
STATUTORY INSTRUMENTS

2009 No. 1851

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

PART 3

Amendment of the FAS Information and Payments Regulations

Amendment of the FAS Information and Payments Regulations

32.—(1) The FAS Information and Payments Regulations are amended in accordance with this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) before the definition of “the FAS Regulations” insert—

““the 2009 Regulations” means the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009;

“the Act” means the Pensions Act 2004(1);”;

(ii) omit the definition of “appointed representative”;

(iii) at the end of the definition of “beneficiary” insert “and surviving dependants”;

(iv) in the definition of “potential beneficiary”, for “the scheme manager in accordance with regulation 3(3)(a)” substitute “in accordance with regulation 3(3)(a) to the scheme manager or a person with whom the scheme manager has made arrangements under paragraph 18 of Schedule 5 to the Act”; and

(v) for the definition of “survivor” substitute—

““surviving dependant” shall be construed in accordance with regulation 16B of the FAS Regulations;

“survivor” shall be construed in accordance with regulation 16A of the FAS Regulations;”;

(b) after paragraph (1) insert—

“(1A) In the definition of “normal retirement age” in paragraph (1), “the rules of that scheme” means the rules of the occupational pension scheme on the date on which benefits ceased to accrue to that member.

(1B) Subject to paragraph (1C), in these Regulations “appointed representative” means a person—

(a) whose name and address, and those appointment by a beneficiary or potential beneficiary for the purposes of providing information to the scheme manager under regulation 4, have been notified to the scheme manager in a document

signed by the beneficiary or potential beneficiary in question or by the legal representative of the beneficiary or potential beneficiary; and

(b) whose appointment has been consented to by the scheme manager.

(1C) Subject to paragraph (1D), where a beneficiary or a potential beneficiary is a child aged less than 18, the scheme manager may regard—

(a) a parent of the child;

(b) a person with parental responsibility within the meaning of section 3 of the Children Act 1989⁽²⁾ in relation to the child;

(c) a person with parental responsibility or parental rights under the Children (Scotland) Act 1995⁽³⁾ in relation to the child; or

(d) a person with parental responsibility within the meaning of Article 6 of the Children (Northern Ireland) Order 1995⁽⁴⁾ in relation to the child,

as the appointed representative of that child.

(1D) Where—

(a) no person referred to in paragraph (1C)(a) to (d) is known to the scheme manager, the scheme manager may appoint a person to act as the appointed representative of a child;

(b) more than one person referred to in paragraph (1C)(a) to (d) wishes to act as the child's representative for the purposes of these Regulations, the scheme manager may appoint one of those persons as the appointed representative of that child.

(1E) In—

(a) regulation 3(3)(a) (information to be provided by, and to, appropriate persons);

(b) regulation 4 (information to be provided by beneficiaries and potential beneficiaries and their personal representatives);

(c) regulation 5 (method of providing information);

(d) regulation 6(1) (insufficient or unsuitable information); and

(e) paragraph 1(2) of Schedule 1 (information to be provided by appropriate persons),

a reference to the scheme manager includes a reference to a person with whom the scheme manager has made arrangements under paragraph 18 of Schedule 5 to the Act and who is authorised by the scheme manager to be the person to whom information is to be provided in accordance with these Regulations.”

(3) In regulations 3(1) and 6(1)(a), for “him” substitute “it”.

(4) In each place it occurs in—

(a) regulation 3(2);

(b) regulation 6; and

(c) paragraph 1(1) of Schedule 1,

for “he” substitute “it”.

(5) In regulation 5(4)(b), after “a survivor” insert “or surviving dependant”.

(6) In regulation 6(1), for “he may” substitute “the scheme manager may”.

(7) In regulation 7, after paragraph (3) insert—

(2) 1989 c.41.

(3) 1995 c.36.

(4) S.I. 1995/755 (N.I.2).

- “(4) An amount recovered by the scheme manager under paragraph (1) must be paid to the Secretary of State.”.
- (8) In regulation 8(1) omit “monthly”.
- (9) In paragraph 1 of Schedule 1 (information to be provided by appropriate persons)—
- (a) in the table in sub-paragraph (2)—
- (i) in the second column of the fourth item in the table in sub-paragraph (2)—
- (aa) after “or any survivor” insert “or surviving dependant”;
- (bb) after paragraph (f) insert—
- “(fa) such information as is necessary to determine if the member or former member has a survivor or any surviving dependants;”;
- (cc) after paragraph (j) insert—
- “(ja) where applicable, the annual rate of annuity which has been purchased for or in respect of a beneficiary or potential beneficiary, the amount paid for that annuity, the date on which it was purchased and the name, address and telephone number of the annuity provider;
- (jb) where applicable, information detailing whether a purchased annuity included revaluation, indexation or payments at or in respect of ages other than normal retirement age and if so, the relevant rate secured and the dates at which such payments or increases are payable;
- (jc) where applicable, the amount of any transfer payment, interim pension or lump sum (including any winding-up lump sum) made after the day on which the scheme began to be wound up and the dates on which those amounts were paid;
- (jd) where applicable, any amount paid to restore the state scheme rights of a member or former member of the scheme and the date on which that amount was paid;” and
- (dd) in paragraph (l) after “inaccurate in a particular case” insert “or will not be sufficient to enable a reviewable determination to be made”;
- (ii) after the sixth item insert a seventh, eighth, ninth, tenth and eleventh item containing—
- (aa) in the second column of the seventh item, the words “Any changes to information provided in accordance with these Regulations.”;
- (bb) in the third column of the seventh item, the words “The period of 14 days beginning on the day on which the change took place.”;
- (cc) in the second column of the eighth item, the words “Details of all expenditure incurred by the scheme in each period of 3 months (or such shorter or longer period as the scheme manager may determine in relation to a qualifying pension scheme), the first such period beginning on the date determined by the scheme manager in respect of the qualifying pension scheme.”;
- (dd) in the third column of the eighth item, the words “The period of 14 days following the end of the period to which the information relates.”;
- (ee) in the second column of the ninth item, the words “Details of any significant changes in the level of expenditure incurred by the scheme.”;

- (ff) in the third column of the ninth item, the words “The period of 14 days beginning on the day on which the change took place.”;
 - (gg) in the second column of the tenth item, the words “Details of any contemplated significant changes in the investment of the scheme’s assets”;
 - (hh) in the third column of the tenth item, the words “The period of 14 days beginning on the day on which the appropriate person becomes aware of any such contemplated changes”;
 - (ii) in the second column of the eleventh item, the words—
 - “Details of any—
 - (a) legal actions or proceedings;
 - (b) contemplated legal actions or proceedings;
 - (c) complaints made, or disputes or questions referred, to the Pensions Ombudsman under Part 10 of the Pension Schemes Act 1993⁽⁵⁾ or, as the case may be, Part 10 of the Pension Schemes (Northern Ireland) Act 1993⁽⁶⁾; or
 - (d) arbitration, dispute resolution procedures or negotiations intended to lead or leading to a settlement or compromise of any legal action or proceeding,
 - relating to a qualifying pension scheme.”; and
 - (jj) in the third column of the eleventh item, the words—
 - “The latest of—
 - (a) the period of 28 days beginning on the day on which the 2009 Regulations come into force;
 - (b) the period of 28 days beginning on the notification date; or
 - (c) the period of 28 days beginning on the day on which the appropriate person becomes aware of any of the matters in the second column.”;
- (b) for sub-paragraph (3) substitute—
- “(3) Subject to sub-paragraphs (3A) and (4), the period for information to be provided in relation to each member or former member or any survivor or surviving dependant of a member or former member of a qualifying pension scheme is—
- (a) in relation to each member or former member who has not attained normal retirement age on or before the date which is 6 months after the date on which the 2009 Regulations come into force, the period of 3 months ending 3 months before the day on which the member or former member attains normal retirement age;
 - (b) in relation to each member or former member who has attained normal retirement age on or before the date on which the 2009 Regulations come into force, the period ending 3 months after that date;
 - (c) in relation to any survivor or surviving dependant for or in respect of whom an annuity has been purchased and is in payment before the date on which the 2009

(5) 1993 c.48. Part 10 was amended by the Pensions Act 1995 (c.26), the Child Support, Pensions and Social Security Act 2000 (c.19), the Pensions Act 2004 (c.35) and S.I. 2005/2053.

(6) 1993 c.49. Part 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I.22)), the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4 (N.I.)), the Pensions (Northern Ireland) Order 2005 (S.I.2005/255 (N.I.1)) and S.R. 2005 No.434.

Regulations come into force, the period ending 3 months after those Regulations come into force; or

- (d) in relation to any survivor or surviving dependant of a qualifying member who dies after the date on which the 2009 Regulations come into force, the period ending one month after the day on which the appropriate person became aware that the qualifying member has died.

(3A) Where—

- (a) accurate information of the description specified in the table in sub-paragraph (2) can be provided before the period determined in accordance with sub-paragraph (3), the period for information to be provided is the period ending as soon as that accurate information can be provided;
- (b) the scheme manager determines that the information can be, and should be, provided in a period other than the period determined in accordance with sub-paragraph (3), scheme manager may determine the period for the provision of that information; and
- (c) information has been requested by the scheme manager in accordance with these Regulations before the date on which the 2009 Regulations come into force, the information shall be provided by the date determined by the scheme manager in that request.”;

- (c) omit sub-paragraphs (5) and (6).

(10) After paragraph 1 of Schedule 1 insert—

“2.—(1) This paragraph applies where the scheme manager has made arrangements with a person under paragraph 18 of Schedule 5 to the Act (as modified by Schedule 1 to the FAS Regulations) and the scheme manager has authorised that person to be the person to whom information is to be provided in accordance with these Regulations.

(2) Where this paragraph applies, appropriate persons shall be notified of the identity of the person so authorised in writing by—

- (a) the scheme manager; or
- (b) the person with whom the scheme manager has made arrangements under paragraph 18 of Schedule 5 to the Act.”.

(11) After paragraph 1 of Schedule 2 (information to be provided by beneficiaries and potential beneficiaries) insert—

“2.—(1) This paragraph applies where the scheme manager has made arrangements with a person under paragraph 18 of Schedule 5 to the Act (as modified by Schedule 1 to the FAS Regulations) and the scheme manager has authorised that person to be the person to whom information is to be provided in accordance with these Regulations.

(2) Where this paragraph applies, beneficiaries and potential beneficiaries shall be notified of the identity of the person so authorised in writing by—

- (a) the scheme manager; or
- (b) the person with whom the scheme manager has made arrangements under paragraph 18 of Schedule 5 to the Act.”.