

EXPLANATORY MEMORANDUM TO
THE FINANCIAL ASSISTANCE SCHEME (APPEALS)
REGULATIONS 2005

2005 No. 3273

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These regulations make provision for appeals to be made in respect of reviewable determinations made by the scheme manager of the Financial Assistance Scheme.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 286 of the Pensions Act 2004, which received Royal Assent on 18 November 2004, requires the Secretary of State for Work and Pensions to make provision by regulations for a Financial Assistance Scheme (FAS). These regulations, the Financial Assistance Scheme Regulations 2005 (SI2005/1986) were made on 19 July 2005 and most of the provisions came into force from 1 September. Section 286 of that Act requires the Secretary of State for Work and Pensions to make provision by regulations for a Financial Assistance Scheme (FAS) Appeals Scheme. This instrument, the Financial Assistance Scheme (Appeals) Regulations, sets out the detail of the Appeals scheme.
 - 4.2 The regulations appoint the PPF Ombudsman and the Deputy PPF Ombudsmen to hear appeals against review decisions made by the Scheme Manager of the Financial Assistance Scheme.
 - 4.3 These regulations then specify the persons who may appeal to the Ombudsman, the time limits for appealing and the information that must be contained in the notice of appeal. They set out the procedures that the Ombudsman must follow on receipt of an appeal and require the Ombudsman to send copies of the notice of appeal to interested parties. Where the appeal relates to decisions concerning Scheme Notification or Scheme Eligibility the Ombudsman must take reasonable steps to publicise the notice of appeal and any other written representations he receives relating to that appeal.
 - 4.4 The requirement for the Ombudsman to publicise any notice of appeal or subsequent written representations that relate to scheme notification or eligibility, is to ensure that members of qualifying pension schemes who are affected by the decision in question are given the opportunity to take part in the appeals process. Where schemes have been wound up it is unlikely that the trustees of those schemes will hold up-to-date information on all scheme members and therefore they will not be in a position to notify all the members

of that particular scheme that they have appealed against a specific decision relating to their scheme.

4.5 Notification of appeal and any subsequent written representations relating to member eligibility or member assessment relate only to the individual member and there is no requirement for the Ombudsman to publicise any of those details.

4.6 The regulations also provide that where the Ombudsman receives two or more appeals in respect of the same matter relating to scheme notification or scheme eligibility he may make a single determination in respect of them all.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Stephen Timms, the Minister of State for Pensions Reform has made the following statement regarding Human Rights:

“In my view the provisions of the Financial Assistance Scheme (Appeals) Regulations 2005 are compatible with the Convention rights.”

7. Policy background

7.1 The aim of the Financial Assistance Scheme is to provide financial assistance to qualifying members of qualifying pension schemes. These members have seen a reduction in their expected pensions as their pension scheme started to wind up underfunded, in circumstances of employer insolvency, before the Pension Protection Fund came into operation on 6 April 2005.

7.2 The Government recognises the severe losses that pension scheme failures have imposed in some cases, and will provide assistance to those scheme members who face the most significant losses. The Government has no liability in respect of these schemes.

8. Impact

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

8.2 The Government has set aside £400 million over 20 years for assistance payments. The public sector costs of operating the Financial Assistance Scheme will depend on the level of applications for assistance, but are currently estimated to be some £16 million over the first three years of operation, including set-up costs. Those costs will be met from the Department's existing administration resources, separately from the funds available for assistance payments.

9. Contact

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