

EXPLANATORY MEMORANDUM TO
THE FINANCIAL ASSISTANCE SCHEME (HALTING ANNUITISATION)
REGULATIONS 2007

2007 No. 2533

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 require trustees of pension schemes that qualify for the Financial Assistance Scheme (FAS) not to purchase or to agree to purchase annuities for members of their schemes for a period of 9 months starting on the date that these regulations come into effect, subject to certain exceptions where either a binding commitment to purchase had been entered into before the regulations come into force or where purchase is approved by the FAS scheme manager.

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 section 19 of the Pensions Act 2007. That section requires regulations to be made to temporarily restrict the purchase of annuities in relation to relevant pension schemes. As described in the policy background section of this memorandum the power was taken in the Act in order to help preserve the value of assets in schemes that qualify for the FAS. The instrument is the first to be made under the Pensions Act 2007.

5. Territorial Extent and Application

5.1 This instrument applies to all 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 FAS was established in 2005 to provide assistance to members of certain defined benefit pension schemes which are winding-up (or which have wound-up) in circumstances of employer insolvency and are insufficiently funded to secure member benefits in full. The original scheme focussed help only on those who were within 3 years

of their normal scheme retirement age (NRA), and a subsequent change extended the scheme to those up to 15 years from that age, with different rates of assistance depending on proximity to NRA.

7.2 In March this year, the then Chancellor in his budget statement announced a further extension to the FAS. Under that extension all the estimated 125,000 people within qualifying schemes who have suffered losses will now receive at least 80% of their expected core pension from either the FAS or their scheme (subject to a cap). At that time a review was also announced into the use of FAS scheme assets ('the Young Review').

7.3 The interim report of the Young review, published in July, found that it was probable that additional value for money could be achieved through a different use of scheme assets than schemes purchasing annuities on a scheme-by-scheme basis. The Government has committed to match the extra value that the review realises

7.4 Following the interim report of the Young Review and the Government's match-funding commitment, Parliament agreed during debate of the then Pensions Bill that regulations should be brought forward to restrict the purchase of annuities in order to help protect the assets available in FAS schemes.

7.5 Some trustees may already have entered into a commitment to purchase annuities for scheme members and breaking that commitment may incur, for example, a financial penalty. The regulations allow for annuities to be purchased in such circumstances. The regulations also allow for approval of the purchase of annuities by the FAS scheme manager.

Guidance

7.6 Information to assist trustees in deciding whether to seek approval for annuity purchase will be published on the FAS website (<http://www.dwp.gov.uk/fas>) when the Regulations are made.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has only a negligible impact on business, charities and voluntary bodies. Applications can be made by trustees to the FAS scheme manager to purchase annuities. Such applications may incur some small administrative costs. However, few applications are anticipated.

8.2 Applications by trustees will need to be considered by the FAS Operational Unit. We anticipate that this will have a negligible administrative impact.

9. Contact

Andrew Maggs at the Department for Work and Pension, tel: 020 7712 2797 or e-mail Andrew.maggs@dwp.gsi.gov.uk can answer any queries regarding the instrument.

