

SCHEDULE 1

Regulation 4(1)

MODIFICATION OF CERTAIN PROVISIONS OF PARTS 1 AND 2 OF THE ACT

1. In section 68 (power for the Regulator to collect information relevant to the Board of the Pension Protection Fund), for “the Board of the Pension Protection Fund”, substitute “ the scheme manager of the financial assistance scheme which are conferred on [F1it] by regulations made under, or by virtue of, section 286 ”.

Textual Amendments

F1 Word in Sch. 1 para. 1 substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(4)(b)** (with reg. 37)

2. In section 85 (disclosure by the Regulator for facilitating the exercise of functions by the Board)—

- (a) for “Section 82 does not preclude” substitute “ Neither section 82 nor Article 77 of the Pensions (Northern Ireland) Order 2005 precludes ”;
- (b) for the words “the Board of the Pension Protection Fund to exercise its functions”, substitute “ the scheme manager of the financial assistance scheme to exercise functions conferred on [F2it] by regulations made under or by virtue of section 286, and Part 2 of the Pensions (Northern Ireland) Order 2005 shall be read accordingly ”.

Textual Amendments

F2 Word in Sch. 1 para. 2(b) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(4)(b)** (with reg. 37)

3. In section 88(4) (disclosure of tax information by the Regulator), after “subsection (3)” insert “ or as mentioned in Article 83(3) of the Pensions (Northern Ireland) Order 2005 ”.

[F3**3ZA.** In section 113 (investment of funds)—

- (a) at the beginning of subsection (1), insert “Subject to subsection (1A),”; and
- (b) after subsection (1), insert—

“(1A) The Board may hold any grant received in accordance with regulation 5(3) of the Financial Assistance Scheme Regulations 2005 (scheme manager) in an interest-bearing account but may not otherwise invest any such grant.”.

Textual Amendments

F3 Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

3ZB. After section 114(4) (investment principles), insert—

“(4A) A statement of investment principles need not cover investments made in accordance with section 113(1A).”.

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

Textual Amendments

F3 Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

3ZC. In section 115(1)(a) (borrowing), after “any of its functions”, insert “except its functions relating to the financial assistance scheme”.

Textual Amendments

F3 Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

3ZD. In section 117(1)(b) (administration levy), after “section 116”, insert “except where such expenditure relates to the financial assistance scheme”.

Textual Amendments

F3 Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

3ZE. In section 119 (annual reports to Secretary of State)—

- (a) in subsection (2)—
 - (i) after “the Board” insert “in relation to the financial assistance scheme”;
 - (ii) for “the report” substitute “any part of the report”; and
 - (iii) after “that section” insert “which relates to the financial assistance scheme”;
- (b) in subsection (3), after paragraph (c) insert—
 - (“d) the operation of the financial assistance scheme including the number of persons who have received payments under the Financial Assistance Scheme Regulations 2005 and the total amount of those payments.”; and
- (c) in subsection (6)(a), for “the date on which the Board is established” substitute “the date on which the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 come into force”.]

Textual Amendments

F3 Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

[^{F4}**3A.** In section 134 (directions)—

- (a) in subsection (1), for “there is an assessment period in relation to an eligible scheme” substitute “an occupational pension scheme is a qualifying pension scheme under section 286(2) which has not been fully wound up”;
- (b) in subsection (2), for the words from the beginning to “is kept to a minimum” substitute “With a view to ensuring that any reduction in the scheme’s assets is kept to a minimum or that the assets of the scheme are invested in a way which, in the opinion of the scheme manager, is appropriate”;

[in subsection (2), after paragraph (b) insert—

- ^{F5}(ba) “(ba) the determination of interim pensions;”]
- (c) in subsections (2) and (4), for “the Board”, substitute “the scheme manager”; and
- [in subsection (3), before paragraph (a) insert—
- ^{F6}(ca) “(za) “interim pension” has the meaning given by regulations under section 286(1);”]
- (d) in subsection (3), after paragraph (a)(i) insert—
- “(ia) a professional adviser to the scheme;
- (ib) any other person appearing to the scheme manager to be a person who carries out, or is likely to carry out, activities relevant to the use of the assets of the scheme;”]

Textual Amendments

- F4** Sch. 1 para. 3A inserted (17.7.2008) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1903\)](#), regs. 1, **13(a)**
- F5** Sch. 1 para. 3A(ba) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(a)(i)**
- F6** Sch. 1 para. 3A(ca) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(a)(ii)**

- [^{F7}**3B.** In section 135 (restrictions on winding up, discharge of liabilities etc)—
- (a) in subsection (1), for “there is an assessment period in relation to an eligible scheme” substitute “an occupational pension scheme is a qualifying pension scheme under section 286(2)”;
- (b) omit subsections (2), (3), (5) to (7) and (11);
- (c) in subsection (4)—
- (i) for the words before paragraph (a) substitute “Except where subsection (4A) applies—
- (ii) in paragraph (a), for “member’s” substitute “qualifying member’s”; and
- (iii) for paragraph (b) substitute—
- “(b) no steps may be taken to discharge any liability of the scheme to or in respect of a qualifying member of the qualifying pension scheme by way of making a payment which would be—
- (i) a winding-up lump sum under paragraph 10 of Schedule 29 to the Finance Act 2004 (c.12); or
- (ii) a trivial commutation lump sum under paragraph 7 or 7A of that Schedule.”;
- (d) after subsection (4) insert—
- “(4A) This subsection applies where—
- (a) before 26th September 2007 the trustees or managers entered into a binding commitment to purchase an annuity for the qualifying member;
- (b) the purchase of an annuity has been approved by the scheme manager under section 286A(2)(b);
- (c) the transfer or discharge of liability has been approved by the scheme manager under subsection (4C) on the application of the trustees or managers of the scheme and any condition imposed under subsection (4D) is satisfied;

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

- (d) before the date on which the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 came into force, the trustees or managers of the scheme offered a trivial commutation lump sum to the qualifying member;
 - (e) before the date on which those Regulations came into force—
 - (i) an application under section 93A of the Pension Schemes Act 1993 or section 89A of the Pension Schemes (Northern Ireland) Act 1993 (salary related schemes: right to statement of entitlement) for a statement of entitlement had been received by the trustees or managers of the scheme for the qualifying member;
 - (ii) the trustees or managers of the scheme have provided the qualifying member with such a statement; and
 - (iii) the qualifying member has made, within the relevant period, and not withdrawn, an application under section 95 of the Pension Schemes Act 1993 or section 91 of the Pension Schemes (Northern Ireland) Act 1993 (ways of taking right to cash equivalent);
 - (f) the transfer or discharge of liability relates only to money purchase benefits; or
 - (g) the transfer or discharge of liability relates only to benefits derived from the payment of voluntary contributions.
- (4B) For the purposes of subsection (4A)(e), “the relevant period” means—
- (a) where section 94(1)(aa) of the Pension Schemes Act 1993 or section 90(1)(aa) of the Pension Schemes (Northern Ireland) Act 1993 (right to cash equivalent) applies, three months beginning with the guarantee date, as defined in those Acts, in respect of the statement of entitlement; or
 - (b) where regulation 14 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 or regulation 14 of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (extension of time within which a member may exercise option to take a guaranteed cash equivalent) applies, the three month period for making a relevant application determined in accordance with that regulation.
- (4C) The scheme manager may approve a transfer referred to in subsection (4)(a) or any steps to discharge any liability of the scheme to or in respect of a qualifying member of the qualifying pension scheme by way of making a payment referred to in subsection (4) (b) if the scheme manager thinks it appropriate to do so.
- (4D) An approval under subsection (4C) may be made subject to such conditions (if any) as the scheme manager thinks appropriate.”; and
- (e) in subsection (9) for “Board” substitute “scheme manager”.

Textual Amendments

F7 Sch. 1 paras. 3B-3E inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(b)**

- 3C.** In section 136 (power to validate contraventions of section 135)—
- (a) in each place it occurs, for “Board” substitute “scheme manager”;
 - (b) in subsection (1) for the words “to do so is consistent” to the end, substitute “it is appropriate to do so”;
 - (c) in subsection (2) omit paragraphs (a), (c) and (d);

(d) after subsection (2) insert—

“(2A) The scheme manager may copy the notice under subsection (2) to any other person to whom, in the opinion of the scheme manager, the determination is relevant.”;

(e) in subsection (3) for “Board’s” substitute “scheme manager’s”; and

(f) omit subsections (4) and (5).

Textual Amendments

F7 Sch. 1 paras. 3B-3E inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **15(b)**

3D. In section 161 (effect of Board assuming responsibility for a scheme)—

(a) in subsection (1)—

(i) after “given” insert “under regulation 29 of the Financial Assistance Scheme Regulations 2005 (transfer notice)”;

(ii) for “an eligible scheme” substitute “a qualifying pension scheme under section 286(2)”;

(iii) for the words from “the Board” to the end substitute—

“(a) the property, rights and liabilities of the scheme are transferred to the Secretary of State, without further assurance, with effect from the time the trustees or managers are given the transfer notice,

(b) the trustees or managers of the scheme are discharged from their pension obligations from that time, and

(c) any liabilities other than those transferred under paragraph (a) or liabilities in respect of money purchase benefits referred to in subsection (4A) are discharged.”;

(b) omit subsection (2);

(c) in subsection (3)—

(i) after “liabilities of the scheme” insert “means any liabilities which are liabilities of the scheme as a direct result of the rights or property referred to in subsection (1)(a) being held by or vested in the trustees or managers of the scheme, but”;

(ii) omit the words from “, other than” to the end;

(d) in subsection (4)—

(i) after the words in brackets insert “which are not pensions or benefits in respect of money purchase benefits referred to in subsection (4A)”;

(ii) omit paragraph (b) and the “and” which precedes it;

(e) after subsection (4) insert—

“(4A) Subsection (1)(a) does not transfer any property which is, or rights which are, held by or vested in the trustees or managers of the scheme in respect of money purchase benefits where the scheme manager is satisfied that appropriate arrangements have been made or are being made for the discharge of the scheme’s liabilities relating to money purchase benefits.

(4B) The trustees or managers of the scheme may discharge their liabilities in respect of money purchase benefits irrespective of any rules of the scheme which may provide that such liabilities must be discharged together with benefits which are not money purchase benefits.”;

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- (f) in subsection (7) for “Board” substitute—
 - (i) where it first occurs, “scheme manager”; and
 - (ii) for the subsequent occurrences, “Secretary of State”;
- (g) after subsection (7) insert—
 - “(7A) Neither paragraph (b) nor (c) of subsection (1) affects any rights transferred to the Secretary of State in accordance with paragraph (a) of that subsection.”; and
- (h) in each place it occurs, for “subsection (2)” substitute “subsection (1)”.

Textual Amendments

F7 [Sch. 1 paras. 3B-3E](#) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(b)**

3E. In section 165 (guaranteed minimum pensions)—

- (a) in subsection (1)—
 - (i) for “Board” substitute “scheme manager”;
 - (ii) for “Commissioners of Inland Revenue” substitute “Commissioners for Her Majesty’s Revenue and Customs”; and
 - (iii) for “it assuming responsibility for an eligible scheme in accordance with this Chapter” substitute “the scheme manager giving a transfer notice under regulation 29 of the Financial Assistance Scheme Regulations 2005 (transfer notice)”; and
- (b) after subsection (3) insert—
 - “(4) In subsection (8) of that section (as inserted by subsection (3) above) for “on the Board of the Pension Protection Fund assuming responsibility for the scheme” substitute “when a transfer notice was given under regulation 29 of the Financial Assistance Scheme Regulations 2005”.”.]

Textual Amendments

F7 [Sch. 1 paras. 3B-3E](#) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(b)**

4. In section 168 (administration of compensation payable by the Board)—

- (a) in subsection (1), for “this Chapter” substitute “the financial assistance scheme established by regulations under section 286 ”;
- (b) for subsection (2), substitute—
 - “(2) Regulations under subsection (1) may, in particular, make provision—
 - (a) for the recovery of amounts paid by the scheme manager of the financial assistance scheme in excess of entitlement;
 - (b) specifying the circumstances in which payments from the financial assistance scheme can be suspended.”; and
- (c) omit subsection (3).

5. In section 190 (information to be provided to the Board etc.)—

[^{F8}(a) in subsection (1), for “the Board” substitute “the scheme manager”]

- (b) in subsection (2), for “of entitlement to compensation under Chapter 3 of this Part” substitute “ that a person is entitled to a payment from the financial assistance scheme ”.

Textual Amendments

F8 Sch. 1 para. 5(a) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(b)** (with reg. 37)

[^{F9}6. In section 191 (notices requiring provision of information to the Board)—

- (a) in subsection (1)(b), after “the Board’s” insert “or scheme manager’s”;
- (b) in subsection (2)—
- (i) before paragraph (a), insert—
- “(za) the scheme manager, in relation to the scheme manager’s functions,”;
- (ii) in paragraph (a), after “the Board,” insert “in relation to the Board’s functions,”; and
- (iii) in paragraph (b), after “the Board” insert “or scheme manager”; and
- (c) in subsection (3)—
- (i) omit “and” at the end of paragraph (d);
- (ii) after paragraph (d), insert—
- “(da) in the case of a wound up scheme, any insurance company (within the meaning of the Financial Assistance Scheme Regulations 2005) which is paying annuities to former members of the scheme, and”;
- (iii) in paragraph (e)—
- (aa) after “the Board” insert “, scheme manager”; and
- (bb) after “the Board’s” insert “or scheme manager’s”.]

Textual Amendments

F9 Sch. 1 para. 6 substituted (17.7.2008) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1903\)](#), regs. 1, **13(b)**

- 7.** In section 192 (entry of premises to enable performance of functions by the Board)—
- (a) for “the Board”, in each place, substitute “ the scheme manager ”;
- (b) in subsection (1)(f), for “the Board's” substitute “ the scheme manager's ”; and
- (c) in subsection (6), for “The Board” substitute “ The scheme manager ”.
- 8.** In section 194 (warrants to enforce entry of premises and obtaining of documents by, or on behalf, of the Board)—
- (a) for “the Board”, in each place, substitute “ the scheme manager ”;
- (b) omit in both places “ , or any corresponding provision in force in Northern Ireland ”;
- (c) in subsection (1), after “information on oath” insert “ or, in Northern Ireland, on complaint on oath ”;
- (d) in subsection (1)(b), for “the Board's” substitute “ the scheme manager's ”;
- (e) in subsection (2)(a), after “the information” insert “ or complaint ”; and
- (f) in subsection (6), for “The Board” substitute “ The scheme manager ”.

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

9. In section 195(1)(b) (offence of providing false or misleading information to the Board), for the words from “by the Board” to the end of that paragraph substitute “ by the scheme manager for the purposes of exercising [^{F10}its] functions. ”.

Textual Amendments

F10 Word in Sch. 1 para. 9 substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

10. In section 196 (use of information by the Board)—

(a) for “the Board”, in each place, substitute “ the scheme manager ”; and

^{F11}(b)

Textual Amendments

F11 Sch. 1 para. 10(b) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(c)** (with reg. 37)

11. In section 197 (restricted information)—

(a) in subsections (1) and (3), after “the Board”, in each place, insert “ or the scheme manager ”;

^{F12}(ab) in subsection (2), before paragraph (a) insert—

“(za) regulation 6A of the Financial Assistance Scheme Regulations 2005;”]

(b) in subsection (4), after “its functions” insert “ or by the scheme manager in the exercise of [^{F13}its] functions ”;

(c) in subsection (6)(a), after “that section” insert “ (disregarding any modifications of that section made by the Financial Assistance Scheme Regulations 2005) ”; and

(d) after subsection (6), insert—

“(6A) Information which—

(a) is obtained under section 191 by a person authorised under subsection (2)(b) of that section, but

(b) if obtained by the scheme manager, would be restricted information,

is treated for the purposes of subsections (1) and (3) and sections 198 to 201 and 203 as restricted information which the person has received from the scheme manager.”.

Textual Amendments

F12 Sch. 1 para. 11(ab) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(d)** (with reg. 37)

F13 Word in Sch. 1 para. 11(b) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

12. In section 198 (disclosure by the Board of restricted information for facilitating exercise of functions by the Board)—

(a) at the end of subsection (1), add “ or the scheme manager to exercise [^{F14}its] functions ”;

(b) in subsection (2)—

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

- (i) after “its functions”, insert “ or the scheme manager properly to exercise any of [^{F15}its] functions ”; and
- (ii) after “the Board”, in the second place, insert “ or, as the case may be, the scheme manager ”; and
- (c) in subsection (3)—
 - (i) after “the Board”, in both places, insert “ or, as the case may be, the scheme manager ”; and
 - (ii) for “he” substitute “ that person ”.

Textual Amendments

F14 Word in Sch. 1 para. 12(a) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

F15 Word in Sch. 1 para. 12(b)(i) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

13. In section 200(1) (disclosure by the Board of restricted information for facilitating the exercise of functions by other supervisory authorities)—

- (a) after “the Board”, in the first place, insert “ or the scheme manager ”; and
- (b) after “the Board”, in the second place, insert “ or, as the case may be, the scheme manager ”.

14. In section 201 (other permitted disclosures of restricted information by the Board)—

- (a) in subsection (1)—
 - (i) after “the Board”, in the first place, insert “ or the scheme manager ”;
 - (ii) after “the Board”, in the second place, insert “ or, as the case may be, the scheme manager ”;
- (b) in subsection (2), after “the Board”, in both places, insert “ or the scheme manager ”;
- (c) in subsection (2)(d), for “it has a right” substitute “ the Board or the scheme manager has a right ”;
- (d) in subsection (8), for “with the consent of the Board” substitute—
 - “(a) in a case where the disclosure under that subsection was made by the Board, with the consent of the Board, and
 - (b) in a case where the disclosure under that subsection was made by the scheme manager, with [^{F16}its] consent”;
- (e) for subsection (9)(a), substitute—
 - “(a) in a case where the disclosure under that subsection was made by the Board, with the consent of the Board,
 - (aa) in a case where the disclosure under that subsection was made by the scheme manager, with [^{F16}its] consent, and”;
- (f) in subsection (10)—
 - ^{F17}(i)
 - (ii) after “the Board” insert “ or, as the case may be, the scheme manager ”; and
 - ^{F18}(iii)

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

Textual Amendments

- F16** Word in Sch. 1 para. 14(d)(e) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)
- F17** Sch. 1 para. 14(f)(i) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(e)** (with reg. 37)
- F18** Sch. 1 para. 14(f)(iii) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(e)** (with reg. 37)

[^{F19}**14A.** In section 202 (tax information)—

- (a) in each place it occurs, for “the Board” substitute “the scheme manager”;
- (b) in subsection (1) for “tax functions” substitute “a function of the Revenue and Customs”;
- (c) in subsection (2) for “section 182 of the Finance Act 1989 (c.26)” substitute “sections 18 and 19 of the Commissioners for Revenue and Customs Act 2005 (c.11)”;
- (d) in subsection (4) for “Commissioners of Inland Revenue or the Commissioners of Customs and Excise” substitute “Commissioners for Her Majesty’s Revenue and Customs”; and
- (e) for subsection (5) substitute—

“(5) In subsection (1), “a function of the Revenue and Customs” has the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005.”.]

Textual Amendments

- F19** [Sch. 1 para. 14A](#) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(c)**

15. In section 203 (provision of information to members of schemes etc. by the Board)—

- (a) in subsection (1), after “the Board” insert “ or the scheme manager ”;
- (b) in subsections (3)(c), (5)(b) and (c) and (6)(c), after “the Board”, in each place, insert “ or, as the case may be, the scheme manager ”;
- (c) after “the Board's”, in each place, insert “ or the scheme manager's ”;
- (d) omit “ or ” at the end of subsection (1)(b)(ii) and insert after that sub-paragraph—
 - “(ia) relating to any determination made in relation to the financial assistance scheme, or”;
- (e) in subsection (2), after “Chapter 3” insert “ or, as the case may be, to a payment from the financial assistance scheme ”;
- (f) in subsection (4)—
 - (i) in paragraph (a), after “who is” insert “ or was ”;
 - (ii) in paragraph (b), after “member” insert “ or former member ”; and
- (g) after subsection (6)(a)(iv), insert—
 - “(v) in the case of a wound up scheme, any insurance company (within the meaning in the Financial Assistance Scheme Regulations 2005) which is paying annuities to former members of the scheme,”.

16. In section 204 (interpretation of sections 190 to 203)—

- (a) after subsection (2), insert—

“(2A) The “scheme manager” is the person who manages the financial assistance scheme.

(2B) The “financial assistance scheme” is the scheme established by regulations under section 286.”; and

(b) after subsection (3), add—

“(4) Where the scheme manager has functions in relation to a scheme which is wound up, any reference to a trustee, manager, professional adviser or employer in relation to the scheme is to be read as reference to a person who held that position in relation to the scheme before it wound up.”.

[^{F20}17. In paragraph 18(2) of Schedule 5 (delegation)—

(a) after sub-paragraph (g), insert—

[Paragraphs 6A, 7(1) and 8 of Schedule 6 (transfer of property, rights and liabilities to the Board) as modified;]

(ga) regulation 9(1)(d) of the Financial Assistance Scheme Regulations 2005 (“the 2005 Regulations”) (receiving notification of the details prescribed in regulation 14);

(gb) regulation 14A of the 2005 Regulations (working with qualifying pension schemes);

(gc) regulations 17 to 20 of, and [^{F22}Schedules 2 to 7] to, the 2005 Regulations in so far as those provisions relate to—

(i) the determination of the amount of payments to beneficiaries,

(ii) paying instalments of payments to beneficiaries (including non-payment where the scheme manager decides to suspend payments in accordance with regulation 8 of the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005), or

(iii) receiving information pursuant to notification requirements;

(gd) the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005 except—

(i) regulation 3(2) (notification following determination of whether or not a scheme is a qualifying pension scheme), and

(ii) regulation 8 (suspension of payments) in so far as that regulation provides for the scheme manager to decide to suspend payments or not continue any such suspension;

(ge) regulations 3 (notice of a reviewable determination), 14(d) (dealing with matters arising out of a review decision) and 16 (notice of a review decision or a subsequent review decision) of the Financial Assistance Scheme (Internal Review) Regulations 2005;

(gf) regulation 23(6) and (8) (taking or refraining from taking such steps as directed by the Ombudsman) of the Financial Assistance Scheme (Appeals) Regulations 2005;

[regulation 27 of the 2005 Regulations (scheme manager calculations after a valuation);]

(gh) regulation 28 of the 2005 Regulations (determination of certain asset shares, notional pensions and survivor notional pensions);

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

- (gi) regulation 31 of the 2005 Regulations (payments where amounts relating to money purchase benefits are transferred to the Secretary of State);”]; and
- (b) in sub-paragraph (h), for the words “paragraphs (a) to (g)” substitute “paragraphs (a) to [F24(gi)]”.

Textual Amendments

- F20** Sch. 1 paras. 17, 18 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(f)** (with reg. 37)
- F21** Words in Sch. 1 para. 17(a) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(i)(aa)**
- F22** Words in Sch. 1 para. 17(a) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(i)(bb)**
- F23** Words in Sch. 1 paras. 17(a) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(i)(cc)**
- F24** Word in Sch. 1 para. 17(b) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(ii)**

18. In paragraph 22(7)(a) of Schedule 5 (accounts), for “the date on which the Board is established” substitute “the date on which the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 come into force”.]

Textual Amendments

- F20** Sch. 1 paras. 17, 18 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(f)** (with reg. 37)

[F25**19.** In Schedule 6 (transfer of property, rights and liabilities to the Board)—

- (a) after paragraph 3(2) insert—

“(3) Where any liabilities in respect of an existing or future cause of action are not transferred as a result of sub-paragraph (2), the trustees or managers are not discharged from any obligations in respect of such causes of action.”;

- (b) after paragraph 5 insert—

“**5A.** Any contract which does not form part of any rights or liabilities transferred to the Secretary of State shall be treated as terminated.”;

- (c) in paragraph 6 for the words from “so far as necessary” to the end substitute—

“(a) so far as necessary for the purposes of giving effect to the transfer as a reference to the Secretary of State, and

(b) so far as necessary for the purposes of giving effect to paragraph 6A(1) as a reference to the scheme manager.”;

- (d) after paragraph 6 insert—

“**6A.**—(1) The rights, powers and obligations of the Secretary of State in relation to the property, rights and liabilities are exercisable by the scheme manager without limitation.

(2) Where, by virtue of sub-paragraph (1), any amount becomes payable, or is to be paid, to the scheme manager, that amount must be paid to the Secretary of State.”;

- (e) in paragraph 7(1) in the first place in which it occurs for “Board” substitute “scheme manager”;

- (f) in all other places in which it occurs for “Board” substitute “Secretary of State”; and
- (g) after paragraph 7 add—

“8.—(1) Where, by virtue of paragraph 3(1), an application to the Pensions Ombudsman under Part 10 of the Pension Schemes Act 1993 (c.48) or Part 10 of the Pension Schemes (Northern Ireland) Act 1993 (c.49) is to be continued by or against the Secretary of State, any reference in section 146 of the Pension Schemes Act 1993 or section 142 of the Pension Schemes (Northern Ireland) Act 1993 to the trustees or managers of an occupational pension scheme shall have effect, so far as necessary, for the purpose of giving effect to paragraph 3(1), as a reference to the Secretary of State.

(2) Where, as a result of such an application being continued against the Secretary of State, a direction is given by the Ombudsman under section 151 of the Pension Schemes Act 1993 or section 147 of the Pension Schemes (Northern Ireland) Act 1993, the Secretary of State may require the scheme manager to carry out a review under regulation 10 of the Financial Assistance Scheme (Internal Review) Regulations 2005.”]

Textual Amendments

F25 Sch. 1 para. 19 added (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, 15(e)

SCHEDULE 2

Regulations 17 and 18(5)

DETERMINATION OF ANNUAL AND INITIAL PAYMENTS

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of an annual payment or of an initial payment payable to or in respect of qualifying members of qualifying pension schemes.

(2) In this Schedule—

[^{F26}“appropriate person” has the meaning given by regulation 2(1) of the FAS Information and Payments Regulations (interpretation);]

F27
...

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...

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...

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...

“guaranteed minimum pension” has the meaning given in section 8(2) of the 1993 Act;

[^{F26}“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);

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- (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;]

[^{F31}“revalued notional pension” shall be construed in accordance with regulation 17(10).]

^{F32}
...

(3) [^{F33}Paragraphs 2 to 5B] are subject to paragraphs 6 to 9.

^{F34}(4)

^{F34}(5)

Textual Amendments

- F26** Words in Sch. 2 para. 1(2) inserted (24.11.2005) by [The Financial Assistance Scheme \(Modifications and Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/3256\)](#), regs. 1(1), **4(6)(a)(ii)**
- F27** Words in Sch. 2 para. 1(2) omitted (17.7.2008) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1903\)](#), regs. 1, **14(a)**
- F28** Words in Sch. 2 para. 1(2) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **19(a)** (with reg. 37)
- F29** Words in Sch. 2 para. 1(2) omitted (19.12.2007) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(1)**
- F30** Words in Sch. 2 para. 1(2) omitted (16.12.2006) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(1)(a)**
- F31** Words in Sch. 2 para. 1(2) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(a)(ii)**
- F32** Words in Sch. 2 para. 1(2) omitted (2.4.2010) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(a)(i)**
- F33** Words in Sch. 2 para. 1(3) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **19(b)** (with reg. 37)
- F34** Sch. 2 para. 1(4)(5) omitted (4.6.2008) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(3)** (with reg. 8)

Actual pension

2.—^{F35}(1) In this Schedule, “actual pension” means, subject to ^{F36}sub-paragraphs (3) to (4)] and paragraph 2A, the annual rate of annuity which has been, can be or could have been, paid to the beneficiary as at the later of—

- (a) the day from which the beneficiary is entitled to an annual payment; or
- (b) the day on which the qualifying pension scheme began to be wound up,

as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has, or had, been determined.]

[^{F37}(1A) For the purposes of sub-paragraph (1), where a transfer notice has been given in respect of a qualifying pension scheme, no assets which are transferred to the Secretary of State shall be treated as being available to discharge the liability in respect of any qualifying member of that scheme from the day on which the transfer notice is given.]

(2) The liability of the scheme to the beneficiary shall be determined for the purposes of sub-paragraph (1)—

- (a) in accordance with section 73 of the 1995 Act; or

(b) where that section does not apply, in accordance with the scheme rules.

(3) The annual rate of annuity which [^{F38}has been, can be or could have been] purchased for the beneficiary for the purposes of sub-paragraph (1) [^{F39}or, as the case may be, paragraph 2A, as a result of the purchase of an annuity] with the assets referred to in that sub-paragraph, shall be determined [^{F40}(or, as the case may be, redetermined)]—

[^{F41}(a) where the beneficiary was an active or a deferred member of the qualifying pension scheme [^{F42}on the day before the day on which the qualifying pension scheme began to be wound 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;]

(b) where the beneficiary is a survivor [^{F43}or surviving dependant] of a member of that scheme, having regard to the annual rate of annuity which will come into payment [^{F44}to that beneficiary on the later of—

- (i) the day on which an annuity has been purchased from the assets of the scheme; or
- (ii) the day after the day on which that qualifying member died;]

[^{F45}(ba) where the beneficiary is a survivor or surviving dependant, on the basis that any amount (including any lump sum) payable to that beneficiary as a result of the death of the qualifying member being within a period specified in the scheme rules beginning on the day on which the member became entitled to a pension from the scheme or, if later, the day on which the pension was first paid, shall not be taken into account;]

[^{F46}(c)

(d) on the basis that there has been no commutation of benefits deriving from the scheme [^{F47}after the day on which the scheme began to be wound up].

[^{F48}(3A) Where the scheme manager is satisfied that the amount of interim pension paid to the beneficiary in respect of any previous year or years in which an annual payment was payable to the beneficiary is higher or lower than the annual rate of annuity determined in accordance with this paragraph, the scheme manager may determine how the actual pension is to be calculated for the purposes of determining the annual payment in respect of each year in which an annual payment is payable to the beneficiary, having regard to—

- (a) the annual rate of annuity determined in accordance with this paragraph;
- (b) the amount of any interim pension which was, or is due to be, paid to the beneficiary; and
- (c) such other matters as the scheme manager considers relevant.]

[^{F49}(3B) Sub-paragraph (3D) applies where the scheme manager is satisfied that the sum of interim pension paid to a beneficiary and any payment made under these Regulations in respect of any year in the period determined in accordance with sub-paragraph (3C) is higher or lower than the sum of—

- (a) the revalued notional pension or survivor notional pension; and
- (b) any annual increases or proportion of annual increases, which the scheme manager considers could have been paid in respect of that year, taking into account—
 - (i) the determination under regulation 27(1)(d);
 - (ii) the revaluation amount determined in accordance with regulation 17(11); and
 - (iii) the proportion of that year which falls after the 1st January.

(3C) For the purposes of sub-paragraph (3B), the period is the period from—

- (a) the earlier of—

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- (i) the day on which the beneficiary became entitled to a payment under these Regulations; and
 - (ii) the day on which the beneficiary became entitled under the scheme rules to a pension or other benefit; or
- (b) the day on which the qualifying pension scheme began to be wound up if that is later than the day determined in accordance with paragraph (a),
- until the day on which the scheme manager gave a transfer notice to the scheme trustees or managers.

(3D) Where this sub-paragraph applies, the scheme manager may—

- (a) determine how the actual pension is to be calculated, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the revalued notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the day on which the transfer notice is given; and
 - (iv) such other matters as the scheme manager considers relevant; and
- (b) where the sum of the interim pension paid and any payments made under these Regulations in respect of any year is lower than the sum of the amounts referred to in sub-paragraph (3B)(a) and (b), make a payment to the beneficiary or, where the beneficiary has died prior to the scheme manager making this determination, to the beneficiary's estate, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the revalued notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant.

(3E) Where the scheme manager is satisfied that an amount is owed by the beneficiary to the Secretary of State as a result of the beneficiary owing, before the day on which a transfer notice is given, an amount to a qualifying pension scheme to which Part 7 applies, the scheme manager may determine how the actual pension is to be calculated, having regard to the amount owed by the beneficiary and to such other matters as the scheme manager considers relevant.

(3F) Where the beneficiary is a qualifying member who has received a payment in accordance with regulation 17H (payments to qualifying members receiving a pension from the qualifying pension scheme before entitlement to an annual payment or ill health payment), or the survivor or surviving dependant of such a qualifying member, the scheme manager may determine how the actual pension is to be calculated, having regard to—

- (a) the amount paid under regulation 17H;
- (b) any interim pension paid by the scheme from the day on which the scheme began to be wound up until the day on which a transfer notice was given; and
- (c) such other matters as the scheme manager considers relevant.

(3G) Where the beneficiary is a qualifying member to whom regulation 17D applies or a survivor or surviving dependant of such a qualifying member, the scheme manager may determine how the actual pension is to be calculated, having regard to any lump sum paid and determined in accordance with that regulation.

(3H) Where the beneficiary is—

- (a) a qualifying member to whom regulation 17H applied whose payment under Schedule 7 had been reduced under paragraph 1(2) or (5) of that Schedule; or
- (b) a beneficiary who was entitled to an annual payment determined in accordance with Schedule 4 whose payment under that Schedule has been reduced under paragraph 1(2) or (5),

the scheme manager shall include the amount by which the payment has been reduced when determining the actual pension.

(3I) Sub-paragraph (3J) applies where—

- (a) a qualifying member to whom Part 7 applies has received a payment from the scheme before becoming entitled to an annual payment;
- (b) a transfer notice has been given in respect of the qualifying pension scheme; and
- (c) the qualifying member became entitled to an annual payment prior to the day on which the transfer notice was given.

(3J) Where this sub-paragraph applies, the scheme manager may determine how the actual pension is to be calculated, having regard to—

- (a) any interim pension paid by the scheme from the day on which the scheme began to be wound up until the day on which the transfer notice was given; and
- (b) such other matters as the scheme manager considers relevant.

(3K) Where—

- (a) the beneficiary is a qualifying member or the survivor or surviving dependant of a qualifying member to whom part 7 applies;
- (b) the qualifying member has commuted for a lump sum a portion of the benefits deriving from the scheme after the day on which the scheme began to be wound up; and
- (c) a transfer notice has been given in respect of the scheme,

the scheme manager may determine how the actual pension is to be calculated having regard to any lump sum paid as a result of the commutation.]

(4) Where the scheme manager is satisfied that it is not possible for him to determine the annual rate of annuity for the purposes of sub-paragraph (1) having regard to the information [^{F50}available to it and to such other matters as the scheme manager considers appropriate], [^{F51}it] shall determine the annual rate of annuity on the basis of the sum which would discharge the liability of the scheme to the beneficiary [^{F52}and of such other matters] as [^{F51}it] considers relevant.

[^{F53}(5) Where the scheme manager is satisfied that increases have been, are being, or will be made to the annual rate of annuity, and [^{F51}it] considers that those increases are not reasonable, [^{F51}it] may determine the annual rate of annuity on the basis of the sum which would discharge the liability of the scheme to the beneficiary and of such other matters as [^{F51}it] considers relevant.]

Textual Amendments

F35 Sch. 2 para. 2(1) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **20(a)** (with reg. 37)

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- F36** Words in Sch. 2 para. 2(1) substituted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(b)(i)**
- F37** Sch. 2 para. 2(1A) inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(b)(ii)**
- F38** Words in Sch. 2 para. 2(3) substituted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(2)(b)(i)**
- F39** Words in Sch. 2 para. 2(3) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(i)** (with reg. 37)
- F40** Words in Sch. 2 para. 2(3) inserted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(2)(b)(ii)**
- F41** Sch. 2 para. 2(3)(a) substituted (24.11.2005) by The Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3256), regs. 1(1), **4(6)(b)(ii)**
- F42** Words in Sch. 2 para. 2(3)(a) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(ii)** (with reg. 37)
- F43** Words in Sch. 2 para. 2(3)(b) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(iii)(aa)** (with reg. 37)
- F44** Words in Sch. 2 para. 2(3)(b) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(iii)(bb)** (with reg. 37)
- F45** Sch. 2 para. 2(3)(ba) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(iv)** (with reg. 37)
- F46** Sch. 2 para. 2(3)(c) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(v)** (with reg. 37)
- F47** Words in Sch. 2 para. 2(3)(d) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(b)(vi)** (with reg. 37)
- F48** Sch. 2 para. 2(3A) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(c)** (with reg. 37)
- F49** Sch. 2 para. 2(3B)-(3K) inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(b)(iii)**
- F50** Words in Sch. 2 para. 2(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(d)(i)** (with reg. 37)
- F51** Word in Sch. 2 para. 2(4) (5) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F52** Words in Sch. 2 para. 2(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **20(d)(ii)** (with reg. 37)
- F53** Sch. 2 para. 2(5) added (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(3)(b)**

^{F54} Annual redetermination

2A.—(1) This paragraph applies where—

- (a) on the first indexation date following the date on which the beneficiary first became entitled to an annual payment; and
- (b) on any indexation date following that first indexation date;

the annual rate of annuity which has been or could have been paid to the beneficiary as at that indexation date as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has or had been determined, is higher as a result of indexation or revaluation than the annual rate determined in accordance with paragraph 2.

(2) Where this paragraph applies, the scheme manager shall redetermine the annual payment payable to that beneficiary with effect from the indexation date.

(3) When redetermining an annual payment under sub-paragraph (2), the actual pension for the purposes of paragraph 3(2) or 4(2) shall be the annual rate of annuity which has been or could have been paid to the beneficiary as at the indexation date as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has or had been determined, on the basis of, and having regard to, the matters referred to in paragraph 2(3).

(4) In any case where the scheme manager is satisfied, having regard to the information available to it, that it is not possible for it to determine the annual rate of annuity for the purposes of this paragraph, it shall determine that annual rate having regard to such matters as it considers relevant.

(5) Where the scheme manager is satisfied that increases have been, are being, or will be made to the annual rate of annuity, and it considers that those increases are not reasonable, it may determine the annual rate of annuity for the purposes of this paragraph on the basis of the sum which would discharge the liability of the scheme to the beneficiary and of such other matters as it considers relevant.]

Textual Amendments

F54 Sch. 2 para. 2A inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 21 (with reg. 37)

Qualifying members receiving pensions from the qualifying pension scheme

[^{F55}3.—(1) This paragraph applies to—

- (a) a member or former member of a qualifying scheme who—
 - (i) is a qualifying member under regulation 15(1), and
 - (ii) was entitled to present payment of a pension under the scheme rules [^{F56}on the day before the day on which the qualifying pension scheme began to be wound up]; and
- (b) a person who is regarded as a qualifying member under regulation 15(5).]

[^{F57}(2) The annual payment payable to a qualifying member to whom this paragraph applies shall be—

^{F58}

(expected pension x 0.9) - actual pension

.]

[^{F59}(3) Subject to sub-paragraphs (4) and (5) and paragraphs 4A and 4B, in this paragraph “expected pension” means—

- (a) the annual rate of the pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme as at the day before the day on which the qualifying pension scheme began to be wound up; or
- (b) [^{F60}except where paragraph (c) applies,] where the day on which the qualifying pension scheme began to be wound up is earlier than 14 May 2004, the aggregate of—
 - (i) the annual rate of the pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme as at the day on which the qualifying pension scheme began to be wound up; and

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- (ii) the revaluation amount for the period beginning on the day on which the qualifying pension scheme began to be wound up and ending on 14 May 2004^[F61]; or]
- ^[F61](c) where the qualifying member attains normal retirement age after 14th May 2004, the aggregate of—
- (i) the annual rate of pension which was or should have been in payment to the qualifying member in accordance with scheme rules in respect of rights accrued in a qualifying pension scheme as at the day on which the qualifying pension scheme began to be wound up; and
- ^[F62](ii) where the qualifying member attains normal retirement age before 31st March 2011, the revaluation amount for the period beginning on the day on which the qualifying pension scheme began to be wound up and ending on the day on which the qualifying member attains normal retirement age; and
- (iii) where the qualifying member attains normal retirement age on or after 31st March 2011, the sum of—
- (aa) the revaluation amount for the period beginning on the day on which the qualifying pension scheme began to be wound up and ending on 30th March 2011; and
- (bb) the revaluation amount for the period beginning on 31st March 2011 and ending on the day on which the qualifying member attains normal retirement age.]]
- ^[F59](3A) In sub-paragraph (3)(b)(ii) ^{F63} ..., the revaluation amount is—
- (a) where that period is less than one month, nil; or
- (b) in any other case, the revaluation percentage of the amount of the annual rate of pension under sub-paragraph (3)(b)(i) ^{F64}
- [
- ^{F65}(3AA) In sub-paragraph (3)(c)(ii) and (iii), the revaluation amount is—
- (a) where the period—
- (i) determined in accordance with sub-paragraph (3)(c)(ii), where it applies; or
- (ii) covered by the periods determined in accordance with paragraphs (aa) and (bb) of sub-paragraph (3)(c)(iii), where that sub-paragraph applies,
- is less than one month, nil; or
- (b) in any other case, the revaluation percentage of the amount of the annual rate of pension under sub-paragraph (3)(c)(i).]
- (3B) In ^[F66]sub-paragraphs (3A) and (3AA)], “the revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices ^{F67}... during the revaluation period determined in accordance with sub-paragraph (3)(b)(ii) ^[F68] or (c)(ii) or (iii)]; and
- (b) the maximum revaluation rate.
- (3C) The method for determining the percentage increase in the general level of prices ^{F67} ... during the revaluation period determined in accordance with sub-paragraph (3)(b)(ii) is—
- $$(100 \times (A \div B)) - 100$$
- where—
- A is the level of the retail prices index for March 2004; and

B is the level of the retail prices index for the month two months before the month during which the relevant qualifying pension scheme began to be wound up.

[^{F69}(3ZD) The method for determining the percentage increase in the general level of prices ^{F67} ... during the revaluation [^{F70}periods] determined in accordance with sub-paragraph (3)(c)(ii) [^{F71}and (iii)(aa)] is—

where $(100 \times (A \div B)) - 100$

A is the level of the retail prices index for the month which falls two months before the month [^{F72}in which the last day of that revaluation period falls]; and

B is the level of the retail prices index for the month which falls two months before the month during which the relevant qualifying pension scheme began to be wound up.]

[^{F73}(3ZDA) The method for determining the percentage increase in the general level of prices during the revaluation period determined in accordance with sub-paragraph (3)(c)(iii)(bb) is—

where $(100 \times (A \div B)) - 100$

A is the general level of prices for the month which falls two months before the month during which the qualifying member attains normal retirement age; and

B is the general level of prices for January 2011.]

(3D) In sub-paragraph (3B)(b), “the maximum revaluation rate” in relation to the revaluation period [^{F74}or periods] is—

[^{F75}(a) if the period or periods mentioned in sub-paragraph (3)(c) together form a period of 12 months, 5%; or]

(b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (3B)(a) had the general level of prices ^{F67} ... increased at the rate of 5% compound per annum during [^{F76}those periods].]

[^{F77}(4) Where the scheme manager is satisfied that it is not possible for [^{F78}it] to determine the annual rate of the pension for the purposes of sub-paragraph (3) having regard to all the information available to [^{F78}it], [^{F79}it] shall determine that annual rate, having regard to such matters as [^{F79}it] considers relevant.]

[^{F80}(5) Where—

(a) the annual rate of the pension determined for the purposes of calculating the expected pension under sub-paragraph (2) includes an amount which, under the rules of the qualifying pension scheme, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and

(b) the liabilities of the scheme in respect of the beneficiary have been discharged (whether by the purchase of an annuity or by other means) in a manner which does not provide for a reduction in the annual rate of an annuity from the date on which the amount referred to in paragraph (a) would have ceased to be payable under the rules of the pension scheme,

the scheme manager shall determine the expected pension having regard to the expected pension which would have been determined in accordance with paragraph 4A if that paragraph had applied and to such other matters as it considers relevant.]

Textual Amendments

- F55** Sch. 2 para. 3(1) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(4)(a)**
- F56** Words in Sch. 2 para. 3(1)(a)(ii) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **22(a)** (with reg. 37)
- F57** Sch. 2 para. 3(2) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(4)(b)**
- F58** Word in Sch. 2 substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(2)** (with reg. 8)
- F59** Sch. 2 para. 3(3)-(3D) substituted for Sch. 2 para. 3(3) (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **22(b)** (with reg. 37)
- F60** Words in Sch. 2 para. 3(3)(b) inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(c)(i)**
- F61** Sch. 2 para. 3(3)(c) and word inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(c)(ii)**
- F62** Sch. 2 para. 3(3)(c)(ii)(iii) substituted for Sch. 2 para. 3(3)(c)(ii) (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(b)**
- F63** Words in Sch. 2 para. 3(3A) omitted (31.3.2011) by virtue of The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(c)(i)**
- F64** Words in Sch. 2 para. 3(3A)(b) omitted (31.3.2011) by virtue of The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(c)(ii)**
- F65** Sch. 2 para. 3(3AA) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(d)**
- F66** Words in Sch. 2 para. 3(3B) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(e)(i)**
- F67** Words in Sch. 2 para. 3 omitted (31.3.2011) by virtue of The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(a)**
- F68** Words in Sch. 2 para. 3(3B) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(e)(ii)**
- F69** Sch. 2 para. 3(3ZD) inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(c)(v)**
- F70** Word in Sch. 2 para. 3(3ZD) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(f)(i)**
- F71** Words in Sch. 2 para. 3(3ZD) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(f)(ii)**
- F72** Words in Sch. 2 para. 3(3ZD) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(f)(iii)**
- F73** Sch. 2 para. 3(3ZDA) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(g)**
- F74** Words in Sch. 2 para. 3(3D) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(h)(i)**
- F75** Sch. 2 para. 3(3D)(a) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(h)(ii)**
- F76** Words in Sch. 2 para. 3(3D)(b) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **6(h)(iii)**
- F77** Sch. 2 para. 3(4) added (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(3)(d)**
- F78** Word in Sch. 2 para. 3(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(4)(c)** (with reg. 37)
- F79** Word in Sch. 2 para. 3(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)

F80 Sch. 2 para. 3(5) added (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, 22(c) (with reg. 37)

Active and deferred members

4.—(1) This paragraph applies in respect of a qualifying member of a qualifying pension scheme who ^{F81}... was an active member or a deferred member of that scheme [^{F82}on the day before the day on which the qualifying pension scheme began to be wound up].

[^{F83}(2) The annual payment payable to a qualifying member to whom this paragraph applies shall be—

^{F58}

(expected pension x 0.9) - actual pension

.]

(3) In sub-paragraph (2), “expected pension” means, subject to [^{F84}sub-paragraphs (3A)^{F85}... and (4)] [^{F86}and paragraphs 4A and 4B], the aggregate of—

(a) the annual rate of the pension to which the qualifying member would have been entitled in accordance with the scheme rules had he attained his normal retirement age when the pensionable service relating to the pension ended;

(b) the revaluation amount for the first revaluation period (see sub-paragraphs (5) and (6));
^{F87}...

(c) the revaluation amount for the second revaluation period (see [^{F88}sub-paragraphs (7) to (10) and (11)]; [^{F89}and]

[^{F90}(ca) in any case where the day—

(i) on which the qualifying member attains normal retirement age; or

(ii) from which the qualifying member becomes entitled to an annual payment in accordance with regulation 17(2), (3) or (3C) or 17C,

is on or after 31st March 2011, the revaluation amount for the third revaluation period (see sub-paragraphs (10A) and (11)); and]

[^{F89}(d) in any case where 14 May 2004 is later than—

(i) the day on which the qualifying pension scheme began to be wound up; and

(ii) the day on which the qualifying member attained normal retirement age,

the revaluation amount for the [^{F91}fourth] revaluation period (see sub-paragraphs (13) to (13D)).]

[^{F92}(3A) Where—

(a) the annual rate of the pension determined for the purposes of sub-paragraph (3)(a) includes an amount which, under the rules of the qualifying pension scheme, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and

(b) the liabilities of the scheme in respect of the beneficiary have been discharged (whether by the purchase of an annuity or by other means) in a manner which does not provide for a reduction in the annual rate of an annuity from the date on which the amount referred to in paragraph (a) would have ceased to be payable under the rules of the pension scheme,

the scheme manager shall determine the annual rate for the purposes of sub-paragraph (3)(a) having regard to the expected pension which would have been determined in accordance with paragraph 4A if that paragraph had applied and to such other matters as it considers relevant.]

^{F93}(3B)

(4) In any case where the scheme manager is satisfied, having regard to the information available to ^{F94}[it], that it is not possible for ^{F94}[it] to identify any one of the elements in ^{F95}[sub-paragraph (3) or (3A) or paragraph 4B]^{F96}[it] may determine how the annual payment is to be calculated having regard to such matters as ^{F96}[it] considers relevant.

^{F97}(5) The first revaluation period is the period—

- (a) beginning on the day on which the qualifying member’s pensionable service ended; and
- (b) ending on ^{F98}the day before the day on which the qualifying pension scheme began to be wound up.]

(6) The revaluation amount for the first revaluation period is the amount by which the annual rate of the pension under sub-paragraph (3)(a) would fall to be revalued—

- (a) in relation to any guaranteed minimum pension, in accordance with section 16 of the 1993 Act, having regard to the relevant scheme rules; and
- (b) in relation to the remainder of the pension, in accordance with Chapter 2 of Part 4 of the 1993 Act ^{F99}[or, where scheme rules are more favourable, in accordance with scheme rules].

^{F100}(7) The second revaluation period is the period—

- (a) beginning on the day after the date determined in accordance with sub-paragraph (5)(b); and
- (b) ending on—
 - ^{F101}(i) the day on which the qualifying member attains normal retirement age;]
 - (ii) the day from which the qualifying member is entitled to an annual payment in accordance with regulation 17(2)^{F102}, (3) or (3C) or 17C]^{F103}; or]
 - ^{F103}(iii) 30th March 2011,]
 whichever is the ^{F104}[earliest].]

^{F105}(7A) The third revaluation period is the period beginning on 31st March 2011 and ending on—

- (a) the day on which the qualifying member attains normal retirement age; or
- (b) the day from which the qualifying member is entitled to an annual payment in accordance with regulation 17(2), (3) or (3C) or 17C,

whichever is the earlier.]

(8) The revaluation amount for the ^{F106}second and third revaluation periods] is, subject to sub-paragraph (12)—

- (a) ^{F107}where the period—
 - (i) determined in accordance with sub-paragraph (7) where sub-paragraph (3)(ca) does not apply; or
 - (ii) covered by the second and third revaluation periods where sub-paragraph (3)(ca) applies,
 is a period of less than one month, nil; or]

(b) in any other case, the revaluation percentage of the aggregate of the annual rate of the pension under sub-paragraph (3)(a) and the revaluation amount for the first revaluation period under sub-paragraph (6).

(9) In sub-paragraph (8), “the revaluation percentage” means the lesser of—

(a) [^{F108}the percentage increase in the general level of prices during the second revaluation period or, where sub-paragraph (3)(ca) applies, the second and third revaluation periods determined in accordance with sub-paragraphs (7) and (7A) respectively; and]

(b) the maximum revaluation rate.

(10) The method for determining the percentage increase in the general level of prices ^{F109}... during the second revaluation period is—

$$100 \times \frac{A}{B} - 100$$

where—

A is the level of the retail prices index for the month which falls two months before the month in which [^{F110}the [^{F111}last day of the revaluation period]] falls;

B is the level of the retail prices index for the month two months before the month during which the relevant qualifying pension scheme began to wind up.

[^{F112}(10A) The method for determining the percentage increase in the general level of prices during the third revaluation period is—

~~where~~
$$\frac{100 \times (A \div B) - 100}{\text{where}}$$

(a) A is the general level of prices for the month which falls two months before the month in which the day on which the qualifying member is entitled to an annual payment falls; and

(b) B is the general level of prices for January 2011.]

(11) [^{F113}In sub-paragraph (9)(b), “the maximum revaluation rate” in relation to the second and third revaluation periods is—

(a) 5% if either—

(i) sub-paragraph (3)(ca) does not apply and the period referred to in sub-paragraph (c) is a period of 12 months; or

(ii) sub-paragraph (3)(ca) applies and the periods referred to in sub-paragraph (3)(c) and (ca) together form a period of 12 months; or

(b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (9)(a) had the general level of prices, whether determined in accordance with sub-paragraph (10) or (10A), increased at the rate of 5% compound per annum during those periods.]

(12) In determining the revaluation amount for the second [^{F114}or third] revaluation period in accordance with sub-paragraphs (8) to (11), no revaluation shall be made in respect of any benefits which are not subject to revaluation under the scheme rules.

(13) [^{F115}The [^{F116}fourth] revaluation period is the period—

(a) beginning on the day after the day on which the member attained normal retirement age; and

(b) ending on 14 May 2004.]

[^{F115}(13A) The revaluation amount for the [^{F117}fourth] revaluation period is—

(a) where that period is less than one month, nil; or

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

- (b) in any other case, the revaluation percentage of the aggregate of—
- (i) the annual rate of the pension under sub-paragraph (3)(a);
 - (ii) the revaluation amount for the first revaluation period under sub-paragraph (6); and
 - (iii) the revaluation amount for the second revaluation period under sub-paragraph (8).
- (13B) In sub-paragraph (13A), “the revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices ^{F109} ... during the revaluation period determined in accordance with sub-paragraph (13); and
 - (b) the maximum revaluation rate.
- (13C) The method for determining the percentage increase in the general level of prices ^{F109} ... during the revaluation period determined in accordance with sub-paragraph (13) is—
- where $(100 \times (A \div B)) - 100$
- A is the level of the retail prices index for March 2004; and
 - B is the level of the retail prices index for the month two months before the month in which the qualifying member attained normal retirement age.
- (13D) In sub-paragraph (13B)(b), “the maximum revaluation rate” in relation to the revaluation period is—
- (a) if that period is a period of 12 months, 5%; or
 - (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (13B)(a) had the general level of prices ^{F109} ... increased at the rate of 5% compound per annum during that period.]]

Textual Amendments

- F58** Word in Sch. 2 substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(2)** (with reg. 8)
- F81** Words in Sch. 2 para. 4(1) omitted (16.12.2006) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(4)(a)(i)**
- F82** Words in Sch. 2 para. 4(1) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **23(a)** (with reg. 37)
- F83** Sch. 2 para. 4(2) substituted (19.12.2007) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(5)**
- F84** Words in Sch. 2 para. 4(3) substituted (16.12.2006) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(4)(c)**
- F85** Word in Sch. 2 para. 4(3) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **23(b)(i)** (with reg. 37)
- F86** Words in Sch. 2 para. 4(3) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(d)(i)**
- F87** Word in Sch. 2 para. 4(3) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **23(b)(ii)** (with reg. 37)
- F88** Words in Sch. 2 para. 4(3)(c) substituted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **7(b)**
- F89** Sch. 2 para. 4(3)(d) and word added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **23(b)(iii)** (with reg. 37)
- F90** Sch. 2 para. 4(3)(ca) inserted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **7(e)**

- F91** Word in Sch. 2 para. 4(3)(d) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(d)**
- F92** Sch. 2 para. 4(3A) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(c)** (with reg. 37)
- F93** Sch. 2 para. 4(3B) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(d)** (with reg. 37)
- F94** Word in Sch. 2 para. 4(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(4)(c)** (with reg. 37)
- F95** Words in Sch. 2 para. 4(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(e)** (with reg. 37)
- F96** Word in Sch. 2 para. 4(4) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F97** Sch. 2 para. 4(5) substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(4)(a)** (with reg. 8)
- F98** Words in Sch. 2 para. 4(5)(b) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(f)** (with reg. 37)
- F99** Words in Sch. 2 para. 4(6)(b) inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(d)(ii)**
- F100** Sch. 2 para. 4(7) substituted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(4)(b)** (with reg. 8)
- F101** Sch. 2 para. 4(7)(b)(i) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(g)** (with reg. 37)
- F102** Words in Sch. 2 para. 4(7)(b)(ii) substituted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(2)**
- F103** Sch. 2 para. 4(7)(b)(iii) and word inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(e)(i)**
- F104** Word in Sch. 2 para. 4(7) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(e)(ii)**
- F105** Sch. 2 para. 4(7A) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(f)**
- F106** Words in Sch. 2 para. 4(8) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(g)(i)**
- F107** Sch. 2 para. 4(8)(a) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(g)(ii)**
- F108** Sch. 2 para. 4(9)(a) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(h)**
- F109** Words in Sch. 2 para. 4 omitted (31.3.2011) by virtue of The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(a)**
- F110** Words in Sch. 2 para. 4(10) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(h)** (with reg. 37)
- F111** Words in Sch. 2 para. 4(10) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(i)**
- F112** Sch. 2 para. 4(10A) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(j)**
- F113** Sch. 2 para. 4(11) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(k)**
- F114** Words in Sch. 2 para. 4(12) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(l)**
- F115** Sch. 2 para. 4(13)-(13D) substituted for Sch. 2 para. 4(13) (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **23(i)** (with reg. 37)
- F116** Word in Sch. 2 para. 4(13) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **7(m)**

F117 Word in Sch. 2 para. 4(13A) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), 7(n)

[^{F118}Bridging pensions

4A.—(1) This paragraph applies where—

- (a) the annual rate of the pension determined for the purposes of calculating the expected pension under paragraph 3(2) or 4(2) includes an amount which, under the scheme rules, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and

[^{F119}(b) either—

- (i) an annuity has been purchased for the beneficiary which provides for payment of a pension to the beneficiary at a lower annual rate from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable under the scheme rules; or
- (ii) a notional pension has been determined in respect of the beneficiary which includes an amount in respect of an amount which under scheme rules would be payable for a period which is shorter than the period in respect of which the remainder of the pension would be payable.]

(2) Where this paragraph applies, the scheme manager shall redetermine the annual payment payable to that beneficiary with effect from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable under the rules of the pension scheme.

(3) When redetermining an annual payment under sub-paragraph (2)—

- (a) the annual rate of the pension for the purposes of paragraph 3(3)(a) [^{F120}and (c)] shall be the annual rate of pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme less the annual amount which was payable for the shorter period referred to in sub-paragraph (1)(a), as at the day which is the day before the day on which the qualifying pension scheme began to be wound up;
- (b) the annual rate of the pension for the purposes of paragraph 3(3)(b)(i) shall be the amount which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme less the annual amount which was payable for the shorter period referred to in sub-paragraph (1)(a), as at the day on which the qualifying member attained normal retirement age;
- (c) the amount specified in paragraph 4(3)(a) shall be the amount determined in accordance with that paragraph less the amount which is the amount which was payable for the shorter period referred to in sub-paragraph (1)(a);
- (d) the amount which was payable for the shorter period referred to in sub-paragraph (1)(a) shall be disregarded when determining the revaluation amounts; and
- (e) the beneficiary shall be entitled to so much of the total amount of the annual increases determined in accordance with paragraph 9 payable to the beneficiary as at the date referred to in sub-paragraph (2) as are attributable to the amount of expected pension determined in accordance with this paragraph.

(4) In any case where the scheme manager is satisfied, having regard to the information available to it, that it is not possible for it to determine the annual rate of pension for the purposes of sub-paragraph (3)(a) or (b) or any one of the amounts for the purposes of sub-paragraph (3)(c) to (e) it shall determine that annual rate or amount, having regard to such matters as it considers relevant.

(5) In sub-paragraph (3)(d) “the revaluation amounts” means—

- (a) the revaluation amount referred to in paragraph 3(3)(b)(ii) [^{F121}and (c)(ii) and (iii)]; and
- (b) the revaluation amounts referred to in paragraph 4(3)(b) to (d).

Textual Amendments

- F118** Sch. 2 paras. 4A, 4B inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **24** (with reg. 37)
- F119** Sch. 2 para. 4A(1)(b) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(e)(i)**
- F120** Words in Sch. 2 para. 4A(3)(a) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(e)(ii)**
- F121** Words in Sch. 2 para. 4A(5)(a) inserted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **8**

Pension payable at an age other than normal retirement age

4B.—(1) This paragraph applies where any pension or part of a pension would have been payable to the qualifying member for life without actuarial adjustment under the rules of the qualifying pension scheme (disregarding any rule making special provision as to early payment on the grounds of ill health or otherwise) at an age other than the member’s normal retirement age.

(2) Where this paragraph applies—

- (a) paragraphs 3(3) and 4(3) and (3A) shall have effect as if the amount of pension or part of a pension payable at the age other than the member’s normal retirement age were a separate pension;
- (b) paragraph 4(3)(a) shall have effect as if the reference to normal retirement age were a reference to the age at which the pension or part of a pension would be payable to the qualifying member without actuarial reduction under the rules of the qualifying pension scheme (disregarding any rule making special provision as to early payment on the grounds of ill health or otherwise); and
- (c) “expected pension” in paragraphs 3(2) and 4(2) means, subject to paragraph 4(4), the aggregate of the amounts calculated as the expected pension in accordance with paragraphs 3 and 4 in relation to any pension treated as a separate pension in accordance with paragraph (a).

(3) An actuarial factor, determined having regard to such matters as the person determining the factor considers relevant, shall be applied to any amount determined in accordance with sub-paragraph (2)(a).]

Textual Amendments

- F118** Sch. 2 paras. 4A, 4B inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **24** (with reg. 37)

Survivors of qualifying members

5.—^{F122}(1) This paragraph applies where—

- (a) immediately before a qualifying pension scheme began to wind up, a qualifying member—
 - (i) was entitled to present payment of a pension under the scheme rules and that pension was attributable—

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- (aa) to the member’s pensionable service; or
- (bb) (directly or indirectly) to a pension credit to which the member became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits); or
- (ii) was an active member or a deferred member of that scheme;
- (b) that member dies on or after the day on which the scheme began to wind up; and
- (c) that member—
 - (i) was entitled to an annual payment ^{F123} ..., or
 - (ii) would have been entitled to such an annual payment had he not died before he became so entitled.]

(2) The annual payment payable to the survivor of a qualifying member to whom this paragraph applies shall be determined in accordance with [^{F124}sub-paragraph (3) or (6A)].

[^{F125}(3) Except where sub-paragraph (6A) applies, the annual payment payable to a survivor shall be—]^{F126}

$$\frac{\text{expected pension} \times 0.9}{2} + H - A;$$

5.—(4) In sub-paragraph (3), “expected pension” shall, subject to sub-paragraph (5), be determined—

- (a) where the qualifying member was entitled to present payment of a pension under the scheme rules [^{F127}on the day before the day on which the qualifying pension scheme began to be wound up] in accordance with paragraph 3(3); or
- (b) where the qualifying member was an active member or a deferred member of a qualifying pension scheme [^{F127}on the day before the day on which the qualifying pension scheme began to be wound up] in accordance with [^{F128}sub-paragraph (7)].

(5) In any case where the scheme manager is satisfied that it is not possible for [^{F129}it] to identify either or both elements of the formula in sub-paragraph (3), [^{F130}it] may determine how the annual payment is to be calculated having regard to the scheme rules and such other matters as [^{F130}it] considers relevant.

^{F131}(6)

[^{F132}(6A) Where the qualifying member was a party to a polygamous marriage, the annual payment payable to each survivor shall be—

(E+H)N–B

(6B) In this paragraph—

- “A” means the actual pension;
- “B” means the sum of the actual pensions of all the survivors of that qualifying member;
- “E” means one half of the product of 0.9 multiplied by the expected pension which would be determined in accordance with sub-paragraph (3) if sub-paragraph (6A) did not apply;
- [^{F133}“H” means the aggregate of—

- (a) one half of the amount of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled on the day on which the qualifying member died; and
- (b) where sub-paragraph (6C) applies, the total amount of annual increases determined in accordance with paragraph 9 to which any survivor was entitled on the day on which the survivor died.]

“N” means the number of survivors of that qualifying member.

(6C) Where a survivor of a qualifying member who was a party to a polygamous marriage dies, the annual payment payable to each survivor of that qualifying member shall be redetermined with effect from the day after the day on which the survivor died.]

[^{F134}(7) For the purposes of sub-paragraph (4)(b), “expected pension” means the aggregate amount of—

- (a) the amount specified in paragraph 4(3)(a);
- (b) the revaluation amount for the first survivor revaluation period (see sub-paragraphs (8) and (9)); ^{F135} ...
- (c) the revaluation amount for the second survivor revaluation period (see sub-paragraphs (10) and (11)); ^{F136} ...

[in any case where—

- ^{F137}(ca) (i) the day from which the qualifying member became entitled to an annual payment; or
- (ii) the day from which the survivor of the qualifying member became entitled to an annual payment,

is on or after 31st March 2011, the revaluation amount for the third survivor revaluation period (see sub-paragraphs (10A) and (11)); and]

[^{F138}(d) in any case where—

- (i) 14th May 2004 is later than—
 - (aa) the day on which the qualifying member died; and
 - (bb) the day on which the qualifying pension scheme began to be wound up; or
- (ii) the qualifying member attained normal retirement age before 14th May 2004 but died on or after 14th May 2004,

the revaluation amount for the [^{F139}fourth] survivor [^{F140}revaluation] period (see sub-paragraphs (12) and (13)).]

(8) The first survivor revaluation period is the period—

- (a) beginning on the day on which the qualifying member’s pensionable service ended; and
- (b) ending on—
 - (i) the day before the day on which the scheme began to wind up;
 - (ii) the day from which the qualifying member became entitled to an annual payment in accordance with regulation 17(2)[^{F141}, (3) or (3C) or 17C]; or
 - (iii) the day from which the survivor of the qualifying member became entitled to an annual payment under regulation 17(4),

whichever is the earliest.

(9) The revaluation amount for the first survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(6).

(10) The second survivor revaluation period is the period—

- (a) beginning on the day after the date determined in accordance with sub-paragraph (8)(b); and
- ^{F142}(b) ending on—
- (i) ^{F143}the earliest of—
- (aa) the day from which the qualifying member became entitled to an annual payment;
- (bb) the day from which the survivor of the qualifying member became entitled to an annual payment; or
- (cc) 31st March 2011; or]
- (ii) in any case where 14 May 2004 is later than—
- (aa) the day on which the qualifying member died; and
- (bb) the day on which the qualifying pension scheme began to be wound up, the day on which the qualifying member died.]

^{F144}(10A) The third survivor revaluation period is the period beginning on 31st March 2011 and ending on the earlier of—

- (a) the day from which the qualifying member became entitled to an annual payment; and
- (b) the day from which the survivor of the qualifying member became entitled to an annual payment.]

^{F145}(11) The revaluation amounts for the second and third survivor revaluation periods are the revaluation amounts determined in accordance with paragraph 4(8) to (12).]]

^{F146}(12) The ^{F147}fourth] survivor revaluation period is the period—

- (a) beginning on ^{F148}the day after the day determined in accordance with sub-paragraph (10)(b)]; and
- (b) ending on 14 May 2004.

(13) The revaluation amount for the ^{F149}fourth] survivor revaluation period is the revaluation amount determined in accordance with paragraph 4(13A) to (13D).]

Textual Amendments

- F122** Sch. 2 para. 5(1) substituted (16.12.2006) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(5)(a)**
- F123** Words in Sch. 2 para. 5(1)(c)(i) omitted (2.4.2010) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(f)(i)**
- F124** Words in Sch. 2 para. 5(2) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **25(a)** (with reg. 37)
- F125** Sch. 2 para. 5(3) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **25(b)** (with reg. 37)
- F126** Words in Sch. 2 para. 5(3) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(f)(ii)**
- F127** Words in Sch. 2 para. 5(4) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **25(c)** (with reg. 37)
- F128** Words in Sch. 2 para. 5(4)(b) substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(5)(a)** (with reg. 8)
- F129** Word in Sch. 2 para. 5(5) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(4)(c)** (with reg. 37)

- F130** Word in Sch. 2 para. 5(5) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F131** Sch. 2 para. 5(6) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(d)** (with reg. 37)
- F132** Sch. 2 para. 5(6A)-(6C) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(e)** (with reg. 37)
- F133** Words in Sch. 2 para. 5(6B) substituted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(f)(iii)**
- F134** Sch. 2 para. 5(7)-(11) inserted (4.6.2008) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 (S.I. 2008/1432), regs. 1, **7(5)(c)** (with reg. 8)
- F135** Word in Sch. 2 para. 5(7) omitted (10.7.2009) by virtue of The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(f)(i)** (with reg. 37)
- F136** Word in Sch. 2 para. 5(7)(c) omitted (31.3.2011) by virtue of The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(a)(i)**
- F137** Sch. 2 para. 5(7)(ca) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(a)(ii)**
- F138** Sch. 2 para. 5(7)(d) substituted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(f)(iv)**
- F139** Word in Sch. 2 para. 5(7)(d) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(a)(iii)(aa)**
- F140** Word in Sch. 2 para. 5(7)(d) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(a)(iii)(bb)**
- F141** Words in Sch. 2 para. 5(8)(b)(ii) substituted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(2)**
- F142** Sch. 2 para. 5(10)(b) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(g)** (with reg. 37)
- F143** Sch. 2 para. 5(10)(b)(i) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(b)**
- F144** Sch. 2 para. 5(10A) inserted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(c)**
- F145** Sch. 2 para. 5(11) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(d)**
- F146** Sch. 2 para. 5(12)(13) added (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **25(h)** (with reg. 37)
- F147** Word in Sch. 2 para. 5(12) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(e)**
- F148** Words in Sch. 2 para. 5(12)(a) substituted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(f)(v)**
- F149** Word in Sch. 2 para. 5(13) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **9(f)**

[F150] Payment for an entitlement under regulation 17C

5A.—(1) This paragraph applies where a qualifying member is entitled to an annual payment in accordance with regulation 17C for a period during which that member has previously received a relevant payment.

(2) The annual payment payable to a qualifying member to whom this paragraph applies is determined in accordance with this Schedule.

(3) For any period for which an annual payment under regulation 17C is due to be paid and a relevant payment has previously been paid, the relevant payment is treated as a payment on account of the annual payment under regulation 17C.

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(4) Where the amount of the relevant payment so treated equals the amount of the annual payment payable under sub-paragraph (2), no further payment under regulation 17C is due to the qualifying member.

(5) In this paragraph, “relevant payment” means a payment in accordance with these Regulations other than a payment for a survivor by virtue of regulation 17(4), 17A(3), 17B(2)(b) or 18(4).]

Textual Amendments

F150 Sch. 2 para. 5A inserted (27.3.2009) by [The Financial Assistance Scheme and Incapacity Benefit \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/792\)](#), regs. 1(1), **9(3)**

Surviving dependants of qualifying members

[^{F151}**5B.**—(1) The annual payment payable to a surviving dependant of a qualifying member shall be determined in accordance with sub-paragraphs (2) to (5).

(2) Where an annual payment is also payable to a survivor of the qualifying member and—

(a) there is only one surviving dependant, the amount of the annual payment shall be—

$$0.5 \times Q2 + D - B;$$

(b) there are two or more surviving dependants, the amount of the annual payment shall be—

$$(0.5 \times Q) + D - BN.$$

(3) Where the qualifying member does not have a survivor and—

(a) there is only one surviving dependant, the amount of annual payment shall be—

$$Q2 + D + S - B;$$

(b) there are two or more surviving dependants, the amount of the annual payment shall be—

$$Q + S + D - BN.$$

(4) Where—

(a) a survivor of a qualifying member, who is not a person who is treated as a survivor by virtue of regulation 37 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009, dies;

(b) a person ceases to be a surviving dependant of a qualifying member; or

(c) another person becomes entitled to an annual payment as a surviving dependant of a qualifying member,

the annual payment payable to a surviving dependant of that qualifying member shall be redetermined with effect from the day after the day on which the event referred to in paragraphs (a) to (c) occurred.

(5) In this paragraph—

“B” means—

(a) where there is only one surviving dependant, the surviving dependant’s actual pension; or

(b) where there are two or more surviving dependants, the sum of the actual pensions of all the surviving dependants of that qualifying member;

“D” means—

(a) subject to paragraph (b), where sub-paragraph (4) applies, the total amount of annual increases to which any surviving dependant was entitled under this Schedule on the day on which the event referred to in paragraphs (a) to (c) of that sub-paragraph occurred;

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- (b) where sub-paragraph (4)(a) applies and, as a result, the annual payment payable to a surviving dependant is redetermined under sub-paragraph (3)(a), nil; and
 - (c) in all other cases, nil;
- “N” means the number of surviving dependants of the qualifying member;
- “Q” means the sum of—
- (a) the product of 0.9 multiplied by the expected pension which has been or could have been determined in accordance with paragraph 5(4); and
 - (b) the total amount of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled on the day on which the qualifying member died;
- “S” means—
- (a) where sub-paragraph (4)(a) applies and, as a result the annual payment payable to a surviving dependant is redetermined under sub-paragraph (3), the total amount of annual increases to which the survivor was entitled on the day on which the survivor died; and
 - (b) in all other cases, nil.]

Textual Amendments

F151 Sch. 2 para. 5B substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(g)**

Exclusion of certain benefits

6.—(1) No account shall be taken of the benefits specified in sub-paragraph (2) when determining, for the purposes of this Schedule—

- (a) the assets available to be used to discharge a liability of a qualifying pension scheme;
- (b) the liabilities of such a scheme; and
- (c) the annual rate of pension from such a scheme.

(2) The specified benefits are—

- (a) money purchase benefit; ^{F152}and]
- (b) benefits derived from the payment of voluntary contributions where, on the winding up of the scheme, the assets of the scheme have first been applied to satisfy liabilities in respect of those benefits; ^{F153}...

^{F154}(c)

^{F155}(3)

Textual Amendments

F152 Word in Sch. 2 para. 6(2)(a) inserted (16.12.2006) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(6)(a)**

F153 Word in Sch. 2 para. 6(2)(b) omitted (16.12.2006) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(6)(b)**

F154 Sch. 2 para. 6(2)(c) omitted (16.12.2006) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(6)(c)**

F155 Sch. 2 para. 6(3) omitted (16.12.2006) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/3370\)](#), regs. 1(1), **7(6)(c)**

Cap on expected pension and actual pension

7.—^{F156}(1) Where the amount of a qualifying member's expected pension determined in accordance with the previous provisions of this Schedule multiplied by 0.9 exceeds the FAS cap—

- (a) the amount of the annual payment payable to, or in respect of, that member under paragraphs 3 to 5B shall be determined on the basis that the product of that calculation was the amount of the FAS cap; and
- (b) the expected pension for the purposes of paragraph (b)(i) in the definition of “underlying rate” in paragraph 9 shall be the amount of the FAS cap;]

(2) Where the amount of a qualifying member's actual pension determined in accordance with paragraph 2 exceeds—

- (a) the amount of a qualifying member's expected pension determined in accordance with the previous provisions of this Schedule multiplied by [^{F58}0.9]^{F157}...; or
- (b) [^{F158}the FAS cap],

no annual payment shall be payable to, or in respect of, that member.

^{F159}(3) Except where sub-paragraph (5) applies, in this paragraph [^{F160}the standard amount] is—

- (a) where the beneficiary became entitled to an annual payment before 1st April 2007, £26,000;
- (b) where the beneficiary became entitled to an annual payment in the period beginning on 1st April 2007 and ending on 31st March 2008, £26,936;
- (c) where the beneficiary became entitled to an annual payment in the period beginning on 1st April 2008 and ending on 31st March 2009, £27,987;
- (d) where the beneficiary became entitled, or becomes entitled, to an annual payment in the period beginning on 1st April 2009 and ending on 31st March 2010, £29,386; ^{F161}...
- ^{F162}(e) where the beneficiary becomes entitled to an annual payment in the period beginning on 1st April 2010 and ending on 31st March 2011, £29,386; and
- (f) where the beneficiary becomes entitled to an annual payment after 31st March 2011, the amount determined in accordance with sub-paragraph (4).]

(4) For each successive period of 12 months from [^{F163}1st April 2011], [^{F164}the standard amount] shall be—

- (a) where paragraph (b) does not apply, the amount of [^{F164}the standard amount] for the previous period of 12 months increased by the percentage increase [^{F165}in the general level of prices] for the period of 12 months ending on the 30th September falling within that previous period of 12 months; or
- (b) where there is no such percentage increase, the amount of [^{F164}the standard amount] for the previous period of 12 months.

(5) Where a qualifying member dies on or after the day on which that qualifying member became entitled to an annual payment, “the FAS cap” for the purposes of determining the amount of the annual payment payable to a survivor or a surviving dependant of that qualifying member under paragraph 5 or 5B is the amount which was determined in accordance with [^{F166}regulation 17AA (meaning of “the FAS cap”)] for the purposes of determining the amount of the annual payment payable to that qualifying member.

(6) Where the amount of [^{F167}the standard amount] determined in accordance with sub-paragraph [^{F168}(3)(f)] results in a fraction of a pound, that fraction shall be treated as a pound.]

Textual Amendments

- F58** Word in Sch. 2 substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(2)** (with reg. 8)
- F156** Sch. 2 para. 7(1) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **27(a)** (with reg. 37)
- F157** Words in Sch. 2 para. 7(2)(a) omitted (19.12.2007) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(7)(b)**
- F158** Words in Sch. 2 para. 7(2) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **27(b)** (with reg. 37)
- F159** Sch. 2 para. 7(3)-(6) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **27(c)** (with reg. 37)
- F160** Words in Sch. 2 para. 7(3) substituted (21.2.2018) by [The Financial Assistance Scheme \(Increased Cap for Long Service\) Regulations 2018 \(S.I. 2018/207\)](#), regs. 1(1), **3(a)** (with reg. 5)
- F161** Word in Sch. 2 para. 7(3)(d) omitted (31.3.2011) by virtue of [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **10(a)(i)**
- F162** Sch. 2 para. 7(3)(e)(f) substituted for Sch. 2 (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **10(a)(ii)**
- F163** Words in Sch. 2 para. 7(4) substituted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **10(b)(i)**
- F164** Words in Sch. 2 para. 7(4) substituted (21.2.2018) by [The Financial Assistance Scheme \(Increased Cap for Long Service\) Regulations 2018 \(S.I. 2018/207\)](#), regs. 1(1), **3(a)** (with reg. 5)
- F165** Words in Sch. 2 para. 7(4) substituted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **10(b)(ii)**
- F166** Words in Sch. 2 para. 7(5) substituted (21.2.2018) by [The Financial Assistance Scheme \(Increased Cap for Long Service\) Regulations 2018 \(S.I. 2018/207\)](#), regs. 1(1), **3(b)** (with reg. 5)
- F167** Words in Sch. 2 para. 7(6) substituted (21.2.2018) by [The Financial Assistance Scheme \(Increased Cap for Long Service\) Regulations 2018 \(S.I. 2018/207\)](#), regs. 1(1), **3(a)** (with reg. 5)
- F168** Words in Sch. 2 para. 7(6) substituted (21.2.2018) by [The Financial Assistance Scheme \(Increased Cap for Long Service\) Regulations 2018 \(S.I. 2018/207\)](#), regs. 1(1), **3(c)** (with reg. 5)

De minimis rule

^{F169}8.

Textual Amendments

- F169** Sch. 2 para. 8 omitted (19.12.2007) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/3581\)](#), regs. 1(1), **7(8)**

[^{F170}Annual increase to an annual payment

9.—(1) Except where there is no percentage increase in the [^{F171}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, a beneficiary entitled to an annual amount determined in accordance with paragraphs 2A to 5B shall be entitled, on the indexation date, to an increase of—

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- (a) the appropriate percentage of the amount of the underlying rate immediately before that date, or
 - (b) where the beneficiary first became entitled to an annual payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the annual payment was first payable.
- (2) In this paragraph—
- “appropriate percentage” means the lesser of—
- (a) the percentage increase in the [^{F171}general level of prices] for the period of 12 months ending with the 31st May last falling before the indexation date; and
 - (b) 2.5%;
- “underlying rate” means—
- (a) the aggregate of—
 - (i) the product of X multiplied by so much of the expected pension as is attributable to post-1997 service;
 - (ii) where—
 - (aa) the beneficiary is a survivor or a surviving dependant of a qualifying member; and
 - (bb) that qualifying member dies on or after the day on which that qualifying member became entitled to an annual payment,
 the product of X multiplied by W; and
 - (iii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date; or
 - (b) where paragraph 7(1) applies, the aggregate of—
 - (i) so much of the expected pension as is, proportionately, attributable to post-1997 service; and
 - (ii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date;
- “post-1997 service” means—
- (a) pensionable service (whether actual or notional) which occurs on or after 6th April 1997; or
 - (b) where the annual payment is payable to, or in respect of, a qualifying member who is, or was, a pension credit member of the scheme, pension credit rights deriving from rights attributable to service (whether actual or notional) which occurred on or after 6th April 1997;
- “W” means the amount of any annual increases to which the qualifying member was entitled in accordance with sub-paragraph (1) on ^{F172}... the day on which the qualifying member died;
- “X” means—
- (a) 0.9, where the beneficiary is the qualifying member;
 - (b) 0.45, where the beneficiary is a survivor who is not a survivor to whom paragraph 5(6A) applies;
 - (c) the product of 0.45 divided by Y, where the beneficiary is a survivor to whom paragraph 5(6A) applies;
 - (d) the product of 0.9 divided by Z, where the beneficiary is a surviving dependant and the qualifying member does not have a survivor; or

- (e) the product of 0.45 divided by Z, where the beneficiary is a surviving dependant and an annual payment is also payable to a survivor of the qualifying member;

“Y” means the number of survivors of the qualifying member; and

“Z” means—

- (a) where there is only one surviving dependant, 2; or
(b) where there is more than one surviving dependant, the number of surviving dependants of the qualifying member.

(3) In any case where the scheme manager is satisfied, having regard to the information available, that it is not possible for the scheme manager to determine the amount of expected pension which is attributable to post-1997 service for the purposes of this paragraph, the scheme manager shall determine that amount, having regard to such matters as the scheme manager considers relevant.]

Textual Amendments

F170 Sch. 2 para. 9 substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **28** (with reg. 37)

F171 Words in Sch. 2 para. 9(1)(2) substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **11**

F172 Words in Sch. 2 para. 9(2) omitted (2.4.2010) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **16(h)**

Initial payments

10. The preceding provisions of this Schedule shall apply for the purposes of determining the amount of an initial payment with the following modifications—

- (a) for paragraph 2, substitute—

^{F173}Interim pension

2.—(1) In this Schedule, “interim pension” means, subject to sub-paragraphs (2) and (3), 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 ^{F174}[or surviving dependant] 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 to or in respect of the qualifying member are, or were, discharged.

(2) Where—

- (a) the annual rate of pension referred to in sub-paragraph (1)—
(i) was or is in payment, and
(ii) was determined following commutation^{F175}, after the day on which the qualifying pension scheme began to be wound up,] of some of the benefits deriving from the scheme to which that qualifying member is entitled,
that annual rate shall be redetermined on the basis that there was ^{F176}[no such commutation]; and
(b) the annual rate of pension referred to in sub-paragraph (1) is proposed to be paid, that annual rate shall be determined on the basis that there has been no

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

commutation of benefits [^{F177}after the day on which the scheme began to be wound up].

(3) Where the scheme manager is satisfied that it is not possible for [^{F178}it] to determine the annual rate of pension for the purposes of sub-paragraph (1) having regard to the information available to [^{F178}it], [^{F179}it] shall determine the annual rate of pension on the basis of that portion of the assets of the qualifying pension scheme (of which the qualifying member is, or was, a member) provisionally allocated to the member by the trustees or managers, or survivor [^{F174}or surviving dependant] of that 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 such other matters as the scheme manager considers relevant.”];

(b) for “actual pension”, in each place, substitute “interim pension”;

[^{F180}(ba) for “[^{F181}regulation 17(2), (3) or (3C) or 17C]” in each place, substitute “regulation 18(4)”];

^{F182}(c)

^{F182}(ca)

[^{F183}(d) for “annual payment”, in each place that it occurs (except in paragraph 1(1)), substitute “initial payment”; and]

[^{F184}(e) in paragraph 5—

(i) for sub-paragraph (3) substitute—

“^{F58}(3) The initial payment payable to a survivor of a qualifying member shall be—

(expected pension x 0.9)2 - interim pension payable to that survivor.”; and; and”

(ii) [^{F185}for sub-paragraph (4) substitute—

“(4) In sub-paragraph (3), “expected pension” shall, subject to sub-paragraph (5), be the sum of—

(a) the amount determined—

(i) where the qualifying member was entitled to a present payment of a pension under the scheme rules on the day before the day on which the qualifying pension scheme began to be wound up, in accordance with paragraph 3(3); or

(ii) where the qualifying member was an active member or a deferred member of a qualifying pension scheme on the day before the day on which the qualifying pension scheme began to be wound up, in accordance with [^{F186}sub-paragraph (7)]; and

(b) the product of the aggregate of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled on ^{F187}... the day on which the qualifying member died divided by 0.9.”.]

Textual Amendments

F58 Word in Sch. 2 substituted (4.6.2008) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2008 \(S.I. 2008/1432\)](#), regs. 1, **7(2)** (with reg. 8)

- F173** Sch. 2 para. 10(a) substituted (16.12.2006) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/3370), regs. 1(1), **7(9)(a)**
- F174** Words in Sch. 2 para. 10(a) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(a)(i)** (with reg. 37)
- F175** Words in Sch. 2 para. 10(a) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(a)(ii)** (with reg. 37)
- F176** Words in Sch. 2 para. 10(a) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(9)(a)**
- F177** Words in Sch. 2 para. 10(a) inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(a)(iii)** (with reg. 37)
- F178** Word in Sch. 2 para. 10(a) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(4)(c)** (with reg. 37)
- F179** Word in Sch. 2 para. 10(a) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **7(1)(b)** (with reg. 37)
- F180** Sch. 2 para. 10(ba) substituted (17.7.2008) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/1903), regs. 1, **14(b)**
- F181** Words in Sch. 2 para. 10(ba) substituted (27.3.2009) by The Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/792), regs. 1(1), **9(5)**
- F182** Sch. 2 para. 10(c)(ca) omitted (19.12.2007) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(9)(c)**
- F183** Sch. 2 para. 10(d)(e) added (24.11.2005) by The Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/3256), regs. 1(1), **4(6)(e)(ii)**
- F184** Sch. 2 para. 10(e) substituted (19.12.2007) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/3581), regs. 1(1), **7(9)(d)**
- F185** Sch. 2 para. 10(e)(ii) substituted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **29(b)** (with reg. 37)
- F186** Words in Sch. 2 para. 10(e)(ii) substituted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(i)(i)**
- F187** Words in Sch. 2 para. 10(e)(ii) omitted (2.4.2010) by virtue of The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **16(i)(ii)**

[^{F188}Shared initial payments

10A.—(1) Where two or more survivors of a qualifying member are entitled to a shared initial payment by virtue of regulation 18(4B), the amount of each survivor’s shared initial payment shall be—

Z–YN

(2) In this paragraph—

“N” means the number of survivors of the qualifying member;

“Y” means the sum of the interim pensions of all the survivors which would have been determined in accordance with paragraph 5(3) had that paragraph applied to the survivors; and

“Z” means the product of 0.9 multiplied by the expected pension which would have been determined in accordance with paragraph 5(3) had that paragraph applied to the survivors.]

Textual Amendments

- F188** Sch. 2 para. 10A inserted (10.7.2009) by The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 (S.I. 2009/1851), regs. 1, **30** (with reg. 37)

Rounding

11. Where the amount of an annual payment or an initial payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

[^{F189}SCHEDULE 2A

Regulations 17A(8) and 17B(6)

DETERMINATION OF ILL HEALTH AND INTERIM ILL HEALTH PAYMENTS

Textual Amendments

F189 Sch. 2A inserted (17.7.2008) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1903\)](#), regs. 1, **15**

Introductory

1. This Schedule applies for the purposes of determining the amount of an ill health payment or an interim ill health payment payable to or in respect of qualifying members of qualifying pension schemes who are unable to work due to ill health and are likely to continue to be so unable to work until normal retirement age.

Amount of an ill health payment

2.—(1) The amount of an ill health payment payable to a qualifying member of a qualifying pension scheme shall be—

$$C((A \times 0.9) - B)$$

(2) [^{F190}Except where sub-paragraph (2A) applies, the amount of an ill health payment to a survivor of a qualifying member of a qualifying pension scheme shall be—]^{F191}

$$Q2 + S - B;$$

[^{F190}(2A) Where a qualifying member was a party to a polygamous marriage, the amount of an ill health payment payable to each survivor shall be—]^{F192}

(0.5 × Q) + S - BN: (2B) Where a survivor of a qualifying member who was a party to a polygamous marriage dies, the ill health payment payable to each survivor of that qualifying member shall be redetermined with effect from the day after the day on which the survivor died.]

(3) In this paragraph—

“A” means the amount of expected pension which would be determined in accordance with Schedule 2 if—

- (a) the beneficiary were entitled to an annual payment; and
- (b) the modifications in paragraph 6 applied;

“B” means the amount of actual pension which would be determined in accordance with Schedule 2 if—

- (a) the beneficiary were entitled to an annual payment; and
- (b) the modifications in paragraph 6 applied; ^{F193} ...

“C” means the actuarial factor, determined in accordance with paragraph 5, to be applied.

^{F194} ^{F195} ...

“N” means the number of survivors of that qualifying member.]

^{F196} “Q” means the sum of—

- (a) the product of C multiplied by A multiplied by 0.9; and
- (b) the total amount of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled on the day on which the qualifying member died;

“S” means—

- (a) where sub-paragraph (2B) applies, the total amount of any annual increases to which any survivor was entitled on the day on which the survivor died; and
- (b) in all other cases, nil.]

(4) This paragraph is subject to ^{F197} paragraph 7].

Textual Amendments

F190 Sch. 2A para. 2(2)-(2B) substituted for Sch. 2A para. 2(2) (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(a)(i)** (with reg. 37)

F191 Words in Sch. 2A para. 2(2) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(a)(i)**

F192 Words in Sch. 2A para. 2(2A) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(a)(ii)**

F193 Word in Sch. 2A para. 2(3) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(a)(ii)(aa)** (with reg. 37)

F194 Words in Sch. 2A para. 2(3) omitted (2.4.2010) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(a)(iii)(aa)**

F195 Words in Sch. 2A para. 2(3) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(a)(ii)(bb)** (with reg. 37)

F196 Words in Sch. 2A para. 2(3) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(a)(iii)(bb)**

F197 Words in Sch. 2A para. 2(4) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(a)(iii)** (with reg. 37)

Amount of an ill health payment to a surviving dependant

^{F198} **2A.**—(1) The amount of an ill health payment payable to a surviving dependant of a qualifying member shall be determined in accordance with sub-paragraphs (2) to (5).

(2) Where an ill health payment is also payable to a survivor of the qualifying member and—

(a) there is only one surviving dependant, the amount of the ill health payment shall be—

$$0.5 \times Q + D - B;$$

(b) there are two or more surviving dependants, the amount of the ill health payment shall be—

$$(0.5 \times Q) + D - BN.$$

(3) Where the qualifying member does not have a survivor and—

(a) there is only one surviving dependant, the amount of the ill health payment shall be—

$$(0.5 \times Q) + D + S - B;$$

(b) there are two or more surviving dependants, the amount of the ill health payment shall be—

(4) Where— $Q+S+D-BN$.

(a) a survivor of a qualifying member, who is not a person who is treated as a survivor by virtue of regulation 37 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009, dies;

(b) a person ceases to be a surviving dependant of a qualifying member; or

(c) another person becomes entitled to an ill health payment as a surviving dependant of a qualifying member,

the ill health payment payable to a surviving dependant of that qualifying member shall be redetermined with effect from the day after the day on which the event referred to in paragraphs (a) to (c) occurred.

(5) In this paragraph—

“A” means the amount of expected pension which would be determined in accordance with Schedule 2 if—

(a) the qualifying member were entitled to an annual payment; and

(b) the modifications in paragraph 6 applied;

“B” means—

(a) where there is only one surviving dependant, the actual pension of that surviving dependant which would be determined in accordance with Schedule 2 if—

(i) the surviving dependant were entitled to an annual payment; and

(ii) the modifications in paragraph 6 applied;

(b) where there are two or more surviving dependants, the sum of the actual pensions of all the surviving dependants of the qualifying member which would be determined in accordance with Schedule 2 if—

(i) the surviving dependants were entitled to annual payments; and

(ii) the modifications in paragraph 6 applied;

“C” means the actuarial factor, determined in accordance with paragraph 5, to be applied;

“D” means—

(a) subject to paragraph (b), where sub-paragraph (4) applies, the total amount of annual increases to which any surviving dependant was entitled under this Schedule on the day on which the event referred to in paragraphs (a) to (c) of that sub-paragraph occurred;

(b) where sub-paragraph (4)(a) applies and, as a result, the annual payment payable to a surviving dependant is redetermined under sub-paragraph (3)(a), nil; and

(c) in all other cases, nil;

“N” means the number of surviving dependants of the qualifying member;

“Q” means the sum of—

(a) the product of C multiplied by A multiplied by 0.9; and

(b) the total amount of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled on the day on which the qualifying member died; and

“S” means—

- (a) where sub-paragraph (4)(a) applies and, as a result the annual payment payable to a surviving dependant is redetermined under sub-paragraph (3), the total amount of annual increases to which the survivor was entitled on the day on which the survivor died; and
- (b) in all other cases, nil.]

Textual Amendments

F198 Sch. 2A para. 2A substituted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, 17(b)

Amount of an interim ill health payment

3.—(1) The amount of an interim ill health payment payable to a qualifying member of a qualifying pension scheme shall be—

$C((A \times 0.9) - D)$

(2) [^{F199}Except where sub-paragraph (2A) applies,] the amount of an interim ill health payment payable to a survivor of a qualifying member of a qualifying pension scheme shall be—^{F200}

$(C(A \times 0.9)) + H2 - E$

[^{F201}(2A) Where a qualifying member was a party to a polygamous marriage, the amount of an interim ill health payment payable to each survivor shall be—]

$(C(A \times 0.9)) + H2 - FN$

(3) In this paragraph—

“A” means the amount of expected pension which would be determined in accordance with Schedule 2 if—

- (a) the beneficiary were entitled to an initial payment; and
- (b) the modifications in paragraph 6 applied;

“C” means the actuarial factor, determined in accordance with paragraph 5, to be applied;

“D” means the amount of interim pension which would be determined in accordance with Schedule 2 if—

- (a) the qualifying member were entitled to an initial payment; and
- (b) the modifications in paragraph 6 applied; ^{F202}...

“E” means the amount of interim pension payable to the survivor which would be determined in accordance with Schedule 2 if—

- (a) the survivor were entitled to an initial payment; and
- (b) the modifications in paragraph 6 applied.

[^{F203}“F” means the sum of the interim pensions of all the survivors which would have been determined in accordance with Schedule 2 if—

- (a) the survivors had been entitled to initial payments; and
- (b) the modifications in paragraph 6 applied;

“H” means the aggregate of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled [^{F204}on] the day on which the qualifying member died; and

“N” means the number of survivors of that qualifying member.]

(4) This paragraph is subject to [^{F205}paragraph 7].

Textual Amendments

- F199** Words in Sch. 2A para. 3(2) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(c)(i)** (with reg. 37)
- F200** Words in Sch. 2A para. 3(2) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(c)(ii)** (with reg. 37)
- F201** Sch. 2A para. 3(2A) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(c)(iii)** (with reg. 37)
- F202** Word in Sch. 2A para. 3(3) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(c)(iv)(aa)** (with reg. 37)
- F203** Words in Sch. 2A para. 3(3) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(c)(iv)(bb)** (with reg. 37)
- F204** Word in Sch. 2A para. 3(3) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(c)**
- F205** Words in Sch. 2A para. 3(4) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(c)(v)** (with reg. 37)

[^{F206}Amount of an interim ill health payment for a surviving dependant

3A.—(1) The amount of an interim ill health payment payable to a surviving dependant of a qualifying member shall be determined in accordance with sub-paragraphs (2) to (5).

(2) Where an interim ill health payment is also payable to a survivor of the qualifying member and—

(a) there is only one surviving dependant, the amount of the interim ill health payment shall be—

(b) there are two or more surviving dependants, the amount of the interim ill health payment shall be—

(3) Where the qualifying member does not have a survivor and—

(a) there is only one surviving dependant, the amount of the interim ill health payment shall be—

(b) there are two or more surviving dependants, the amount of the ill health payment shall be—

(4) Where—

(a) a survivor of a qualifying member, who is not a person who is treated as a survivor under regulation 37 of the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009, dies; ^{F207} ...

(b) a person ceases to be a surviving dependant of a qualifying member [^{F208}; or]

[another person becomes entitled to an ill health payment as a surviving dependant of a ^{F208}(c) qualifying member.]

Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)

the interim ill health payment payable to a surviving dependant of that qualifying member shall be redetermined with effect from the day after the day on which [^{F209}the event referred to in paragraphs (a) to (c) occurred].

(5) In this paragraph—

“A” means the amount of expected pension which would be determined in accordance with Schedule 2 if—

- (a) the qualifying member were entitled to an annual payment; and
- (b) the modifications in paragraph 6 applied;

“C” means the actuarial factor, determined in accordance with paragraph 5, to be applied;

“F” means one half of the product of—

“G” means— $\frac{(C(A \times 0.9)) + H}{2}$

(a) where there is only one surviving dependant, the interim pension of the surviving dependant which would be determined in accordance with Schedule 2 if—

- (i) the surviving dependant was entitled to an annual payment; and
- (ii) the modifications in paragraph 6 applied;

(b) where there are two or more surviving dependants, the sum of the interim pensions of all the surviving dependants which would be determined in accordance with Schedule 2 if—

- (i) the surviving dependants were entitled to annual payments; and
- (ii) the modifications in paragraph 6 applied;

“H” means the aggregate of any annual increases determined in accordance with paragraph 9 to which the qualifying member was entitled [^{F210}on] the day on which the qualifying member died; and

“N” means the number of surviving dependants of that qualifying member.]

Textual Amendments

- F206** Sch. 2A para. 3A inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(d)** (with reg. 37)
- F207** Word in Sch. 2A para. 3A(4)(a) omitted (2.4.2010) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(d)(i)**
- F208** Sch. 2A para. 3A(4)(c) and word inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(d)(ii)**
- F209** Words in Sch. 2A para. 3A(4) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(d)(iii)**
- F210** Word in Sch. 2A para. 3A(5) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(e)**

Revaluation

^{F211}4.

Textual Amendments

F211 Sch. 2A para. 4 omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(e)** (with reg. 37)

Actuarial reduction

5. The actuarial factor to be applied in [^{F212}paragraphs 2 to 3A] shall be determined ^{F213}..., having regard to—

- (a) the age of the qualifying member;
- (b) the normal retirement age of the qualifying member; and
- (c) such other matters as the [^{F214}person determining the factor] considers relevant.

Textual Amendments

F212 Words in Sch. 2A para. 5 substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(f)**

F213 Words in Sch. 2A para. 5 omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(f)(i)** (with reg. 37)

F214 Words in Sch. 2A para. 5(c) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(f)(ii)** (with reg. 37)

Modifications to Schedule 2

6. The following modifications to Schedule 2 apply for the purposes of paragraphs 2 and 3 of this Schedule—

[in paragraph 1(2), in the definition of “revalued notional pension” for “regulation 17(10)”^{F215}(zza) substitute “regulation 17A(10);]

[in paragraph 2(1), for the words from “the later of” to the end of paragraph (b), substitute^{F216}(za) “the day on which the beneficiary is entitled to an ill health payment in accordance with regulation 17A”;

[in paragraph 2(3H)(b), for “Schedule 4”, substitute “Schedule 6”;^{F217}(zab)

(zac) in paragraph 3(3) and (3ZD), for “attains normal retirement age” substitute “becomes entitled to an ill health payment”.]

(zb) in paragraph 4(3)—

- (i) after paragraph (b) insert “and”;
- (ii) after paragraph (c) omit “and”; and
- (iii) omit paragraph (d);]

(a) for [^{F218}paragraph] 5(8)(b) substitute—

“(b) ending on the day before the day on which the scheme began to wind up.”;

[^{F219}(b) in paragraph 4(7)(b)(i) for “the day on which the qualifying member attains normal retirement age” substitute “the day from which the qualifying member is entitled to an ill health payment in accordance with regulation 17A(1)]

[for paragraph 4(7A)(a) substitute—

- ^{F220}(bza) “(a) the day from which the qualifying member is entitled to an ill health payment in accordance with regulation 17A(1);”];
- [^{F221}(ba) in paragraph 4(10A) for “annual payment” substitute “ill health payment”];
- [^{F222}(c) for paragraph 5(10)(b) substitute—
- “(b) ending on the earlier of—
- (i) the day on which the qualifying member became entitled to an ill health payment in accordance with regulation 17A(1); and
- (ii) 31st March 2011.”];
- [in paragraph 5(10A) for the words from “the earlier of” to the end substitute “the day from
- ^{F223}(ca) which the qualifying member became entitled to an ill health payment.”];
- (d) omit [^{F224}paragraphs 2A, 4(13) to (13D), 4A, 7, 9 and 10]; and
- (e) for paragraph 10(ba) substitute—
- “(ba) for “regulation 17A(1)”, in each place it occurs, substitute “regulation 17B(2)”;
- (bb) for “ill health payment”, in each place it occurs, substitute “interim ill health payment”;
- (bc) for paragraph 4(7)(b) substitute—
- “(b) ending on the day from which the qualifying member is entitled to an interim ill health payment in accordance with regulation 17B(2).”.

Textual Amendments

- F215** Sch. 2A para. 6(zza) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(g)(i)**
- F216** Sch. 2A para. 6(za)(zb) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(g)(i)** (with reg. 37)
- F217** Sch. 2A para. 6(zab)(zac) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(g)(ii)**
- F218** Word in Sch. 2A para. 6(a) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(g)(ii)** (with reg. 37)
- F219** Sch. 2A para. 6(b) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(g)(iii)** (with reg. 37)
- F220** Sch. 2A para. 6(bza) inserted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **12(a)**
- F221** Sch. 2A para. 6(ba) substituted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **12(b)**
- F222** Sch. 2A para. 6(c) substituted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **12(c)**
- F223** Sch. 2A para. 6(ca) inserted (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **12(d)**
- F224** Words in Sch. 2A para. 6(d) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(g)(v)** (with reg. 37)

Cap on expected pension and actual pension

7.—^{F225}(1) Where the amount of a qualifying member’s expected pension determined in accordance with paragraph 2, 3 or 3A multiplied by 0.9 exceeds the FAS cap—

- (a) the amount of the ill health payment or interim ill health payment payable to, or in respect of, that member under paragraph 2, 2A, 3 or 3A shall be determined on the basis that the product of that calculation was the amount of the FAS cap; and
- (b) the amount “A” under paragraph 2 for the purposes of paragraph (b)(i) in the definition of “underlying rate” in paragraph 9 shall be the amount of the FAS cap;]
- (2) Where the amount of a qualifying member’s actual pension or interim pension determined in accordance with this Schedule exceeds—
- (a) the amount of the qualifying member’s expected pension determined in accordance with paragraph 2 or 3 multiplied by 0.9; or
- (b) [^{F226}the FAS cap],
- no ill health payment or interim ill health payment shall be payable to, or in respect of, that member.
- [^{F227}(3) In this paragraph, [^{F228}the standard amount] is—
- (a) where the qualifying member became entitled to an ill health payment in the period beginning on 1st April 2008 and ending on 31st March 2009, £27,987;
- (b) where the qualifying member became entitled, or becomes entitled, to an ill health payment in the period beginning on 1st April 2009 and ending on 31st March 2010, £29,386; ^{F229}...
- [^{F230}(c) where the qualifying member becomes entitled to an ill health payment in the period beginning on 1st April 2010 and ending on 31st March 2011, £29,386; and
- (d) where the beneficiary becomes entitled to an ill health payment after 31st March 2011, the amount determined in accordance with sub-paragraph (4).]
- (4) For each successive period of 12 months from [^{F231}1st April 2011], [^{F232}the standard amount] shall be—
- (a) where paragraph (b) does not apply, the amount of [^{F232}the standard amount] for the previous period of 12 months increased by the percentage increase [^{F233}in the general level of prices] for the period of 12 months ending on the 30th September falling within that previous period of 12 months; or
- (b) where there is no such percentage increase, the amount of [^{F232}the standard amount] for the previous period of 12 months.
- (5) Where the amount of [^{F234}the standard amount] determined in accordance with sub-paragraph [^{F235}(3)(d)] results in a fraction of a pound, that fraction shall be treated as a pound.]

Textual Amendments

F225 Sch. 2A para. 7(1) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(h)(i)** (with reg. 37)

F226 Words in Sch. 2A para. 7(2) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(h)(ii)** (with reg. 37)

F227 Sch. 2A para. 7(3)-(5) added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(h)(iii)** (with reg. 37)

F228 Words in Sch. 2A para. 7(3) substituted (21.2.2018) by [The Financial Assistance Scheme \(Increased Cap for Long Service\) Regulations 2018 \(S.I. 2018/207\)](#), regs. 1(1), **4(a)** (with reg. 5)

F229 Word in Sch. 2A para. 7(3)(b) omitted (31.3.2011) by virtue of [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **13(a)(i)**

F230 Sch. 2A para. 7(3)(c)(d) substituted for Sch. 2A para. 7(3)(c) (31.3.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(1), **13(a)(ii)**

- F231** Words in Sch. 2A para. 7(4) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **13(b)(i)**
- F232** Words in Sch. 2A para. 7(4) substituted (21.2.2018) by The Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018 (S.I. 2018/207), regs. 1(1), **4(a)** (with reg. 5)
- F233** Words in Sch. 2A para. 7(4) substituted (31.3.2011) by The Financial Assistance Scheme (Revaluation and Indexation Amendments) Regulations 2011 (S.I. 2011/839), regs. 1(1), **13(b)(ii)**
- F234** Words in Sch. 2A para. 7(5) substituted (21.2.2018) by The Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018 (S.I. 2018/207), regs. 1(1), **4(a)** (with reg. 5)
- F235** Word in Sch. 2A para. 7(5) substituted (21.2.2018) by The Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018 (S.I. 2018/207), regs. 1(1), **4(b)** (with reg. 5)

Rounding

8. Where the amount of an ill health payment or interim ill health payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.]

[^{F236}Annual increase to an ill health payment

9.—(1) Except where there is no percentage increase in the [^{F237}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, a beneficiary entitled to an amount determined in accordance with this Schedule shall be entitled, on the indexation date, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date, or
- (b) where the beneficiary first became entitled to an ill health payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the ill health payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F238}general level of prices] for the period of 12 months ending with the 31st May last falling before the indexation date; and
- (b) 2.5%;

“C” means the actuarial factor, determined in accordance with paragraph 5, to be applied;

“E” means so much of the expected pension as is attributable to post-1997 service;

“post-1997 service” means—

- (a) pensionable service (whether actual or notional) which occurs on or after 6th April 1997; or
- (b) where the ill health payment is payable to, or in respect of, a qualifying member who is, or was, a pension credit member of the scheme, pension credit rights deriving from rights attributable to service (whether actual or notional) which occurred on or after 6th April 1997;

“underlying rate” means—

- (a) the aggregate of—
 - (i) the product of X multiplied by

$$(C \times E)$$

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- ;
- (ii) where the beneficiary is a survivor or a surviving dependant of a qualifying member, the product of X multiplied by W; and
 - (iii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date; or
- (b) where paragraph 7(1) applies, the aggregate of—
- (i) so much of the amount “A” for the purposes of paragraph 2 as is, proportionately, attributable to post-1997 service; and
 - (ii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date;

“W” means the aggregate of any annual increases to which the qualifying member was entitled in accordance with sub-paragraph (1) on ^{F239}... the day on which the qualifying member died;

“X” means—

- (a) 0.9, where the beneficiary is the qualifying member;
- (b) 0.45, where the beneficiary is a survivor who is not a survivor to whom paragraph 2(2A) applies;
- (c) the product of 0.45 divided by Y, where the beneficiary is a survivor to whom paragraph 2(2A) applies;
- (d) the product of 0.9 divided by Z, where the beneficiary is a surviving dependant and the qualifying member does not have a survivor; or
- (e) the product of 0.45 divided by Z, where the beneficiary is a surviving dependant and an ill health payment is also payable to a survivor of the qualifying member;

“Y” means the number of survivors of the qualifying member; and

“Z” means—

- (a) where there is only one surviving dependant, 2; or
- (b) where there is more than one surviving dependant, the number of surviving dependants of the qualifying member.

(3) In any case where the scheme manager is satisfied, having regard to the information available, that it is not possible for the scheme manager to determine the amount of the amount “A” which is attributable to post-1997 service for the purposes of this paragraph, the scheme manager shall determine that amount, having regard to such matters as the scheme manager considers relevant.

Textual Amendments

F236 Sch. 2A paras. 9-11 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(i)** (with reg. 37)

F237 Words in Sch. 2A para. 9(1) substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **14**

F238 Words in Sch. 2A para. 9(2) substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **14**

F239 Words in Sch. 2A para. 9(2) omitted (2.4.2010) by virtue of [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(h)**

Annual redetermination

10.—(1) This paragraph applies where—

(a) on the first indexation date following the date on which the beneficiary first became entitled to an ill health payment; and

(b) on any indexation date following that first indexation date;

the annual rate of annuity which has been or could have been paid to the beneficiary as at that indexation date as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has, or had been, determined, is higher as a result of indexation or revaluation than the annual rate determined in accordance with the preceding paragraphs of this Schedule.

(2) Where this paragraph applies, the scheme manager shall redetermine the ill health payment payable to that beneficiary with effect from the indexation date.

(3) When redetermining an ill health payment under sub-paragraph (2), the actual pension shall be the annual rate of annuity which has been or could have been paid to the beneficiary as at the indexation date as a result of the purchase of an annuity with the assets available to discharge the liability of the scheme to, or in respect of, the qualifying member after that liability has, or had been, determined, on the basis of, and having regard to, the matters referred to in paragraph 2(3) of Schedule 2.

(4) In any case where the scheme manager is satisfied, having regard to the information available to it, that it is not possible for it to determine the annual rate of annuity for the purposes of this paragraph, it shall determine that annual rate having regard to such matters as it considers relevant.

(5) Where the scheme manager is satisfied that increases have been, are being, or will be made to the annual rate of annuity, and it considers that those increases are not reasonable, it may determine the annual rate of annuity for the purposes of this paragraph on the basis of the sum which would discharge the liability of the scheme to the beneficiary and of such other matters as it considers relevant.

Textual Amendments

F236 Sch. 2A paras. 9-11 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(i)** (with reg. 37)

Bridging pensions

11.—(1) This paragraph applies where—

(a) the annual rate of the pension determined for the purposes of calculating the expected pension under paragraph 3(2) or 4(2) of Schedule 2 (for the purposes of determining an ill health payment) includes an amount which, under the scheme rules, was payable for a period which is shorter than the period in respect of which the remainder of the pension was payable; and

[^{F240}(b) either—

(i) an annuity has been purchased for the beneficiary which provides for payment of a pension to the beneficiary at a lower annual rate from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable under the rules of the pension scheme; or

(ii) a notional pension has been determined in respect of the beneficiary which includes an amount in respect of an amount which under scheme rules would be payable for a period which is shorter than the period in respect of which the remainder of the pension would be payable.]

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(2) Where this paragraph applies, the scheme manager shall redetermine the ill health payment payable to that beneficiary with effect from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable under the rules of the pension scheme.

(3) When redetermining an ill health payment under sub-paragraph (2)—

- (a) the annual rate of the pension for the purposes of paragraph 3(3)(a) of Schedule 2 shall be the annual rate of pension which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme less the annual amount which was payable for the shorter period referred to in sub-paragraph (1)(a), as at the day which is the day before the day on which the qualifying pension scheme began to be wound up;
- (b) the annual rate of the pension for the purposes of paragraph 3(3)(b)(i) of Schedule 2 shall be the amount which was or should have been in payment to the qualifying member in accordance with the scheme rules in respect of rights accrued in a qualifying pension scheme less the annual amount which was payable for the shorter period referred to in sub-paragraph (1)(a), as at the day on which the qualifying member attained normal retirement age;
- (c) the amount specified in paragraph 4(3)(a) of Schedule 2 shall be the amount determined in accordance with that paragraph less the amount which is the amount which was payable for the shorter period referred to in sub-paragraph (1)(a);
- (d) the amount which was payable for the shorter period referred to in sub-paragraph (1)(a) shall be disregarded when determining the revaluation amounts; and
- (e) the beneficiary shall be entitled to so much of the total amount of the annual increases determined in accordance with paragraph 9 payable to the beneficiary as at the date referred to in sub-paragraph (2) as are attributable to the amount of expected pension determined in accordance with this paragraph.

(4) In any case where the scheme manager is satisfied, having regard to the information available to it, that it is not possible for it to determine the annual rate of pension for the purposes of sub-paragraph (3)(a) or (b) or any one of the amounts for the purposes of sub-paragraph (3)(c) to (e) it shall determine that annual rate or amount, having regard to such matters as it considers relevant.

(5) In sub-paragraph (3)(d) “the revaluation amounts” means—

- (a) the revaluation amount referred to in paragraph 3(3)(b)(ii) of Schedule 2; and
- (b) the revaluation amounts referred to in paragraph 4(3)(b) and (c) of Schedule 2.]

Textual Amendments

F236 Sch. 2A paras. 9-11 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **31(i)** (with reg. 37)

F240 Sch. 2A para. 11(1)(b) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **17(i)**

[^{F241}SCHEDULE 3

Regulation 17(8)(b) to (f) and (16)(a)

Determination of certain annual payments

Textual Amendments

F241 Sch. 3 added (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, 18(a), **Sch. 2**

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of an annual payment payable to a beneficiary to whom regulation 17(8)(b) to (f) or (16)(a) applies.

(2) In this Schedule—

“A” means—

- (a) where the qualifying member is a qualifying member to whom regulation 17D applied, the amount by which the qualifying member’s annual payment has been commuted; and
- (b) in all other cases, nil;

“B” means—

- (a) where either or both sub-paragraphs (3) or (6) apply, the amount by which the scheme manager determines the annual payment which would otherwise be payable under this Schedule is to be reduced;
- (b) where the beneficiary is a qualifying member to whom regulation 17H applied, the amount, if any, by which the scheme manager determined the payment which would otherwise have been payable under Schedule 7 should be reduced; and
- (c) in all other cases, nil;

“D” means—

- (a) subject to paragraph (b), where sub-paragraph (4) of paragraph 4 applies, the total amount of annual increases to which any surviving dependant was entitled under this Schedule on the day on which the event referred to in paragraphs (a) to (c) of that sub-paragraph occurred;
- (b) where paragraph 4(4)(a) applies and, as a result, the annual payment payable to a surviving dependant is redetermined under paragraph 4(3)(a), nil; and
- (c) in all other cases, nil;

“J” means—

- (a) where the qualifying member became entitled to an annual payment or began to receive a present payment from the qualifying scheme prior to the day on which the transfer notice was given, the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11); and
- (b) in all other cases, nil;

“N” means—

- (a) in paragraph 3, the number of survivors of that qualifying member; and
- (b) in paragraph 4, the number of surviving dependants of that qualifying member;

“Q” means—

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- (a) where the beneficiary is a person to whom regulation 17(17)(a) applies, the payment to which the qualifying member was entitled in accordance with Schedule 7 immediately before the qualifying member died; and
- (b) in all other cases, the sum of—
 - (i) R-A;
 - (ii) the total amount of any annual increases which the scheme manager considers could have been paid, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11), from the relevant date until the earlier of—
 - (aa) the day on which the transfer notice is given; and
 - (bb) the day on which the qualifying member died;
 - (iii) where the qualifying member died after the calculation date but before the day on which the transfer notice was given, double the total amount of any annual increases which the scheme manager considers could have been paid to a survivor (on the basis that there is one survivor) from the day after the day on which the qualifying member died until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11); and
 - (iv) where the qualifying member died on or after the day on which the transfer notice was given, the total amount of any annual increases to which the qualifying member was entitled in accordance with paragraph 6 on the day on which the qualifying member died;

“R” means the amount of the revalued notional pension as construed in accordance with regulation 17(10);

“S” means—

- (a) where paragraph 3(2) applies, the total amount of increases to which any survivor was entitled under this Schedule on the day on which the survivor died; and
- (b) where sub-paragraph (4) of paragraph 4 applies, the total amount of increases to which any survivor was entitled under this Schedule on the day on which the event referred to in paragraphs (a) to (c) of that sub-paragraph occurred; and
- (c) in all other cases, nil; and

“relevant date” means—

- (a) where the beneficiary began to receive a payment from the scheme after the calculation date and prior to becoming entitled to an annual payment under these Regulations, the date on which the beneficiary began to receive a present payment from the scheme;
- (b) where the beneficiary is a qualifying member to whom paragraph (a) does not apply, but to whom paragraph (3) or (3C) applies, the date on which the qualifying member became entitled to an annual payment under that paragraph; and
- (c) in all other cases, the date from which the notional pension or survivor notional pension could have been payable as determined in accordance with regulation 27(3) and (4).

(3) Where the scheme manager is satisfied that an amount is owed by the beneficiary to the Secretary of State as a result of the beneficiary owing, before the day on which a transfer notice is given, a debt to a qualifying pension scheme to which Part 7 applies, the scheme manager may determine how the annual payment which would otherwise be payable under this Schedule is to be reduced, having regard to the amount owed by the beneficiary and to such other matters as the scheme manager considers relevant.

(4) Sub-paragraph (6) applies where the scheme manager is satisfied that the sum of the interim pension paid to a beneficiary and any payment made under these Regulations in respect of any year in the period determined in accordance with sub-paragraph (5) is higher or lower than the sum of—

- (a) the revalued notional pension, or the survivor notional pension, as the case may be; and
- (b) any annual increases or proportion of annual increases, which the scheme manager considers could have been paid in respect of that year, taking into account—
 - (i) the determination under regulation 27(1)(d);
 - (ii) the revaluation amount determined in accordance with regulation 17(11); and
 - (iii) the proportion of that year which falls after the 1st January.

(5) For the purposes of sub-paragraph (4), the period is the period from—

- (a) the earlier of—
 - (i) the day on which the beneficiary became entitled to a payment under these Regulations; and
 - (ii) the day on which the beneficiary became entitled under the scheme rules to a pension or other benefit; or
- (b) the day on which the qualifying pension scheme began to be wound up if that is later than the day determined in accordance with paragraph (a),

until the day on which the scheme manager gave a transfer notice to the scheme trustees or managers.

(6) Where this sub-paragraph applies, the scheme manager may—

- (a) determine the amount by which the annual payment which would otherwise be payable under this Schedule in respect of the beneficiary is to be reduced, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the revalued notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant; and
- (b) where the sum of the interim pension paid and any payments made under these Regulations in respect of any year is lower than the sum of the amounts referred to in sub-paragraph (4) (a) and (b) in respect of that year, make a payment to the beneficiary or, where the beneficiary has died prior to the scheme manager making this determination, to the beneficiary's estate, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the revalued notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant.

Amount of an annual payment – qualifying members

2. The annual payment payable to a qualifying member to whom this Schedule applies shall be—
R–A+J–B.

Amount of an annual payment - survivors

3.—(1) Where this Schedule applies, the annual payment payable to a survivor of a qualifying member shall be—

- (a) where regulation 17(8)(f) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that survivor; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given,
 less the amount, if any, by which the scheme manager determines the payment should be reduced in accordance with paragraph 1(3) or (6); and
- (b) where regulation 17(8)(c) to (e) or (16)(a) applies—
 - (i) where sub-paragraph (ii) does not apply—
 $Q2+S$;
 - (ii) where the qualifying member was a party to a polygamous marriage—
 $(0.5 \times Q)+SN$.

(2) Where a survivor to whom sub-paragraph (1)(b)(ii) applies dies, the annual payment payable to all remaining survivors of the qualifying member shall be redetermined with effect from the day after the day on which the survivor died.

Surviving Dependants

4.—(1) Where this Schedule applies, the annual payment payable to a surviving dependant of a qualifying member shall be—

- (a) where regulation 17(8)(f) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that surviving dependant; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given,
 less the amount, if any, by which the scheme manager determines the payment should be reduced in accordance with paragraph 1(3) or (6); and
 - (b) where regulation 17(8)(c) to (e) or (16)(a) applies, determined in accordance with sub-paragraphs (2) to (4).
- (2) Where an annual payment is also payable to a survivor of a qualifying member and—
- (a) there is only one surviving dependant, the amount of the annual payment shall be—
 $0.5 \times Q2+D$;
 - (b) there are two or more surviving dependants, the amount of the annual payment shall be—
 $(0.5 \times Q)+DN$.
- (3) Where an annual payment is not payable to a survivor of a qualifying member and—
- (a) there is only one surviving dependant, the amount of the annual payment shall be—

Q2+S+D;

(b) there are two or more surviving dependants, the amount of the annual payment shall be—

Q+S+DN.

(4) Where—

- (a) a survivor of a qualifying member dies;
- (b) a person ceases to be a surviving dependant of a qualifying member; or
- (c) another person becomes a surviving dependant of a qualifying member,

the annual payment payable to a surviving dependant of that qualifying member shall be redetermined with effect from the day after the day on which the event referred to in paragraphs (a) to (c) occurred.

Rounding

5. Where the amount of an annual payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

Annual increases to an annual payment

6.—(1) Except where there is no percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, a beneficiary entitled to an annual amount determined in accordance with this Schedule shall be entitled, on each indexation date after the day on which the transfer notice is given, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date; or
- (b) where the beneficiary first became entitled to an annual payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the annual payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with the 31st May last falling before the indexation date; and
- (b) 2.5%;

“underlying rate” means the aggregate of—

- (a) the product of X multiplied by—
 - (i) where the beneficiary is a qualifying member or a survivor or surviving dependant of a qualifying member who died on or after the calculation date—
 - (aa) where the qualifying member is not a qualifying member to whom regulation 17D applied, so much of the revalued notional pension as is attributable to post-1997 service; or
 - (bb) where the qualifying member is a qualifying member to whom regulation 17D applied, so much of the sum of R-A as is attributable to post-1997 service; and
 - (ii) where the beneficiary is a survivor or surviving dependant in respect of whom a survivor notional pension has been determined, so much of the survivor notional pension as is attributable to the qualifying member’s post-1997 service;

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- (b) where the beneficiary is a qualifying member, the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice was given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11);
- (c) where the beneficiary is a survivor or surviving dependant in respect of whom a survivor notional pension has been determined, the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given;
- (d) where the beneficiary is a survivor or a surviving dependant of a qualifying member who died on or after the calculation date but before the day on which the transfer notice was given, the sum of—
 - (i) the product of X multiplied by the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the date on which the qualifying member died, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11); and
 - (ii) the total amount of any annual increases which the scheme manager considers could have been paid to the beneficiary from the day after the day on which the qualifying member died until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11);
- (e) where the beneficiary is the survivor or surviving dependant of a qualifying member who died after the day on which the transfer notice was given, the product of X multiplied by the sum of—
 - (i) the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice was given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17(11); and
 - (ii) the total amount of any annual increases to which the qualifying member was entitled in accordance with sub-paragraph (1) on the day on which the qualifying member died; and
- (f) any annual increases to which the beneficiary is entitled under this Schedule immediately before the indexation date;

“post-1997 service” means—

- (a) pensionable service (either actual or notional) which occurred on or after 6th April 1997; or
- (b) where the pension was payable to, or in respect of, a qualifying member who is, or was, a pension credit member of the scheme, pension credit rights deriving from rights attributable to service (whether actual or notional) which occurred on or after 6th April 1997;

“X” means—

- (a) 1, where the beneficiary is the qualifying member or a survivor or surviving dependant in respect of whom a survivor notional pension has been determined;
- (b) 0.5, where the beneficiary is a survivor who is neither—
 - (i) a survivor to whom paragraph 3(1)(b)(ii) applies; nor
 - (ii) a survivor in respect of whom a survivor notional pension has been determined;

- (c) the product of 0.5 divided by Y, where the beneficiary is a survivor to whom paragraph 3(1)(b)(ii) applies;
- (d) the product of 1 divided by Z, where the beneficiary is a surviving dependant in respect of whom a survivor notional pension has not been determined and the qualifying member does not have a survivor; or
- (e) the product of 0.5 divided by Z, where the beneficiary is a surviving dependant in respect of whom a survivor notional pension has not been determined and an annual payment is also payable to a survivor of the qualifying member;

“Y” means the number of survivors of the qualifying member; and

“Z” means—

- (a) where there is only one surviving dependant, 2; or
- (b) where there is more than one surviving dependant, the number of surviving dependants of the qualifying member.

(3) In determining the underlying rate where a qualifying member is a qualifying member to whom regulation 17D applied, the amount of R-A that is attributable to post-1997 service is determined by attributing the sum to pre-1997 service and post-1997 service in the same proportions as the revalued notional pension would have been attributed had regulation 17D not applied.]

Textual Amendments

F242 Words in Schs. 3-7 substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **15**

[^{F243}SCHEDULE 4

Regulation 17(8)(g) to (k) and (16)(b)

Determination of annual payments where a present payment was being received on the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010

Textual Amendments

F243 Sch. 4 added (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, 18(b), **Sch. 2**

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of an annual payment payable to a beneficiary to whom regulation 17(8)(g) to (k) or (16)(b) applies.

(2) Where the scheme manager is satisfied that an amount is owed by the beneficiary to the Secretary of State as a result of the beneficiary owing, before a transfer notice is given, a debt to a qualifying pension scheme to which Part 7 applies, the scheme manager may determine how the annual payment which would otherwise be payable under this Schedule is to be reduced, having regard to the amount owed by the beneficiary and to such other matters as the scheme manager considers relevant.

(3) Sub-paragraph (5) applies where the scheme manager is satisfied that the sum of the interim pension paid to a beneficiary and any payment made under these Regulations in respect of any year in the period determined in accordance with sub-paragraph (4) is higher or lower than the sum of—

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- (a) the notional pension, or the survivor notional pension, as the case may be; and
 - (b) any annual increases or proportion of annual increases, which the scheme manager considers could have been paid in respect of that year, taking into account—
 - (i) the determination under regulation 27(1)(d); and
 - (ii) the proportion of that year which falls after the 1st January.
- (4) For the purposes of sub-paragraph (3), the period is the period from—
- (a) the earlier of—
 - (i) the day on which the beneficiary became entitled to a payment under these Regulations; and
 - (ii) the day on which the beneficiary became entitled under the scheme rules to a pension or other benefit; or
 - (b) the day on which the qualifying pension scheme began to be wound up if that is later than the day determined in accordance with paragraph (a),
- until the day on which the scheme manager gave a transfer notice to the scheme trustees or managers.
- (5) Where this sub-paragraph applies, the scheme manager may—
- (a) determine the amount by which the annual payment which would otherwise be payable under this Schedule in respect of the beneficiary is to be reduced, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant; and
 - (b) where the sum of the interim pension paid and any payments made under these Regulations in respect of any year is lower than the sum of the amounts referred to in sub-paragraph (3) (a) and (b) in respect of that year, make a payment to the beneficiary or, where the beneficiary has died prior to the scheme manager making this determination, to the beneficiary's estate, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant.
- (6) In this Schedule—
- “relevant date” means the date from which the notional pension or survivor notional pension could have been payable as determined in accordance with regulation 27(3) and (4); and
- “relevant proportion”, in relation to a beneficiary, means the proportion of the notional pension which relates to the beneficiary.

(7) Where—

- (a) the beneficiary is a qualifying member to whom regulation 17H applied; and
- (b) the scheme manager made a determination in accordance with paragraph 1(2) or (5) of Schedule 7, to reduce the payment under that Schedule by any amount,

the scheme manager shall reduce the amount of the annual payment payable under this Schedule by the same amount.

Qualifying members

2. Where this Schedule applies, the annual payment payable to a qualifying member shall be the sum of—

- (a) the notional pension determined in respect of the qualifying member; and
- (b) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the transfer notice is given,

less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2), (5) or (7).

Survivors

3. Where this Schedule applies, the annual payment payable to a survivor of a qualifying member shall be—

- (a) where regulation 17(8)(h) or (i) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that survivor; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the day after the qualifying member died until the day on which the transfer notice is given,less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2) or (5);
- (b) where regulation 17(8)(j) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the survivor;
 - (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the qualifying member died; and
 - (iii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension from the day after the day on which the qualifying member died until the day on which the transfer notice was given;
- (c) where regulation 17(8)(k) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the survivor;
 - (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which transfer notice was given; and

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- (iii) the relevant proportion of the total amount of any annual increases to which the qualifying member was entitled on the day on which the qualifying member died; and
- (d) where regulation 17(17)(b) applies, the relevant proportion of the payment to which the qualifying member was entitled in accordance with Schedule 7 immediately before the qualifying member died.

Surviving Dependents

4. Where this Schedule applies, the annual payment payable to a surviving dependant of a qualifying member shall be—

- (a) where regulation 17(8)(h) or (i) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that surviving dependant; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the day after the qualifying member died until the day on which the transfer notice is given,less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2) or (5);
- (b) where regulation 17(8)(j) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the surviving dependant;
 - (ii) the relevant proportion of the amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the qualifying member died; and
 - (iii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension, from the day after the day on which the qualifying member died until the day on which the transfer notice was given;
- (c) where regulation 17(8)(k) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the surviving dependant;
 - (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which transfer notice was given; and
 - (iii) the relevant proportion of the total amount of any annual increases to which the qualifying member was entitled on the day on which the qualifying member died; and
- (d) where regulation 17(17)(b) applies, the relevant proportion of the payment to which the qualifying member was entitled in accordance with Schedule 7 immediately before the qualifying member died.

Redetermination

5.—(1) This paragraph applies where the notional pension or survivor notional pension includes an amount in respect of an amount which under scheme rules—

- (a) would be payable for a period which is shorter than the period in respect of which the remainder of a pension would be payable; or

(b) would be payable as a result of a qualifying member dying within a period specified in scheme rules which begins on the day on which the member became entitled to a pension from the scheme, or the day on which the pension was first paid.

(2) Where this paragraph applies, the scheme manager shall redetermine the annual payment payable to the beneficiary with effect from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable, or the period referred to in sub-paragraph (1)(b) would have ended.

(3) When redetermining an annual payment under sub-paragraph (2), the scheme manager shall redetermine the notional pension or survivor notional pension having regard to the amount referred to in sub-paragraph (1).

Rounding

6. Where the amount of an annual payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

Annual increases to an annual payment

7.—(1) Except where there is no percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, where the asset share determined in respect of the beneficiary was sufficient to be applied to the amounts referred to in regulation 27(7)(a)(ii) or (10)(a)(ii), a beneficiary shall be entitled, on each indexation date after the day on which the transfer notice is given, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date; or
- (b) where the beneficiary first became entitled to an annual payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the annual payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date; and
- (b) 2.5%;

“underlying rate” means—

- (a) where the beneficiary is a qualifying member or a survivor or surviving dependant in respect of whom a survivor notional pension has been determined, the aggregate of—
 - (i) so much of the annual payments as the scheme manager determined under regulation 27(7)(a)(ii) or (10)(a)(ii) could be increased;
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension, or survivor notional pension, as the case may be, from the relevant date until the day on which the transfer notice is given; and
 - (iii) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date;
- (b) where the beneficiary is a survivor or surviving dependant of a qualifying member who died after the day on which the transfer notice was given, the aggregate of—
 - (i) the relevant proportion of so much of the annual payments as the scheme manager determined under regulation 27(7)(a)(ii) could be increased;

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- (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid to the qualifying member on the notional pension from the relevant date until the day on which the transfer notice is given;
 - (iii) the relevant proportion of any annual increases to which the qualifying member was entitled in accordance with this Schedule on the day on which the qualifying member died; and
 - (iv) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date; and
- (c) where the beneficiary is a survivor or surviving dependant of a qualifying member who died after the calculation date but prior to the day on which the transfer notice was given, the aggregate of—
- (i) the relevant proportion of so much of the annual payments as the scheme manager determined under regulation 27(7)(a)(ii) could be increased;
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension from the relevant date until the day on which the qualifying member died;
 - (iii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension from the day after the day on which the qualifying member died until the day on which the transfer notice was given; and
 - (iv) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date.

(3) In the definition of “underlying rate” in sub-paragraph (2), the reference to annual payments is to the amount of annual payment prior to any reduction made by the scheme manager under paragraph 1(2) or (5).]

Textual Amendments

F242 Words in Schs. 3-7 substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **15**

[^{F244}SCHEDULE 5

Regulation 17A(8)(b) to (e)

Determination of certain ill health payments

Textual Amendments

F244 Sch. 5 added (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, 18(c), **Sch. 2**

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of an ill health payment payable to a beneficiary to whom regulation 17A(8)(b) to (e) applies.

(2) In this Schedule—

“A” means—

- (a) where the qualifying member is a qualifying member to whom regulation 17D applied, the amount by which the qualifying member’s ill health payment has been commuted; and
- (b) in all other cases, nil;

“B” means—

- (a) where either or both sub-paragraphs (3) or (6) apply, the amount by which the scheme manager determines the ill health payment which would otherwise be payable under this Schedule is to be reduced;
- (b) where the beneficiary is a qualifying member to whom regulation 17H applied, the amount, if any, by which the scheme manager determined the payment which would otherwise have been payable under Schedule 7 should be reduced; and
- (c) in all other cases, nil;

“C” means—

- (a) 1, where the qualifying member was—
 - (i) entitled to an ill health payment on the calculation date; or
 - (ii) receiving a present payment from the scheme on the calculation date; and
- (b) the actuarial factor to be applied in respect of the beneficiary for the purposes of this Schedule, where the qualifying member was not receiving a present payment from the scheme on the calculation date and became entitled to an ill health payment after the calculation date;

“D” means—

- (a) subject to paragraph (b), where sub-paragraph (4) of paragraph 4 applies, the total amount of annual increases to which any surviving dependant was entitled under this Schedule on the day on which the event referred to in paragraphs (a) to (c) of that sub-paragraph occurred;
- (b) where paragraph 4(4)(a) applies and, as a result, the ill health payment payable to a surviving dependant is redetermined under paragraph 4(3)(a), nil; and
- (c) in all other cases, nil;

“J” means—

- (a) where the qualifying member became entitled to an ill health payment or began to receive a present payment from the qualifying scheme prior to the day on which the transfer notice was given, the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17A (11); and
- (b) in all other cases, nil;

“N” means—

- (a) in paragraph 3, the number of survivors of that qualifying member; and
- (b) in paragraph 4, the number of surviving dependants of that qualifying member;

“Q” means the sum of—

- (a) the product of C multiplied by the revalued notional pension in respect of the qualifying member;
- (b) the total amount of any annual increases which the scheme manager considers could have been paid, taking into account the determination under regulation 27(1)(d) and the

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revaluation amount determined in accordance with regulation 17A(11), from the relevant date until the earlier of—

- (i) the day on which the transfer notice is given; and
 - (ii) the day on which the qualifying member died;
- (c) where the qualifying member died after the calculation date but before the day on which the transfer notice was given, double the total amount of any annual increases which the scheme manager considers could have been paid to a survivor (on the basis that there is one survivor) from the day after the day on which the qualifying member died until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17A(11); and
- (d) the total amount of any annual increases to which the qualifying member was entitled in accordance with paragraph 6 on the day on which the qualifying member died,

less, where the qualifying member was a qualifying member to whom regulation 17D applied, the amount by which the qualifying member’s ill health payment has been commuted;

“R” means the revalued notional pension as construed in accordance with regulation 17A(10);

“S” means—

- (a) where paragraph 3(2) applies, the total amount of annual increases to which any survivor was entitled under this Schedule on the day on which the survivor died;
- (b) where sub-paragraph (4) of paragraph 4 applies, the total amount of annual increases to which any survivor was entitled under this Schedule on the day on which the event referred to in paragraphs (a) to (c) of that sub-paragraph occurred; and
- (c) in all other cases, nil;

“relevant date” means—

- (a) where the beneficiary began to receive a payment from the scheme after the calculation date and prior to becoming entitled to an ill health payment under these Regulations, the date on which the beneficiary began to receive a present payment from the scheme;
- (b) where the beneficiary became entitled to an ill health payment after the calculation date and prior to receiving a payment from the scheme, the date on which the beneficiary became so entitled; and
- (c) in all other cases, the date from which the notional pension or survivor notional pension could have been payable as determined in accordance with regulation 27(3) and (4).

(3) Where the scheme manager is satisfied that an amount is owed by the beneficiary to the Secretary of State as a result of the beneficiary owing, before a transfer notice is given, a debt to a qualifying pension scheme to which Part 7 applies, the scheme manager may determine how the ill health payment which would otherwise be payable under this Schedule is to be reduced, having regard to the amount owed by the beneficiary and to such other matters as the scheme manager considers relevant.

(4) Sub-paragraph (6) applies where the scheme manager is satisfied that the sum of the interim pension paid to a beneficiary and any payment made under these Regulations in respect of any year in the period determined in accordance with sub-paragraph (5) is higher or lower than the sum of—

- (a) the revalued notional pension, or the survivor notional pension, as the case may be; and
- (b) any annual increases or proportion of annual increases, which the scheme manager considers could have been paid in respect of that year, taking into account—
 - (i) the determination under regulation 27(1)(d);
 - (ii) the revaluation amount determined in accordance with regulation 17A(11); and

- (iii) the proportion of that year which falls after the 1st January.
- (5) For the purposes of sub-paragraph (4), the period is the period from—
- (a) the earlier of—
- (i) the day on which the beneficiary became entitled to a payment under these Regulations; and
- (ii) the day on which the beneficiary became entitled under the scheme rules to a pension or other benefit; or
- (b) the day on which the qualifying pension scheme began to be wound up if that is later than the day determined in accordance with paragraph (a),
- until the day on which the scheme manager gave a transfer notice to the scheme trustees or managers.
- (6) Where this sub-paragraph applies, the scheme manager may—
- (a) determine the amount by which the annual payment which would otherwise be payable under this Schedule in respect of the beneficiary is to be reduced, having regard to—
- (i) the amount of interim pension which was paid to the beneficiary;
- (ii) the amount of the sum of—
- (aa) the revalued notional pension or survivor notional pension; and
- (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
- (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
- (iv) such other matters as the scheme manager considers relevant; and
- (b) where the sum of the interim pension paid and any payments made under these Regulations in respect of any year is lower than the sum of the amounts referred to in sub-paragraph (4) (a) and (b) in respect of that year, make a payment to the beneficiary or, where the beneficiary has died prior to the scheme manager making this determination, to the beneficiary's estate, having regard to—
- (i) the amount of interim pension which was paid to the beneficiary;
- (ii) the amount of the sum of—
- (aa) the revalued notional pension or survivor notional pension; and
- (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
- (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
- (iv) such other matters as the scheme manager considers relevant.

Amount of an ill health payment – qualifying members

2. The ill health payment payable to a qualifying member to whom this Schedule applies shall be—

$(C \times R) - A + J - B$.

Amount of an ill health payment - survivors

3.—(1) Where this Schedule applies, the ill health payment payable to a survivor of a qualifying member shall be—

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- (a) where regulation 17A(8)(e) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that survivor; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given,
 less the amount, if any, by which the scheme manager determines the payment should be reduced in accordance with paragraph 1(3) or (6); and
- (b) where regulation 17A(8)(c) or (d) applies—
 - (i) where sub-paragraph (ii) does not apply—
 - $Q2+S$;
 - (ii) where the qualifying member was a party to a polygamous marriage—
 - $(0.5 \times Q)+SN$.

(2) Where a survivor to whom sub-paragraph (1)(b)(ii) applies dies, the ill health payment payable to all remaining survivors of the qualifying member shall be redetermined with effect from the day after the day on which the survivor died.

Amount of an ill health payment - surviving dependants

4.—(1) Where this Schedule applies, the ill health payment payable to a surviving dependant of a qualifying member shall be—

- (a) where regulation 17A(8)(e) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that surviving dependant; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given,
 less the amount, if any, by which the scheme manager determines the payment should be reduced in accordance with paragraph 1(3) or (6); and
 - (b) where regulation 17A(8)(b) to (d) applies, determined in accordance with sub-paragraphs (2) to (4).
- (2) Where an ill health payment is also payable to a survivor of a qualifying member and—
- (a) there is only one surviving dependant, the amount of the ill health payment shall be—
 - $0.5 \times Q2+D$;
 - (b) there are two or more surviving dependants, the amount of the ill health payment shall be—
 - $(0.5 \times Q)+DN$.
- (3) Where an ill health payment is not payable to a survivor of a qualifying member and—
- (a) there is only one surviving dependant, the amount of the ill health payment shall be—
 - $Q2+S+D$;
 - (b) there are two or more surviving dependants, the amount of the ill health payment shall be—
 - $Q+S+DN$.
- (4) Where—
- (a) a survivor of a qualifying member dies;
 - (b) a person ceases to be a surviving dependant of a qualifying member; or

(c) another person becomes entitled to an ill health payment as a surviving dependant of a qualifying member,

the ill health payment payable to a surviving dependant of that qualifying member shall be redetermined with effect from the day after the day on which the event referred to in paragraphs (a) to (c) occurred.

Rounding

5. Where the amount of an ill health payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

Annual increases to an ill health payment

6.—(1) Except where there is no percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, a beneficiary entitled to an amount determined in accordance with this Schedule shall be entitled, on each indexation date after the day on which the transfer notice is given, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date; or
- (b) where the beneficiary first became entitled to an ill health payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the ill health payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with the 31st May last falling before the indexation date; and
- (b) 2.5%;

“underlying rate” means the aggregate of—

- (a) the product of X multiplied by (C x V);
- (b) where the beneficiary is a qualifying member, the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice was given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17A(11);
- (c) where the beneficiary is a survivor or surviving dependant in respect of whom a survivor notional pension has been determined, the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the relevant date until the day on which the transfer notice is given;
- (d) where the beneficiary is a survivor or a surviving dependant of a qualifying member who died on or after the calculation date but before the day on which the transfer notice was given, the sum of—
 - (i) the product of X multiplied by the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the date on which the qualifying member died, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17A(11); and
 - (ii) the total amount of any annual increases which the scheme manager considers could have been paid to the beneficiary from the day after the day on which the qualifying

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member died until the day on which the transfer notice is given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17A(11);

- (e) where the beneficiary is the survivor or surviving dependant of a qualifying member who died after the day on which the transfer notice was given, the product of X multiplied by the sum of—
 - (i) the total amount of any annual increases which the scheme manager considers could have been paid from the relevant date until the day on which the transfer notice was given, taking into account the determination under regulation 27(1)(d) and the revaluation amount determined in accordance with regulation 17A(11); and
 - (ii) the total amount of any annual increases to which the qualifying member was entitled in accordance with sub-paragraph (1) on the day on which the qualifying member died; and
- (f) any annual increases to which the beneficiary is entitled under this Schedule immediately before the indexation date;

“post-1997 service” means—

- (a) pensionable service (either actual or notional) which occurred on or after 6th April 1997; or
- (b) where the pension was payable to, or in respect of, a qualifying member who is, or was, a pension credit member of the scheme, pension credit rights deriving from rights attributable to service (whether actual or notional) which occurred on or after 6th April 1997;

“V” means—

- (a) where the beneficiary is a qualifying member or a survivor or surviving dependant of a qualifying member who died on or after the calculation date—
 - (i) where the qualifying member is not a qualifying member to whom regulation 17D applied, so much of the revalued notional pension as is attributable to post-1997 service; or
 - (ii) where the qualifying member is a qualifying member to whom regulation 17D applied, so much of the sum of R-A as is attributable to post-1997 service; and
- (b) where the beneficiary is a survivor or surviving dependant in respect of whom a survivor notional pension has been determined, so much of the survivor notional pension as is attributable to the qualifying member’s post 1997 service;

“W” means the amount of any annual increases to which the qualifying member was entitled in accordance with sub-paragraph (1) on the day on which the qualifying member died;

“X” means—

- (a) 1, where the beneficiary is the qualifying member or a survivor or surviving dependant in respect of whom a survivor notional pension has been determined;
- (b) 0.5, where the beneficiary is a survivor who is neither—
 - (i) a survivor to whom paragraph 3(1)(b)(ii) applies; nor
 - (ii) a survivor in respect of whom a survivor notional pension has been determined;
- (c) the product of 0.5 divided by Y, where the beneficiary is a survivor to whom paragraph 3(1)(b)(ii) applies;
- (d) the product of 1 divided by Z, where the beneficiary is a surviving dependant in respect of whom a survivor notional pension has not been determined and the qualifying member does not have a survivor; or

- (e) the product of 0.5 divided by Z, where the beneficiary is a surviving dependant in respect of whom a survivor notional pension has not been determined and an annual payment is also payable to a survivor of the qualifying member;

“Y” means the number of survivors of the qualifying member; and

“Z” means—

- (a) where there is only one surviving dependant, 2; or
- (b) where there is more than one surviving dependant, the number of surviving dependants of the qualifying member.

(3) In determining the underlying rate where a qualifying member is a qualifying member to whom regulation 17D applied, the amount of R-A that is attributable to post-1997 service is determined by attributing the sum to pre-1997 service and post-1997 service in the same proportions as the revalued notional pension would have been attributed had regulation 17D not applied.]

Textual Amendments

F242 Words in Schs. 3-7 substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **15**

[^{F245}SCHEDULE 6

Regulation 17A(8)(f) to (i)

Determination of ill health payments where a present payment was being received on the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010

Textual Amendments

F245 Sch. 6 added (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, 18(d), **Sch. 2**

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of an ill health payment payable to a beneficiary to whom regulation 17A(8)(f) to (i) applies.

(2) Where the scheme manager is satisfied that an amount is owed by the beneficiary to the Secretary of State as a result of the beneficiary owing, before a transfer notice is given, a debt to a qualifying pension scheme to which Part 7 applies, the scheme manager may determine how the ill health payment which would otherwise be payable under this Schedule is to be reduced, having regard to the amount owed by the beneficiary and to such other matters as the scheme manager considers relevant.

(3) Sub-paragraph (5) applies where the scheme manager is satisfied that the sum of the interim pension paid to a beneficiary and any payment made under these Regulations in respect of any year in the period determined in accordance with sub-paragraph (4) is higher or lower than the sum of—

- (a) the notional pension, or the survivor notional pension, as the case may be; and
- (b) any annual increases or proportion of annual increases, which the scheme manager considers could have been paid in respect of that year, taking into account—
- (i) the determination under regulation 27(1)(d); and

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- (ii) the proportion of that year which falls after the 1st January.
- (4) For the purposes of sub-paragraph (3), the period is the period from—
- (a) the earlier of—
 - (i) the day on which the beneficiary became entitled to a payment under these Regulations; and
 - (ii) the day on which the beneficiary became entitled under the scheme rules to a pension or other benefit; or
 - (b) the day on which the qualifying pension scheme began to be wound up if that is later than the day determined in accordance with paragraph (a),
- until the day on which the scheme manager gave a transfer notice to the scheme trustees or managers.
- (5) Where this sub-paragraph applies, the scheme manager may—
- (a) determine the amount by which the annual payment which would otherwise be payable under this Schedule in respect of the beneficiary is to be reduced, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant; and
 - (b) where the sum of the interim pension paid and any payments made under these Regulations in respect of any year is lower than the sum of the amounts referred to in sub-paragraph (3) (a) and (b) in respect of that year, make a payment to the beneficiary or, where the beneficiary has died prior to the scheme manager making this determination, to the beneficiary's estate, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the notional pension or survivor notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid;
 - (iii) the amount of any payments made under these Regulations prior to the scheme manager giving the transfer notice; and
 - (iv) such other matters as the scheme manager considers relevant.
- (6) In this Schedule—
- “relevant date” means the date from which the notional pension or survivor notional pension could have been payable as determined in accordance with regulation 27(3) and (4); and
- “relevant proportion”, in relation to a beneficiary, means the proportion of the notional pension which relates to the beneficiary.
- (7) Where—
- (a) the beneficiary is a qualifying member to whom regulation 17H applied; and
 - (b) the scheme manager made a determination in accordance with paragraph 1(2) or (5) of Schedule 7, to reduce the payment under that Schedule by any amount,

the scheme manager shall reduce the amount of the ill health payment payable under this Schedule by the same amount.

Qualifying members

2. Where this Schedule applies, the ill health payment payable to a qualifying member shall be the sum of—

- (a) the notional pension determined in respect of the qualifying member; and
- (b) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the transfer notice is given,

less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2), (5) or (7).

Survivors

3. Where this Schedule applies, the ill health payment payable to a survivor of a qualifying member shall be—

- (a) where regulation 17A(8)(g) applies, the amount which is the sum of —
 - (i) the survivor notional pension determined in respect of that survivor; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the day after the qualifying member died until the day on which the transfer notice is given,less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2) or (5);
- (b) where regulation 17(8)(h) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the survivor;
 - (ii) the relevant proportion of the amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the qualifying member died; and
 - (iii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension, from the day after the day on which the qualifying member died until the day on which the transfer notice was given; and
- (c) where regulation 17A(8)(i) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the survivor;
 - (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which transfer notice was given; and
 - (iii) the relevant proportion of the total amount of any annual increases to which the qualifying member was entitled on the day on which the qualifying member died.

Surviving Dependants

4. Where this Schedule applies, the ill health payment payable to a surviving dependant of a qualifying member shall be—

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- (a) where regulation 17A(8)(g) applies, the amount which is the sum of—
 - (i) the survivor notional pension determined in respect of that surviving dependant; and
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the survivor notional pension from the day after the qualifying member died until the day on which the transfer notice is given,
 less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2) or (5);
- (b) where regulation 17A(8)(h) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the surviving dependant;
 - (ii) the relevant proportion of the amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the qualifying member died; and
 - (iii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension, from the day after the day on which the qualifying member died until the day on which the transfer notice was given; and
- (c) where regulation 17A(8)(i) applies, the amount which is the sum of—
 - (i) the proportion of the notional pension which relates to a pension payable to the surviving dependant;
 - (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which transfer notice was given; and
 - (iii) the relevant proportion of the total amount of any annual increases to which the qualifying member was entitled on the day on which the qualifying member died.

Redetermination

5.—(1) This paragraph applies where the notional pension or survivor notional pension includes an amount in respect of an amount which under scheme rules—

- (a) would be payable for a period which is shorter than the period in respect of which the remainder of a pension would be payable; or
- (b) would be payable as a result of a qualifying member dying within a period specified in scheme rules which begins on the day on which the member became entitled to a pension from the scheme, or the day on which the pension was first paid.

(2) Where this paragraph applies, the scheme manager shall redetermine the ill health payment payable to the beneficiary with effect from the date on which the amount referred to in sub-paragraph (1)(a) would have ceased to be payable, or the period referred to within sub-paragraph (1) (b) would have ended.

(3) When redetermining an ill health payment under sub-paragraph (2), the scheme manager shall redetermine the notional pension or survivor notional pension having regard to the amount referred to in sub-paragraph (1).

Rounding

6. Where the amount of an ill health payment determined in accordance with this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

Annual increases to an ill health payment

7.—(1) Except where there is no percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, where the asset share determined in respect of the beneficiary was sufficient to be applied to the amounts referred to in regulation 27(7)(a)(ii) or (10)(a)(ii), a beneficiary shall be entitled, on each indexation date after the day on which the transfer notice is given, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date; or
- (b) where the beneficiary first became entitled to an ill health payment during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the ill health payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date; and
- (b) 2.5%; and

“underlying rate” means—

- (a) where the beneficiary is a qualifying member or a survivor or surviving dependant in respect of whom a survivor notional pension has been determined, the aggregate of—
 - (i) so much of the annual payments as the scheme manager determined under regulation 27(7)(a)(ii) or (10)(a)(ii) could be increased;
 - (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension, or survivor notional pension, as the case may be, from the relevant date until the day on which the transfer notice is given; and
 - (iii) any annual increases to which the beneficiary is entitled in accordance with subparagraph (1) immediately before the indexation date;
- (b) where the beneficiary is a survivor or surviving dependant of a qualifying member who died after the day on which the transfer notice was given, the aggregate of—
 - (i) the relevant proportion of so much of the annual payments as the scheme manager determined under regulation 27(7)(a)(ii) could be increased;
 - (ii) the relevant proportion of the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid to the qualifying member on the notional pension from the relevant date until the day on which the transfer notice is given;
 - (iii) the relevant proportion of any annual increases to which the qualifying member was entitled in accordance with this Schedule on the day on which the qualifying member died; and
 - (iv) any annual increases to which the beneficiary is entitled in accordance with subparagraph (1) immediately before the indexation date; and
- (c) where the beneficiary is a survivor or surviving dependant of a qualifying member who died after the calculation date but prior to the day on which the transfer notice was given, the aggregate of—
 - (i) the relevant proportion of so much of the annual payments as the scheme manager determined under regulation 27(7)(a)(ii) could be increased;

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- (ii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension from the relevant date until the day on which the qualifying member died;
- (iii) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the relevant proportion of the notional pension from the day after the day on which the qualifying member died until the day on which the transfer notice was given; and
- (iv) any annual increases to which the beneficiary is entitled in accordance with sub-paragraph (1) immediately before the indexation date.

(3) In the definition of “underlying rate” in sub-paragraph (2), the reference to annual payments is to the amount of annual payment prior to any reduction made by the scheme manager under paragraph 1(2) or (5).]

Textual Amendments

F242 Words in [Schs. 3-7](#) substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **15**

[^{F246}SCHEDULE 7

Regulations 17G(2) and 17H(2)

Determination of payments to early retirees and other beneficiaries

Textual Amendments

F246 Sch. 7 added (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, 18(e), **Sch. 2**

Introductory

1.—(1) This Schedule applies for the purposes of determining the amount of a payment payable to a person to whom regulation 17G or 17H applies.

(2) Where the scheme manager is satisfied that an amount is owed by the beneficiary to the Secretary of State as a result of the beneficiary owing, before a transfer notice is given, a debt to a qualifying pension scheme to which Part 7 applies, the scheme manager may determine how the payment which would otherwise be payable under this Schedule is to be reduced, having regard to the amount owed by the beneficiary and to such other matters as the scheme manager considers relevant.

(3) Sub-paragraph (5) applies where the scheme manager is satisfied that the amount of interim pension paid to a beneficiary in respect of any year in the period determined in accordance with sub-paragraph (4) is higher or lower than the sum of—

- (a) the notional pension; and
- (b) any annual increases or proportion of annual increases, which the scheme manager considers could have been paid in respect of that year, taking into account—
 - (i) the determination under regulation 27(1)(d); and
 - (ii) the proportion of that year which falls after the 1st January.

(4) For the purposes of sub-paragraph (3), the period is the period from the later of—

- (a) the day on which the beneficiary began to receive a payment from the scheme; and
 - (b) the day on which the qualifying pension scheme began to be wound up,
- until the day on which the scheme manager gave a transfer notice to the scheme trustees or managers.
- (5) Where this sub-paragraph applies, the scheme manager may—
- (a) determine the amount by which the payment which would otherwise be payable under this Schedule in respect of the beneficiary is to be reduced, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid; and
 - (iii) such other matters as the scheme manager considers relevant; and
 - (b) where the interim pension paid in respect of any year is lower than the sum referred to in sub-paragraph (3) in respect of that year, make a payment to the beneficiary or, where the beneficiary has died prior to the scheme manager making this determination, to the beneficiary's estate, having regard to—
 - (i) the amount of interim pension which was paid to the beneficiary;
 - (ii) the amount of the sum of—
 - (aa) the notional pension; and
 - (bb) any annual increases, or proportion of annual increases, which the scheme manager considers could have been paid; and
 - (iii) such other matters as the scheme manager considers relevant.

Amount of the payment where regulation 17G applies

2. Where a person is entitled to a payment in accordance with regulation 17G, the amount of that payment shall be sum of—
- (a) the amount of the notional pension determined in respect of that person; and
 - (b) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the day on which the scheme's liability to provide a pension or other benefit to the person arose until the day on which the transfer notice was given,

less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2) or (5).

Amount of the payment where regulation 17H applies

3. Where a qualifying member is entitled to a payment in accordance with regulation 17H, the amount of that payment shall be the sum of—
- (a) the notional pension in relation to the qualifying member; and
 - (b) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the later of—
 - (i) the date on which the qualifying member began to receive a present payment from the scheme; and
 - (ii) the date on which the scheme began to be wound up,

until the day on which the transfer notice is given,

less any amount by which the scheme manager determines a payment is to be reduced under paragraph 1(2) or (5).

Annual increases

4.—(1) Except where there is no percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date, where the asset share determined in respect of a person to whom an amount is payable in accordance with this Schedule was sufficient to be applied to annual increases, that person shall be entitled, on each indexation date after the day on which the transfer notice is given, to an increase of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date; or
- (b) where that person first became entitled to a payment in accordance with regulation 17G or 17H during the period of 12 months ending immediately before that date, one twelfth of that amount for each full month since the date on which the payment was first payable.

(2) In this paragraph—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F242}general level of prices] for the period of 12 months ending with 31st May last falling before the indexation date; and
- (b) 2.5%;

“relevant date” means—

- (a) in the cases of a person to whom regulation 17G applies, the day on which the scheme’s liability to provide a pension or other benefit to the person arose; and
- (b) in the case of a person to whom regulation 17H applies, the later of—
 - (i) the day from which the beneficiary began to receive a present payment from the scheme; and
 - (ii) the day on which the scheme began to be wound up.

“underlying rate” means—

the aggregate of—

- (a) (i) where regulation 17G applies, so much of the payment as the scheme manager determined under regulation 27(7)(b)(ii) could be increased; and
 - (ii) where regulation 17H applies, so much of the payment as the scheme manager determined under regulation 27(7)(a)(ii) could be increased;
- (b) the total amount of any annual increases which the scheme manager has determined under regulation 27 could be paid on the notional pension from the relevant date until the day on which the transfer notice is given; and
- (c) any annual increases to which the person is entitled in accordance with sub-paragraph (1) immediately before the indexation date.

(3) The reference to payments in the definition of “underlying rate” in sub-paragraph (2) is to the amount of payment prior to any reduction made by the scheme manager under paragraph 1(2) or (5).]

Changes to legislation: *There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005. (See end of Document for details)*

Textual Amendments

F242 Words in [Schs. 3-7](#) substituted (31.12.2011) by [The Financial Assistance Scheme \(Revaluation and Indexation Amendments\) Regulations 2011 \(S.I. 2011/839\)](#), regs. 1(2), **15**

Changes to legislation:

There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005.