

EXPLANATORY MEMORANDUM TO
THE FINANCIAL ASSISTANCE SCHEME (PROVISION OF INFORMATION AND
ADMINISTRATION OF PAYMENTS) REGULATIONS 2005

2005 No. 2189

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations make provision relating to the provision of information to and by the scheme manager of the Financial Assistance Scheme, and to administration of payments from that Scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 These Regulations are made under powers in the Pensions Act 2004 (c.35) which have been modified by the Financial Assistance Scheme Regulations 2005 (S.I.2005/1986). Those Regulations, with which these Regulations should be read, were made under section 286 of that Act which required the Secretary of State to make provision by regulations for a Financial Assistance Scheme.

4.2 These Regulations prescribe what information is to be provided by certain persons to the scheme manager, and vice versa, in order for decisions on scheme and member eligibility to be made. The Regulations also prescribe the method of providing the information and the timescales in which it is to be provided. If insufficient or unsuitable information is provided in respect of scheme or member eligibility, the scheme manager can refuse to make a determination until such time as sufficient or suitable information is provided.

4.3 The Regulations also enable the scheme manager to recover any payment made to a beneficiary in excess of his entitlement from the Scheme and to suspend payments if he is of the opinion that a beneficiary may not, in fact, be entitled to receive payments from the Scheme.

4.4 The intention is to ensure that the scheme manager is able to obtain any information which he might need in order for him to make a decision both on whether a scheme is a qualifying pension scheme or whether a member is eligible for assistance from the Financial Assistance Scheme. Such information could be obtained from trustees, pensions professionals, an insurance company or the scheme member himself. The Regulations also require the scheme manager to be informed of any change of circumstances that may affect an individual's entitlement to payments from the Scheme. The scheme manager is himself required to inform trustees of whether their scheme is a qualifying pension scheme or not. Trustees are in turn required to inform members of that decision. Recovering overpayments and allowing suspension of payments are intended to safeguard FAS funds and prevent members receiving more than they are entitled to.

5. Extent

5.1 This instrument extends to the whole of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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

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

8. Impact

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

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

9. Contact

Eleanor Sandford at the Department for Work and Pensions, Tel: 020 7712 2427 or e-mail: Eleanor.Sandford@dwp.gsi.gov.uk can answer any queries regarding the instrument.