*Draft Regulations laid before Parliament under section 316(2)(n) of the Pensions Act 2004 and section 18(10) of the Pensions Act 2007, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2008 No.

# PENSIONS

# The Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008

*Made - - - - 2008*

*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) and (4) and 318(1) of the Pensions Act 2004(**1**) and sections 18(9) and 25(2) of the Pensions Act 2007(**2**).

In accordance with section 316(2)(n) of the Pensions Act 2004 and section 18(10) of the Pensions Act 2007, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with section 317(1) of the Pensions Act 2004 and section 25(3)(b) of the Pensions Act 2007, the Secretary of State has consulted such persons as he considers appropriate.

## PART 1

## Introductory

### Citation and commencement

**1.** These Regulations may be cited as the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2008 and shall come into force on the day after the day on which they are made.

### Interpretation

**2.** In these Regulations—

(**1**) 2004 c.35 Section 286 was amended by section 18(2) and (3) of the Pensions Act 2007 (c.22), is modified in its application to multi-employer schemes by S.I. 2005/441 (amended by S.I. 2005/993 and 2005/2113) and extends to England, Wales, Scotland and Northern Ireland. Section 318(1) is cited because of the meanings given to "prescribed" and "regulations".

(**2**) 2007 c.22. Section 18 extends to England, Wales, Scotland and Northern Ireland.

"annual payment" means the amount payable to a beneficiary in respect of each year determined in accordance with regulation 17 of, and Schedule 2 to, the FAS Regulations;

"beneficiary" means a qualifying member or, after his death, his survivor;

"initial payment" means a payment made to a beneficiary in accordance with regulation 18 of, and Schedule 2 to, the FAS Regulations;

"qualifying member" shall be construed in accordance with regulation 15 of the FAS Regulations;

"survivor" means, in relation to a member or former member of a qualifying pension scheme who has died—

(a) the member's widow or widower; or

(b) the member's surviving civil partner,

but shall not include a person who comes within paragraph (a) or (b) but who is regarded as a qualifying member by virtue of regulation 15(5) of the FAS Regulations;

"the FAS Regulations" means the Financial Assistance Scheme Regulations 2005(**3**).

# PART 2

## Amendment of section 18 of the Pensions Act 2007

### Amendment of section 18 of the Pensions Act 2007

**3.** In section 18(5) and (7) of the Pensions Act 2007 (financial assistance scheme: increased levels of payments), for "0.8" substitute "0.9".

# PART 3

## Amendment of the FAS Regulations

### Amendment of the FAS Regulations

**4.** The FAS Regulations are amended in accordance with this Part.

### Amendment of Part 1

**5.** After paragraph (1) of regulation 2 (interpretation) insert—

"(1A) In these Regulations, "normal retirement age" means, subject to paragraph (1B), in relation to a member of an occupational pension scheme, the age specified in the rules of that scheme at which that member will normally retire.

(1B) Where the normal retirement age—

(a) determined in accordance with paragraph (1A) is—

(i) more than 65, that age shall be 65;

(ii) less than 60, that age shall be 60 except for the purposes of paragraph 2(3)(a) of Schedule 2;

(**3**) S.I. 2005/1986, amended by S.I. 2005/3256, 2006/3370 and 2007/3581.

(b) cannot be determined in accordance with paragraph (1A) from the rules of the qualifying pension scheme, that age shall be such age as the scheme manager shall determine having regard to the rules of that scheme and to such other information as he considers relevant.".

**Amendment of Part 5**

**6.**—(1) In regulation 17 (annual payments)—

(a) in paragraph (2)—

(i) after "paragraph (3)" insert "or (3A)"; and

(ii) for "the age of 65" substitute "normal retirement age";

(b) after paragraph (3) insert—

"(3A) Where a person is regarded as a qualifying member under regulation 15(5)—

(a) that member shall be entitled to an annual payment determined in accordance with Schedule 2 from—

(i) 14th May 2004; or

(ii) the date on which he became entitled to a present payment from the qualifying pension scheme;

whichever is the later; and

(b) monthly instalments of the annual payment which would have been payable to that member shall cease to be payable from the date on which that member would have ceased to be entitled to the payment referred to in regulation 15(5)(a) in accordance with the rules of the qualifying pension scheme.

(3B) Where the date referred to in paragraph (3A)(b) cannot be determined from the rules of the qualifying pension scheme, the date on which annual payments shall cease to be payable shall be such date as the scheme manager shall determine having regard to the rules of that scheme and to such other information as he considers relevant."; and

(c) in paragraph (6)(**4**), for "paragraph (5B)" substitute "paragraphs (3A)(b) and (5B)".

(2) In regulation 18 (initial payments)(**5**)—

(a) in paragraph (1)(a)(i), for "the age of 64" substitute "the age which is one year less than normal retirement age";

(b) at the end of paragraph (1)(a) omit "or";

(c) after paragraph (1)(a) insert—

"(aa) a person is regarded as a qualifying member under regulation 15(5); or"; and

(d) in paragraph (4)—

(i) at the beginning of sub-paragraph (a) insert "except where sub-paragraph (c) applies, ";

(ii) in sub-paragraph (a)(ii)(aa), for "the age of 65" substitute "normal retirement age"; and

(iii) after sub-paragraph (b) insert—

(**4**) Regulation 17(6) was amended by S.I. 2005/3256.
(**5**) Regulation 18 was substituted by S.I. 2005/3256 and paragraph (1) was amended by S.I. 2006/3370.