



2008 CHAPTER 13

PART 3

PENSION COMPENSATION

CHAPTER 1

PENSION COMPENSATION ON DIVORCE ETC.

**Scope of mechanism**

**86.**—(1) Pension compensation sharing is available under this Chapter in relation to a person’s shareable rights to PPF compensation.

(2) For the purposes of this Chapter, a right of a person to PPF compensation is “shareable” unless it is of a description specified by regulations made by the Department.

**Interpretation**

**87.** In this Chapter—

“the Board” means the Board of the Pension Protection Fund;

“PPF compensation” means compensation payable under the pension compensation provisions;

“the pension compensation provisions” means—

- (a) Chapter 3 of Part 3 of the 2005 Order (pension protection) and any regulations or order made under it,
- (b) this Chapter and any regulations or order made under it, and
- (c) any provision corresponding to the provisions mentioned in paragraph (a) or (b) in force in Great Britain;

“the relevant order or provision” means the pension compensation sharing order, or provision contained in a qualifying agreement, which gives rise to the pension compensation sharing;

“the transfer day” means the day on which the relevant order or provision takes effect;

“the transferee” means the person for whose benefit the relevant order or provision is made;

“the transferor” means the person to whose rights the relevant order or provision relates.

### **Activation of pension compensation sharing**

**88.** Section 89 applies on the taking effect of any of the following relating to a person’s shareable rights to PPF compensation—

- (a) a pension compensation sharing order under the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#);
- (b) a pension compensation sharing order under Schedule 15 to the Civil Partnership Act 2004 (c. 33) (financial relief in the High Court or a county court: Northern Ireland);
- (c) an order under Part 4 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (financial relief in Northern Ireland in relation to overseas divorce etc.) corresponding to such an order as is mentioned in paragraph (a);
- (d) an order under Schedule 17 to the Civil Partnership Act 2004 (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (b);
- (e) an order or provision to which any of paragraphs (a) to (d), (f) or (g) of section 109 of the Pensions Act 2008 (c. 30) applies (orders or provisions in Great Britain).

### **Creation of pension compensation debits and credits**

**89.—(1)** On the application of this section—

- (a) the transferor’s shareable rights to PPF compensation that derive from rights under the specified scheme become subject to a debit of the appropriate amount, and
- (b) the transferee becomes entitled to a credit of that amount as against the Board.

(2) For the purposes of subsection (1) “the appropriate amount” means—

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- (a) where the relevant order or provision specifies a percentage to be transferred, that percentage of the cash equivalent of the relevant compensation on the valuation day;
- (b) where the relevant order or provision specifies an amount to be transferred, the lesser of—
  - (i) that specified amount, and
  - (ii) the cash equivalent of the relevant compensation on the valuation day.

(3) For the purposes of subsection (2) “the relevant compensation” means the payments or future payments to which, immediately before the transfer day, the transferor is entitled under the pension compensation provisions by virtue of the transferor’s shareable rights to PPF compensation that derive from rights under the specified scheme.

(4) The Department may by regulations provide for any description of payment to be disregarded for the purposes of subsection (3).

(5) For the purposes of this section—

“the specified scheme” means the pension scheme specified in the relevant order or provision;

“the valuation day” means such day within the implementation period for the credit under subsection (1)(b) as the Board may specify by notice in writing to the transferor and transferee.

(6) The credit to which the transferee becomes entitled under subsection (1)(b) is referred to in this Chapter as a “pension compensation credit”.

### **Cash equivalents**

**90.—**(1) The Department may by regulations make provision about the calculation and verification of cash equivalents for the purposes of section 89.

(2) Regulations under this section may include provision for calculation and verification in a manner approved by the Board.

### **Reduction of compensation**

**91.—**(1) Where any of a person’s shareable rights to PPF compensation are subject to a pension compensation debit, each payment or future payment—

- (a) to which the person is entitled under the pension compensation provisions by virtue of those rights, and
- (b) which is a qualifying payment,

is reduced by the appropriate percentage.

(2) For the purposes of subsection (1) a payment is “a qualifying payment” if the cash equivalent by reference to which the amount of the pension compensation debit is determined includes an amount in respect of it.

(3) In this section “the appropriate percentage”, in relation to a pension compensation debit, means—

- (a) the percentage specified in the pension compensation sharing order or provision on which the debit depends; or
- (b) if the pension compensation sharing order or provision on which the debit depends specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of subsection (1) of section 89 represents of the amount mentioned in subsection (2)(b)(ii) of that section.

#### **Time for discharge of liability**

**92.**—(1) This section applies where the Board is subject to a liability in respect of a pension compensation credit.

(2) The Board must discharge the liability before the end of the implementation period for the credit.

(3) The Department may make provision by regulations as to circumstances in which the implementation period for the credit is extended for the purposes of this section.

#### **“Implementation period”**

**93.**—(1) For the purposes of this Chapter, the implementation period for a pension compensation credit is the period of 4 months beginning with the later of—

- (a) the transfer day, and
- (b) the first day on which the Board is in receipt of—
  - (i) the relevant documents, and
  - (ii) such information relating to the transferor and transferee as the Department may prescribe by regulations.

(2) In subsection (1)(b)(i) “the relevant documents” means copies of—

- (a) the relevant order or provision, and
- (b) the order, decree or declarator responsible for the divorce, dissolution or annulment to which it relates.

(3) Subsection (1) is subject to any provision made by regulations under section 95(2)(a).

(4) The Department may by regulations—

- (a) make provision requiring the Board to notify the transferor and transferee of the day on which the implementation period for the credit begins;

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- (b) provide for this section to have effect with modifications where the credit depends on a pension compensation sharing order and the order is the subject of an application for leave to appeal out of time.

### **Discharge of liability**

**94.**—(1) This section applies where the Board is subject to a liability in respect of a pension compensation credit.

(2) The Board must discharge the liability by sending a notice to the transferee.

(3) On the sending of the notice the transferee becomes entitled, with effect from (and including) the transfer day, to compensation calculated in accordance with Schedule 4.

(4) For the purposes of that calculation, the initial annual rate of compensation is an amount determined by the Board.

(5) The Board must determine that amount in such a way as to secure that the cash equivalent value of the compensation to which the transferee becomes entitled under subsection (3) equals the amount of the credit.

(6) The Department may by regulations make provision about the calculation of cash equivalents for the purposes of subsection (5).

(7) The notice sent under this section must—

- (a) state that the transferee is entitled to periodic pension compensation calculated under Schedule 4, and
- (b) specify the amount determined under subsection (4).

(8) Where the transferee dies before liability in respect of the credit has been discharged—

- (a) subsections (2) to (7) do not have effect in relation to the discharge of liability in respect of the credit, and
- (b) liability in respect of the credit must be discharged in accordance with regulations made by the Department.

### **Charges in respect of pension compensation sharing costs**

**95.**—(1) The Department may by regulations make provision for the purpose of enabling the Board to recover from the parties to pension compensation sharing prescribed charges in respect of prescribed descriptions of pension compensation sharing activity.

(2) Regulations under subsection (1) may include—

- (a) provision for the start of the implementation period for a pension compensation credit to be postponed in prescribed circumstances;

- (b) provision enabling the Board to set off against any PPF compensation payable to a party to pension compensation sharing any charges owed to it by that party under the regulations;
  - (c) provision, in relation to payments in respect of charges recoverable under the regulations, for reimbursement as between the parties to pension compensation sharing.
- (3) For the purposes of regulations under subsection (1), the question of how much of a charge recoverable under the regulations is attributable to a party to pension compensation sharing is to be determined as follows—
- (a) where the relevant order or provision includes provision (“provision for apportionment”) about the apportionment of charges under this section, there is attributable to the party so much of the charge as is apportioned to that party by that provision for apportionment;
  - (b) where the relevant order or provision does not include provision for apportionment, the charge is attributable to the transferor.
- (4) In subsection (1) the reference to pension compensation sharing activity is to activity attributable directly or indirectly to the application of section 89 by virtue of the relevant order or provision.

#### **Supply of information about pension compensation in relation to divorce etc.**

**96.—**(1) The Department may by regulations—

- (a) make provision imposing on the Board requirements with respect to the supply of information relevant to any power with respect to—
  - (i) financial relief under Part 3 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) or Part 4 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (Northern Ireland powers in relation to domestic and overseas divorce etc.),
  - (ii) financial relief under Schedule 15 or 17 to the Civil Partnership Act 2004 (c. 33) (Northern Ireland powers in relation to domestic and overseas dissolution of civil partnerships etc.),
  - (iii) financial relief, orders for financial provision or provision as to pension sharing or pension compensation sharing to which any of sub-paragraphs (i), (ii), (iv) or (v) of subsection (1)(a) of section 118 of the Pensions Act 2008 (c. 30) applies (financial relief etc. in Great Britain);
- (b) make provision about calculation and verification in relation to the valuation of PPF compensation for the purposes of regulations under paragraph (a);

- (c) make provision for the purpose of enabling the Board to recover prescribed charges in respect of providing information in accordance with regulations under paragraph (a).
- (2) Regulations under subsection (1)(b) may include provision for calculation and verification in a manner approved by the Board.
- (3) Regulations under subsection (1)(c) may include provision for the application in prescribed circumstances, with or without modification, of any provision made by virtue of section 95(2).

**Supply of information about pension compensation sharing**

97. The Department may by regulations require the Board to supply, to such persons as the Department may specify in the regulations, such information relating to anything which follows from the application of section 89 as the Department may so specify.

**Pension compensation sharing and attachment on divorce etc.**

98. Schedule 5 (which amends matrimonial and civil partnership legislation for the purpose of enabling the court to make pension compensation sharing orders, and orders for the attachment of pension compensation, in connection with proceedings in Northern Ireland) has effect.