

*Draft Regulations laid before Parliament under section 316(2)(n) of the Pensions Act 2004, for approval by a resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2018 No.**

## **PENSIONS**

### **The Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018**

*Made - - - -*

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*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 by sections 286, 315(2), (4) and (5) and 318(1) of the Pensions Act 2004<sup>(1)</sup>.

A draft of these Regulations was laid before Parliament in accordance with section 316(2)(n) of that Act<sup>(2)</sup> and approved by a resolution of each House of Parliament.

In accordance with section 317(1) of that Act, the Secretary of State for Work and Pensions has consulted such persons as the Secretary of State considers appropriate.

#### **Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018 and come into force on the day after the day on which they are made.

(2) In these Regulations, “the FAS Regulations” means the Financial Assistance Scheme Regulations 2005<sup>(3)</sup>.

#### **Meaning of “the FAS cap”**

2. After regulation 17A (ill health payments) of the FAS Regulations<sup>(4)</sup>, insert—

#### **“Meaning of “the FAS cap”**

**17AA.**—(1) This regulation gives the meaning of “the FAS cap” for the purposes of—

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(1) [2004 c.35](#). Section 286 was amended by section 18(2) and (3) of the Pensions Act [2007 \(c.22\)](#) and by section 124 of the Pensions Act [2008 \(c.30\)](#) (“the 2008 Act”). Section 286 is modified in its application to multi-employer schemes by [S.I. 2005/441](#) (amended by S.I.s [2005/993](#), [2005/2113](#), [2008/731](#), [2010/725](#), [2011/2973](#) and [2012/1688](#)). Section 318(1) is cited because of the meanings given to “prescribed” and “regulations”.

(2) Section 316(2)(n) was amended by section 124(9) of the 2008 Act.

(3) [S.I. 2005/1986](#).

(4) Regulation 17A was inserted by [S.I. 2008/1903](#) and was amended by S.I.s [2009/792](#), [2009/1851](#), [2010/1149](#) and [2011/839](#).

- (a) Schedule 2 (determination of annual and initial payments); and
  - (b) Schedule 2A (determination of ill health and interim ill health payments)(5).
- (2) In this regulation, “the standard amount” means the appropriate amount given in—
- (a) paragraph 7(3) of Schedule 2 in the case of an annual or initial payment; and
  - (b) paragraph 7(3) of Schedule 2A in the case of an ill health or interim ill health payment.
- (3) The FAS cap for or in respect of a person who has 20 or fewer years of pensionable service at the time when the person first becomes entitled to an annual payment or (as the case may be) an ill health payment is the standard amount.
- (4) Subject to paragraph (6), the FAS cap for or in respect of a person who has more than 20 years of pensionable service at that time is the sum of—
- (a) the standard amount, and
  - (b) for each whole year of pensionable service that exceeds 20 years of pensionable service, the amount found by multiplying the standard amount by 3%.
- (5) If the total amount calculated under paragraph (4)(b) would exceed the standard amount, it is to be treated as being equal to the standard amount.
- (6) The FAS cap for the purposes of determining the amount of an initial payment or an interim ill health payment(6) is the standard amount.
- (7) In any case where—
- (a) the scheme manager cannot determine the length of some or all of a person’s pensionable service under the scheme rules(7); or
  - (b) the person has benefits under the rules which are not attributable to a particular period of pensionable service,
- the scheme manager must treat the person as having a length of pensionable service as the scheme manager considers appropriate (which is in addition to any other pensionable service the person has for the purposes of this regulation), having regard to the scheme rules and to such other information as the scheme manager considers relevant.
- (8) When calculating a person’s pensionable service for the purpose of determining the amount of the FAS cap in relation to a qualifying pension scheme(8), no account is to be taken of any pensionable service that the person may have under a different pension scheme.
- (9) A person who is regarded as a qualifying member under regulation 15(5) (qualifying members)(9) must be treated for the purposes of this regulation as having pensionable service of the same length as the deceased former member (which is in addition to any pensionable service that the person is treated as having under paragraph (7)).
- (10) A pension credit member(10) credited with a length of notional pensionable service because of pension credit rights must be treated for the purposes of this regulation as having pensionable service of that length (which is in addition to any pensionable service that the person is treated as having under paragraph (7)).”.

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(5) Schedule 2A was inserted by [S.I. 2008/1903](#).

(6) See regulation 2(1) of the FAS Regulations for the meaning of “initial payment” and “interim ill health payment”.

(7) See regulation 2(1) of the FAS Regulations for the meaning of “scheme rules”.

(8) See regulation 2(1) and 9 of the FAS Regulations for the meaning of “qualifying pension scheme”.

(9) Regulation 15(5) was amended by S.I.s [2007/3581](#), [2008/1903](#) and [2010/1145](#).

(10) See regulation 2(1) for the meaning of “pension credit member”.