

The Financial Assistance Scheme Regulations 2011 – consultation on the draft regulations – Annex C – Consequential Provisions

*Draft Regulations laid before Parliament under section 312(n) of the Pensions Act 2004, for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2011 No.**

**PENSIONS**

**The Financial Assistance Scheme (Consequential Provisions)  
Regulations 2011**

*Made* - - - - 2011

*Coming into force* - - *In accordance with regulation 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 286 and 318(1) of the Pensions Act 2004(a), sections 30DD(5)(c) and 175(3) of the Social Security Contributions and Benefits Act 1992(b), section 181(1) of, and paragraph 5(3B) of Schedule 2 to, the Pension Schemes Act 1993(c) and paragraph 5(3B) and (4A) of Schedule 1 to the Pension Schemes (Northern Ireland) Act 1993(d).

A draft of this instrument was laid before Parliament in accordance with section 316(2)(n) of the Pensions Act 2004 and approved by resolution of each House of Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Financial Assistance Scheme (Consequential Provisions) Regulations 2011 and shall come into force on the day after the day on which they are made.

**Application**

- 2.—(1) Regulations 3, 4 and 5 do not apply in relation to Northern Ireland.  
(2) Regulation 6 applies only in relation to Northern Ireland.

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(a) 2004 c.35. Section 286 is modified in relation to multi-employer schemes by S.I.2005/1441. Section 318(1) is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(b) 1992 c. 4. Section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act 1999.

(c) 1993 c. 48. Section 181(1) is cited because of the meaning ascribed to the words “prescribed” and “regulations”. Sub-paragraph (3B) of paragraph 5 of Schedule 2 to the 1993 Act was inserted by the Pensions Act 1995 and subsequent amendments to that sub-paragraph were made by the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(d) 1993 c. 49. Paragraph 5(3B) was inserted by 138(2)(b) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 77(5)(c) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999.671). Paragraph 5(4A) was added by paragraph 77(5)(d) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

## The Financial Assistance Scheme Regulations 2011 – consultation on the draft regulations – Annex C – Consequential Provisions

### **Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988**

3.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(a) are amended as follows.

(2) In regulation 8(1)(k) for “2005” substitute “2011”.

### **Amendment of the Social Security (Incapacity Benefit) Regulations 1994**

4.—(1) The Social Security (Incapacity Benefit) Regulations 1994(b) are amended as follows.

(2) In regulation 20A—

(a) for “2005” substitute “2011”; and

(b) for the words from “the date” to end substitute “27th March 2009.”.

### **Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996**

5.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(c) are amended as follows.

(2) In regulation 49—

(a) in paragraph (3)(aa) for “2005” substitute “2011”; and

(b) in paragraph (3A)(a) for “the date on which the Financial Assistance (Miscellaneous Amendments) Regulations 2008 came into force” substitute “17th July 2008”.

### **Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996**

6.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(d) are amended as follows.

(2) In regulation 49—

(a) in paragraph (3)(aa) for “2005” substitute “2011”; and

(b) in paragraph (3A)(a) for “the date on which the Financial Assistance (Miscellaneous Amendments) Regulations 2008 came into force” substitute “17th July 2008”.

### **Amendment of the Financial Assistance Scheme (Appeals) Regulations 2005**

7.—(1) The Financial Assistance Scheme (Appeals) Regulations 2005(e) are amended as follows.

(2) In regulation 2—

(a) in the definition of “the FAS Regulations” for “2005” substitute “2011”;

(b) for the definition of “beneficiary” substitute—

““beneficiary” means—

(a) a qualifying member;

(b) a survivor;

(c) a surviving dependant; and

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(a) S.I.1988/664. Sub-paragraph (k) of regulation 8(1) was inserted by S.I.2005/3476.

(b) S.I.1994/2946. Regulation 20A was inserted by S.I.2009/792.

(c) S.I.1996/1172. Relevant amendments were made to regulation 49 by S.I.2008/1903.

(d) S.R. 1996 No. 493. Relevant amendments were made to regulation 49 by S.I. 2008/1903.

(e) S.I.2005/3273.

## The Financial Assistance Scheme Regulations 2011 – consultation on the draft regulations – Annex C – Consequential Provisions

- (d) any person entitled to a payment in accordance with regulation 30(1) or 32 of the FAS Regulations;”;
  - (c) in the definition of “early retiree assessment decision” for “regulation 17H” substitute “regulation 31”;
  - (d) in the definition of “ill health eligibility decision” for the words from “regulations 17A(1)” to end substitute “regulation 23(8)”;
  - (e) omit the definition of “ill health payment assessment decision”;
  - (f) in the definition of “indexation assessment decision”—
    - (i) omit the words “or ill health payment”;
    - (ii) for “Schedules 2 to 6” substitute “Schedules 2 to 4”; and
    - (iii) for “Schedule 7” substitute “Schedule 5”;
  - (g) in the definition of “lump sum assessment decision” in each place in which it occurs, for “17D” substitute “29”;
  - (h) in the definition of “member assessment decision” for the words from “regulation 17” to end substitute “regulation 25 of, and Schedules 2 to 4 to, the FAS Regulations”;
  - (i) in the definition of “qualifying member” for “regulation 15” substitute “regulation 20”;
  - (j) in the definition of “scheme beneficiaries decision” for “regulation 17G” substitute “regulation 30”;
  - (k) in the definition of “scheme notification decision” for “regulation 14” substitute “regulation 17”;
  - (l) in the definition of “severe ill health eligibility decision” for the words from “regulation 17(3C) or 17C” to the end, substitute “regulation 23(7) or (9) of the FAS Regulations”;
  - (m) in the definition of “terminal illness eligibility decision” for the words from “regulations 17(3)” to the end substitute “regulation 23(6) of the FAS Regulations”; and
  - (n) in the definition of “valuation approval decision” for “regulation 25” substitute “regulation 41”.
- (3) In regulation 6(2)(b) omit “ill health payment assessment decision,”.
- (4) In regulation 17(4) omit “an ill health payment assessment decision,”.
- (5) In regulation 23(9) for “regulation 4(2)(d)” substitute “regulation 4(2)(j)”.
- (6) In regulation 27(3) for “regulation 2(7)(a)” substitute “regulation 2(11)”.

### **Amendment of the Financial Assistance Scheme (Internal Review) Regulations 2005**

- 8.—**(1) The Financial Assistance Scheme (Internal Review) Regulations 2005(a) are amended as follows.
- (2) In regulation 1(3) for “2005” substitute “2011”.
- (3) In regulation 2(1)—
- (a) in sub-paragraph (a) for “regulation 14” substitute “regulation 17”;
  - (b) in sub-paragraph (bb) for “regulation 25” substitute “regulation 41”;
  - (c) in sub-paragraph (bc) in each place in which it occurs, for “regulation 17D” substitute “regulation 29”;
  - (d) in sub-paragraph (bd)—
    - (i) omit the words “or ill health payment”;
    - (ii) for “Schedules 2 to 6” substitute “Schedules 2 to 4”; and
    - (iii) for “Schedule 7” substitute “Schedule 5”;

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(a) S.I.2005/1994.

## The Financial Assistance Scheme Regulations 2011 – consultation on the draft regulations – Annex C – Consequential Provisions

- (e) in sub-paragraph (bf)—
    - (i) for “regulation 17H” substitute “regulation 31”; and
    - (ii) omit the words “or ill health payment”;
  - (f) in sub-paragraph (d) for the words from “regulation 17” to the words “initial payments)” substitute “regulation 25 of, and Schedules 2 to 4 to, the FAS Regulations”;
  - (g) in sub-paragraph (e) for the words from “regulations 17(3)” to end substitute “regulation 23(6) of the FAS Regulations (“terminal illness eligibility”);
  - (h) omit sub-paragraph (f);
  - (i) in sub-paragraph (g) for the words “regulations 17A(1)” to the words “the FAS Regulations” substitute “regulation 23(8) of the FAS Regulations”
  - (j) in sub-paragraph (h) for the words from “regulation 17(3C)” to the end substitute “regulation 23(7) or (9) of the FAS Regulations (“severe ill health eligibility”).”.
- (4) In regulation 2(2) omit “ill health payment assessment,”.
- (5) In regulation 3(1)—
- (a) in sub-paragraph (a)(i) for “regulation 14(1) or (3)” substitute “regulation 17(1) or (3)”;
  - (b) in sub-paragraph (b)—
    - (i) omit “ill health payment assessment,”; and
    - (ii) in paragraph (ii) for “regulation 2(7)(b) substitute “regulation 2(11)”;
- (6) In regulation 3(2)(d) for “regulation 29” substitute “regulation 45”.
- (7) In regulation 5(1)—
- (a) in sub-paragraphs (a) and (aa) for “the coming into force of the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010” substitute “2nd April 2010”; and
  - (b) in sub-paragraphs (b) and (c) for “the coming into force of the Financial Assistance Scheme (Modifications and Miscellaneous Amendments) Regulations 2005” substitute “24th November 2005”.
- (8) In regulation 6(1)—
- (a) in each place in which it occurs for “regulation 2(7)(b)” substitute “regulation 2(11)”;
  - (b) in sub-paragraph (b) omit “ill health payment assessment,”.
- (9) In regulation 8(1) and (3) for “regulation 14(1) or (3)” substitute “regulation 17(1) or (3)”.
- (10) In regulation 9(3)(i) for “regulation 14(1) or (3)” substitute “regulation 17(1) or (3)”.
- (11) In regulation 11(1)(a)(i) for “regulation 14(1) or (3)” substitute “regulation 17(1) or (3)”.
- (12) In regulation 11(2) omit “ill health payment assessment,”.
- (13) In regulation 14(d) for “(annual and initial payments)” substitute “(assistance payments)”.
- (14) In regulation 16(1)—
- (a) for “regulation 14(1) or (3)” substitute “regulation 17(1) or (3)”;
  - (b) omit “ill health payment assessment”.
- (15) In regulation 16(2) omit “ill health payment assessment”.
- (16) In regulation 17(3) for “regulation 2(7)(a)” substitute “regulation 2(11)”.

# The Financial Assistance Scheme Regulations 2011 – consultation on the draft regulations – Annex C – Consequential Provisions

## **Amendment of the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005**

- 9.**—(1) The Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005(a) are amended as follows.
- (2) In regulation 2(1)—
- (a) omit the definition of “the 2009 Regulations”;
  - (b) in the definition of “the FAS Regulations” for “2005” substitute “2011”;
  - (c) for the definition of “beneficiary” substitute—
    - ““beneficiary” means—
    - (a) a qualifying member;
    - (b) a survivor;
    - (c) a surviving dependant; and
    - (d) any person entitled to a payment in accordance with regulation 30(1) or 32 of the FAS Regulations;”;
  - (d) in the definition of “qualifying member” for “regulation 15” substitute “regulation 20”;
  - (e) in the definition of “surviving dependant” for “regulation 16B” substitute “regulation 22”; and
  - (f) in the definition of “survivor” for “regulation 16A” substitute “regulation 21”.
- (3) In regulation 3(1) for “regulation 14” substitute “regulation 17”.
- (4) In regulation 8(1) for “regulation 19” substitute “regulation 35”.
- (5) In Schedule 1—
- (a) in the table in paragraph 1(2)—
    - (i) in the second column of the fourth item omit “or Schedule 2A”;
    - (ii) for the words in the second column of the sixth item substitute “In relation to a written request under regulation 23(7)(a) or (9)(a), medical evidence about the qualifying member’s state of health to enable the scheme manager to determine whether the scheme manager is satisfied for the purposes of regulation 23(7)(b) or (9)(b) of those Regulations.”;
    - (iii) in the third column of the eleventh item omit paragraph (a);
    - (iv) in the third column of the twelfth item omit paragraph (a);
  - (b) in paragraph 1(3)—
    - (i) in sub-paragraph (a) for “the date which is 6 months after the date on which the 2009 Regulations come into force” substitute “9th January 2010”;
    - (ii) in sub-paragraph (b) for the words from “the date” to the end substitute “10th July 2009, the period ending on 9th October 2009;”;
    - (iii) in sub-paragraph (d) for “the date on which the 2009 Regulations come into force” substitute “10th July 2009”; and
  - (c) In paragraph 1(3A)(c) for “the date on which the 2009 Regulations come into force” substitute “10th July 2009”.
- (6) In Schedule 2, in the table in paragraph 1—
- (a) for the words in the first column of the last item substitute “Any qualifying member (or a person acting on that member’s behalf under regulation 23(7) of the FAS Regulations) who makes a written request under regulation 23(7)(a) or (9)(a) of the FAS Regulations”; and

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(a) S.I.2005/2189.

The Financial Assistance Scheme Regulations 2011 – consultation on the draft regulations – Annex C – Consequential Provisions

- (b) in the second column of the last item for “regulation 17(3C)(c) or 17C(3)” substitute “regulation 23(7)(b) or (9)(b)”

**Amendment of the Financial Assistance Scheme (Amendment) Regulations 2008**

**10.**—(1) The Financial Assistance Scheme (Amendment) Regulations 2008(**a**) are amended as follows.

- (2) In regulation 1(2) for “2005” substitute “2011”.

**Revocations**

**11.** The Financial Assistance Scheme (Halting Annuitisation) Regulations 2007(**b**) are hereby revoked.

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

Date

*Name*  
Minister of State,  
Department for Work and Pensions

**EXPLANATORY NOTE**

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

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(a) S.I.2008/3069.

(b) S.I.2007/2533.