

Financial Assistance Scheme

Trustee Update – 7 December 2007

This update is for Trustees, Administrators and members of FAS Qualified schemes. Please make its contents available to colleagues within your organisation.

Subject: The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2007.	Financial Assistance Scheme (FAS) PO Box 702 York YO32 9XR Tel: 0845 6019941 Email: FAS-Operational-Unit@dwpgsi.gov.uk
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Introduction

These regulations were laid in Parliament on 20th November 2007. Broadly they are designed to bring into effect the extension to the Financial Assistance Scheme that was announced in April this year. Subject to the Parliamentary process these regulations should be in force by the end of December 2007. The purpose of this update is to provide you with an overview of their contents.

Re-determination of annuity rates

A provision has been included in these regulations which will give FAS broad powers to re-determine annuity rates in cases where annuity rates have been secured with annual increases that FAS considers to be 'unreasonable'.

FAS is likely to use these powers in circumstances where trustees have secured an annuity;

- That will pay increases at higher levels than allowed under the scheme rules,
- where increases are purchased above levels broadly provided for by application of the relevant winding-up priority order,
- that FAS has reason to believe includes increases purchased with the express purpose of increasing the level of FAS payable to a member and therefore increasing the cost of FAS to Government

This list is not exhaustive but is intended to outline the type of trustee actions that this regulation is designed to deter. In any event, because of the FAS halting annuitisation regulations currently in force at this time, this provision should only affect schemes that had entered a 'binding commitment' to purchase annuities before 26 September 2007.

Trustees will be asked to complete a short annuity questionnaire to send to the FAS OU with the final data set on form S1.

Extension to schemes that have a compromise agreement

This package of regulations will also allow schemes to qualify for FAS:

- which began to wind-up between relevant dates, where a compromise agreement is in place and where enforcing the debt against the employer would have forced the employer into insolvency.

We would urge all trustees to review their portfolio of schemes in wind up to ascertain whether any of them may qualify for FAS under this provision.

However, trustees wishing to apply for FAS qualification for their scheme under this regulation will need to provide additional documentation to support the application. Listed below are the types of information/documentation that may assist FAS in the assessment of your qualification request. *Please note that this list is not exhaustive.*

- Copy of signed and dated compromise agreement or any document which outlines the terms of the compromise agreement.
- Details of full amount of the section 75 debt and any amounts paid over to the scheme as result of the compromise.
- Reasons given by the trustees for the acceptance of the compromise agreement.
- Copy of any independent financial assessment of the sponsoring employer at the time that the compromise agreement was made.
- Other information/documentation relevant to the employer's ability to pay the full debt due.

Format for the provision of data

There will also be provision for the FAS to prescribe the format in which information is to be provided as well as the data/information required.

FAS currently requests data on a form S1 to be provided on a CDRW or USB data pen. At present all data, should continue to be provided in this 'prescribed' format unless prior written agreement has been obtained from the FAS Operational Unit.

Other changes

An overview of some of the other changes included in this package of regulations is listed below:

- Introduce 80% core assistance to all eligible qualifying members at age 65 (subject to the cap).
- To increase the cap on maximum assistance to £26,000
- Remove the de minimis rule that excludes those whose FAS annual payment would otherwise be £10 or less a week.
- Remove the insolvency cut-off date for schemes which began to wind up between relevant dates. However FAS will need to be satisfied that the insolvency event was linked to the wind up for this clause to apply in cases where the relevant insolvency event occurs on or after 1 January 2009.

There are further changes that relate to the qualification of certain Small Self Administered Schemes (SSAS's), the calculation of payments, and that introduce new powers linked to the reclamation of overpayments of assistance. You can read the full details of our consultation response paper and the regulations on our website: www.dwp.gov.uk/fas

Yours Sincerely

Pat Ferguson
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FAS Operational Unit