule 2 provide for the circumstances in which an annual payment is not payable under this Part.”.

(4) For regulation 18 (initial payments), substitute—

**“Initial payments**

18.—(1) This regulation applies where a qualifying pension scheme is winding up and—

- (a) a qualifying member of that scheme—
  - (i) has attained the age of 64; or
  - (ii) has not attained that age, but the scheme manager—
    - (aa) has been notified that a qualifying member is terminally ill; and

- (bb) is satisfied as to that fact; or
  - (b) a qualifying member of that scheme has died and leaves a survivor.
- (2) The trustees or managers of the scheme may make a written request to the scheme manager for a payment (“an initial payment”) to be made to, or in respect of, a qualifying member or his survivor—
- (a) in anticipation of an annual payment being payable under this Part to the qualifying member or his survivor; and
  - (b) before any monthly instalment of that annual payment is made.
- (3) If a request for an initial payment is made in respect of a qualifying member who dies before any monthly instalment of an annual payment has been made to that qualifying member, the trustees or managers may make a further request that an initial payment be made in respect of any survivor of that qualifying member.
- (4) On receipt of a request for an initial payment, the scheme manager may, in his discretion, make an initial payment—
- (a) to the qualifying member in respect of whom the request was made, with effect from whichever is the later of—
    - (i) 14th May 2004; or
    - (ii) the day on which—
      - (aa) the qualifying member attains the age of 65, or
      - (bb) the scheme manager is first notified that the qualifying member is terminally ill,
 whichever is the earlier; or
  - (b) if the qualifying member has died, to a survivor of that qualifying member with effect from whichever is the later of—
    - (i) 14th May 2004; or
    - (ii) the day after the day on which that qualifying member died.
- (5) In exercising his discretion under paragraph (4), the scheme manager may only have regard to—
- (a) the amount, if any, of any interim pension that was in payment, is in payment, or is proposed to be paid, from the qualifying pension scheme—
    - (i) to a qualifying member up until his death; or
    - (ii) after his death, to his survivor; and
  - (b) any circumstances relating to the scheme which, in the opinion of the scheme manager, are relevant to determining whether an initial payment should be made.
- (6) Schedule 2 makes provision for the determination of the amount of initial payments.
- (7) If the scheme manager determines that an initial payment may be made under paragraph (4), the initial payment is payable—
- (a) to a qualifying member from the relevant day mentioned in that paragraph until the day on which that qualifying member—
    - (i) would have been paid, or is paid, the first monthly instalment of an annual payment in accordance with regulation 19, if an annual payment were payable, or is payable, to him under this Part; or
    - (ii) dies,
 whichever is the earlier; and
  - (b) in respect of a qualifying member who has died, to a survivor of that qualifying member from the day after the day on which that qualifying member died until the day on which his survivor—

- (i) would have been paid, or is paid, the first monthly instalment of an annual payment in accordance with regulation 19, if an annual payment were payable, or is payable, to him under this Part; or
  - (ii) dies,
- whichever is the earlier.

(8) From the day after the day on which a beneficiary dies, any further monthly instalments of an initial payment that would have been payable to that beneficiary in respect of that year cease to be payable.

(9) The scheme manager may, at any time before the amount of the annual payment is determined, redetermine the amount of any initial payment paid under paragraph (4) if he is satisfied that the amount being paid by way of initial payment, as determined in accordance with Schedule 2, may be incorrect.

(10) In this regulation, “interim pension” has the meaning given by paragraph 2 of Schedule 2(a).”.

(5) In regulation 19(3)(b), for “18(3)” substitute “18(4)”.

(6) In Schedule 2 (determination of annual and initial payments)—

(a) in paragraph 1(2) (introductory)—

(i) for the definition of “the certification date” substitute—

““the certification date” means the date for which the relevant information provided in relation to a qualifying member, or a survivor of a qualifying member, is correct;”, and

(ii) in the appropriate alphabetical places, insert—

““the FAS Information and Payments Regulations” means the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005(b);

“appropriate person” has the meaning given by regulation 2(1) of the FAS Information and Payments Regulations (interpretation);

“relevant information” means any information—

(a) that is described in any of paragraphs (j) to (l) of the fourth item of the table in paragraph 1(2) of Schedule 1 to the FAS Information and Payments Regulations (information to be provided by appropriate persons);

(b) that is to be provided by an appropriate person to the scheme manager in accordance with regulation 3(3)(a) of those Regulations; and

(c) from which the amount of the actual pension or interim pension of a qualifying member, or of a survivor of a qualifying member, may be derived;”;

(b) in paragraph 2 (actual pension)—

(i) in sub-paragraph (1), for “which has,” substitute “which has been,”, and

(ii) for sub-paragraph (3)(a) substitute—

“(a) where the beneficiary was an active or a deferred member of the qualifying pension scheme immediately before that scheme began to wind up, on the basis that the sum which will be, or has been, used to discharge the liability of the scheme to him will only be, or has only been, used to purchase an annuity when the qualifying member attains, or attained, his normal retirement age;”;

(c) in paragraph 5(6)(b) (survivors of qualifying members), for “paragraph 3 or 4 had he attained the age of 65 immediately before his death.” substitute—

“paragraph 3 or 4 if—

---

(a) Paragraph 2 of Schedule 2 is modified by paragraph 10(a) of that Schedule as substituted by regulation 4(5)(e) of these Regulations.

(b) S.I. 2005/2189 as amended by regulation 6 of these Regulations.

- (i) he had attained the age of 65 before his death; or
- (ii) he had not attained that age, but the scheme manager, after being notified that the qualifying member was terminally ill, was satisfied as to that fact.”;
- (d) in paragraph 9(4) (revaluation), in the explanation of term “A” in the formula, after “before” insert “the month”; and
- (e) in paragraph 10 (initial payments)—
  - (i) for paragraph (a) substitute—
  - “(a) for paragraph 2, substitute—

**“Interim pension**

2. In this Schedule, “interim pension” means 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 in respect of the qualifying member are, or were, discharged.”;”, and
- (ii) after paragraph (c), add—
  - “(d) for “annual payment”, in each place that it occurs (except in paragraph 1(1)), substitute “initial payment”; and
  - (e) in paragraph 5—
    - (i) for sub-paragraph (3) substitute—
    - “(3) The initial payment payable to a survivor of a qualifying member shall be—
    - $$\frac{(\text{expected pension} \times 0.6)}{2}$$
 — interim pension payable to that survivor.”; and
    - (ii) omit sub-paragraphs (2) and (6).”.

**Amendment of the FAS Internal Review Regulations**

5.—(1) The FAS Internal Review Regulations shall be amended in accordance with this regulation.

- (2) In regulation 1(3) (interpretation)—
  - (a) omit the definition of “appointed representative”; and
  - (b) after the definition of “interested person”, insert—
    - ““potential beneficiary” means any person—
    - (a) in respect of whom the information determined in accordance with the fourth item of the table in paragraph 1(2) of Schedule 1 to the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005(a) (information to be provided by appropriate persons) is to be provided to the scheme manager in accordance with regulation 3(3)(a) of those Regulations (information to be provided to the scheme manager); but
    - (b) who has not yet been determined to be a beneficiary;”.

(3) In regulation 2(1)(d) (reviewable determinations), after “scheme” insert “, or a survivor of that qualifying member.”.

(4) In regulations 3 (notice of a reviewable determination), 6 (applications for a review of a reviewable determination), 8 (notice of an application for the review of a reviewable

---

(a) S.I. 2005/2189 as amended by regulation 6 of these Regulations.

determination), 9 (withdrawal or amendment of application) and 11 (notice of reviews other than on application), after “trustees”, in each place that it occurs, insert “or managers”.

(5) In regulation 3(1)(b)(ii), after “appointed representative” insert “within the meaning of regulation 2(7)(b) of the FAS Regulations”.

(6) For regulation 4 (duty of scheme manager to give a review decision), substitute—

**“Duty of scheme manager to give a review decision**

4.—(1) Subject to paragraph (2) and regulation 7, a review decision in respect of a reviewable determination must be given by the scheme manager on receipt of an application that—

- (a) is made by an interested person; and
- (b) otherwise complies with the requirements of regulations 5 and 6.

(2) Where a scheme manager receives from an interested person an application that does not otherwise comply with the requirements of regulations 5 and 6, the scheme manager must, as soon as practicable after receipt of such an application, inform the interested person that—

- (a) the application does not comply with those requirements; and
- (b) unless the interested person can amend the application, within such period as the scheme manager requests, so that it does comply with those requirements, he will not conduct the review.”.

(7) In regulation 5 (time for making an application for a review of a reviewable determination)—

- (a) in paragraph (1)(a), for “made; or” substitute “made;”;
- (b) for paragraph (1)(b), substitute—
  - “(b) in the case of a reviewable determination which—
    - (i) is made before the coming into force of the Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005; and
    - (ii) relates to member eligibility or member assessment, at any time after the date on which that determination was made; or
  - (c) in the case of a reviewable determination which—
    - (i) is made on or after the coming into force of the Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005; and
    - (ii) relates to member eligibility or member assessment, before the end of the period of one month beginning with the date on which that determination was made.”;

(c) in paragraph (3), after “paragraph (1)(a)” insert “or (b)”; and

(d) after paragraph (3), add—

“(4) For the purposes of paragraph (2), “application” means an application that—

- (a) is made by an interested person; and
- (b) otherwise complies with the requirements of this regulation and regulation 6.”.

(8) In regulation 6(1), after “regulation 17(2)”, in each place that it occurs, insert “of these Regulations or regulation 2(7)(b) of the FAS Regulations”.

(9) In regulations 11(3)(a), for “16(2)”, substitute “16(1)”.

(10) In regulation 15(d)(i) (matters to be included in a review decision or a subsequent review decision), after “any” insert “interested”.

(11) For regulation 16 (notice of a review decision or a subsequent review decision), substitute—

**“Notice of a review decision or a subsequent review decision**

**16.**—(1) The scheme manager must issue a notice of a review decision given under regulation 4 or 7(1) or of a subsequent review decision given under regulation 7(2)—

- (a) in a case where the reviewable determination relates to scheme notification or scheme eligibility, to—
  - (i) the person who made the application for a review of a reviewable determination;
  - (ii) where the occupational pension scheme to which the application relates has not completed winding up, the trustees or managers of the scheme, if the scheme manager is not already required to issue a notice to those trustees or managers under sub-paragraph (a)(i); and
  - (iii) the person who notified the scheme manager of the details referred to in regulation 14(1) or (3) of the FAS Regulations (notification of details), if the scheme manager is not already required to issue a notice to that person under sub-paragraph (a)(i) or (ii); and
- (b) in a case where the reviewable determination relates to member eligibility or member assessment, to the person who made the application for a review decision.

(2) The scheme manager must issue a notice of a review decision given under regulation 10—

- (a) in a case where the reviewable determination relates to scheme notification or scheme eligibility, to—
  - (i) the person who notified the scheme manager of the details referred to in regulation 14(1) or (3) of the FAS Regulations; and
  - (ii) where the occupational pension scheme to which the application relates has not completed winding up, the trustees or managers of the scheme, if the scheme manager is not already required to issue a notice to those trustees or managers under sub-paragraph (a)(i); and
- (b) in a case where the reviewable determination relates to member eligibility or member assessment, to any person to whom the scheme manager issued a notice under regulation 3(1)(b).

(3) Where the reviewable determination relates to scheme notification or scheme eligibility, the scheme manager must also —

- (a) take reasonable steps to publicise to any interested person who has not been issued with a notice under paragraph (1) or (2)—
  - (i) the fact that a review decision or a subsequent review decision has been made; and
  - (ii) the right of that person to appeal against that decision;
- (b) make a copy of that notice available for inspection by that person; and
- (c) issue a notice to that person if he requests it.

(4) A notice issued by the scheme manager under this regulation must be—

- (a) in writing; and
- (b) accompanied by a copy of—
  - (i) the review decision; or
  - (ii) the subsequent review decision,to which it relates.”.

(12) In regulation 17 (representation)—

- (a) in paragraph (3), for “for the purposes”, in the second place that it occurs, substitute “within the meaning of regulation 2(7)(a)”; and



- (b) after paragraph (3), add—
    - “(4) If an interested person appoints a representative under paragraph (1), and then—
      - (a) dies; or
      - (b) becomes otherwise incapable of acting for himself,
- the person appointed under paragraph (1) is deemed to have been appointed under paragraph (2).”.

### **Amendment of the FAS Information and Payments Regulations**

**6.**—(1) The FAS Information and Payments Regulations shall be amended in accordance with this regulation.

- (2) Regulation 2(1) (interpretation) is amended as follows—
  - (a) for the definition of “potential beneficiary” substitute—
    - ““potential beneficiary” means any person—
      - (a) in respect of whom the information determined in accordance with the fourth item of the table in paragraph 1(2) of Schedule 1 is to be provided to the scheme manager in accordance with regulation 3(3)(a); but
      - (b) who has not yet been determined to be a beneficiary;”;
  - (b) in the definition of “survivor”—
    - (i) after “a member” insert “or former member”; and
    - (ii) after “member’s”, in each place that it occurs, insert “or former member’s”.
- (3) In regulation 3(3) (information to be provided by, and to, appropriate persons)—
  - (a) in sub-paragraph (a) for “and” substitute “or”; and
  - (b) for sub-paragraph (b) substitute—
    - “(b) all potential beneficiaries,”.
- (4) In paragraph 1(2) of Schedule 1 (information to be provided by appropriate persons)—
  - (a) for “and members or former members” substitute “or all potential beneficiaries”;
  - (b) in column 2 of the fourth item of the table in that paragraph (which begins “In relation to each member”)—
    - (i) after “former member” insert “, or any survivor of a member or former member,”;
    - (ii) in paragraphs (e) and (i) after “member” insert “or former member”;
    - (iii) in paragraph (g) for “he was” substitute “the member or former member is, or was,”; and
    - (iv) in paragraph (k) for “the member” substitute “him”; and
  - (c) for the words contained in column 1 of the fifth item of that table (which begins “All current members”) substitute “All potential beneficiaries”.
- (5) In the table in paragraph 1 of Schedule 2 (information to be provided by beneficiaries and potential beneficiaries), in paragraph (c) of column 2 of the first item, for “the member’s” substitute “his”.

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

*Stephen Timms*  
Minister of State,  
Department for Work and Pensions

23rd November 2005

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Financial Assistance Scheme (“FAS”) is established by the Financial Assistance Scheme Regulations 2005 (S.I. 2005/1986) (“the FAS Regulations”) to allow payments to be made to, or in respect of, certain members of certain occupational pension schemes where the liabilities of those schemes to those members are unlikely to be satisfied in full.

These Regulations modify and apply certain provisions of Part 2 of the Pensions Act 2004 (c.35) (“the Act”) to regulations governing appeals in relation to the Financial Assistance Scheme. They also amend the FAS Regulations, the Financial Assistance Scheme (Internal Review) Regulations 2005 (S.I. 2005/1994) (“the FAS Internal Review Regulations”) and the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005 (S.I. 2005/2189) (“the FAS Information and Payments Regulations”).

Regulations 2 and 3 make provision for—

the order-making powers under section 209(4)(d), (f) and (g) of the Act (to provide for the delegation of the functions of the PPF Ombudsman (“the Ombudsman”) to his staff or additional staff (as made available to him by the Secretary of State); to confer information gathering functions on the Ombudsman; and to restrict his disclosure of information held by him) to apply as if they included a provision excepting their application to the Ombudsman’s functions in relation to FAS; this is so that similar provision can be made in these Regulations rather than in a separate order;

the obligation for the Ombudsman to prepare an annual report on the discharge of his functions not to apply to any functions conferred on him in relation to an appeal in relation to FAS (“a FAS appeal”);

regulations to be made in relation to FAS appeals to make provision for the costs or expenses of prescribed persons;

the Ombudsman to refer any question of law arising on the investigation of matters arising on a FAS appeal to the High Court (in England and Wales, or in Northern Ireland) or the Court of Session (in Scotland);

the publication of any matter by the Ombudsman in connection with a FAS appeal to be absolutely privileged;

parties to a FAS appeal to appeal to the High Court (in England and Wales, or in Northern Ireland) or the Court of Session (in Scotland) on a point of law arising from a decision of the Ombudsman in relation to a FAS appeal;

determinations and directions of the Ombudsman to be enforceable in a county court (in England and Wales, or in Northern Ireland) or in the sheriff court of any sheriffdom (in Scotland); and

the steps that the Ombudsman may take where any person without lawful excuse obstructs the Ombudsman in the performance of his functions or is guilty of an act or omission which would constitute a contempt of court. The Ombudsman may certify the offence to the court and it will then be dealt with in a similar manner to contempt of court.

Regulation 4 amends the FAS Regulations. In particular it—

makes some minor amendments in regulation 2 of those Regulations (interpretation);

amends regulation 17 of those Regulations (annual payments) to provide that monthly instalments of an annual payment payable to a beneficiary cease to be payable to that beneficiary when that beneficiary dies;

substitutes regulation 18 of those Regulations (initial payments) to make provision for initial payments to be made to survivors of qualifying members; and

makes consequential amendments to Schedule 2 to those Regulations (determination of annual and initial payments) in relation to the determination of initial payments payable to survivors and makes some other minor amendments.

Regulation 5 amends the FAS Internal Review Regulations. In particular it—

substitutes regulation 4 of those Regulations (duty of scheme manager to give a review decision) to clarify that the duty to give a review decision in respect of a reviewable determination does not arise unless an application for a review of the determination is received in proper form;

amends regulation 5 of those Regulations (time for making an application for a review of a reviewable determination)—

to impose a time limit for making an application for a review of a reviewable determination relating to member eligibility or member assessment; and

to clarify that, for the purposes of determining when an application is made, and to determine if it was made within the prescribed time, an application is made only if it is made by an interested person and it otherwise complies with the requirements of regulations 5 and 6;

amends regulation 15 of those Regulations (matters to be included in a review decision or a subsequent review decision) to clarify that only interested persons who receive notices of review decisions need to be advised of their right to appeal against those decisions; and

substitutes regulation 16 of those Regulations (notice of a review decision or a subsequent review decision) to ensure that notices of review decisions are issued to the appropriate persons.

Regulation 6 makes certain amendments to the FAS Information and Payments Regulations. In particular it makes consequential amendments necessary in relation to survivors.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Act by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

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

**2005 No. 3256**

**PENSIONS**

**The Financial Assistance Scheme (Modifications and  
Miscellaneous Amendments) Regulations 2005**

**£3.00**

© Crown copyright 2005

Printed and published in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's  
Stationery Office and Queen's Printer of Acts of Parliament.

E1669 11/2005 151669T 19585