

SCHEDULES

SCHEDULE 4

Section 94.

PENSION COMPENSATION PAYABLE ON DISCHARGE OF PENSION COMPENSATION CREDIT

PART 1

INTRODUCTORY

Introductory

1. This Schedule applies for the purposes of determining the compensation payable to or in respect of a person entitled to compensation on the discharge of a pension compensation credit in accordance with this Chapter.

Interpretation

2. In this Schedule—

“the initial annual rate of compensation” is the amount determined by the Board under section 94(4);

the “pension compensation age” of the transferee is the age determined in accordance with paragraph 3.

Pension compensation age

3.—(1) This paragraph applies for the purpose of determining the transferee’s pension compensation age.

(2) Sub-paragraphs (3) and (4) apply where the transferor’s PPF compensation, or any of it, is determined under Schedule 6 to the 2005 Order.

(3) Where the transferor’s right to PPF compensation arises by virtue of his or her status as a member of a pension scheme for which the Board assumed responsibility in accordance with Chapter 3 of Part 3 of that Order, the transferee’s pension compensation age is the same as—

(a) the normal pension age of the transferor, or

(b) where the transferor was a pension credit member, the normal benefit age of the transferor.

(4) Where the transferor's right to PPF compensation arises by virtue of his or her status as a person connected with a member of a scheme for which the Board assumed responsibility in accordance with Chapter 3 of Part 3 of that Order, the transferee's pension compensation age is the same as—

- (a) the normal pension age of that member, or
- (b) where that member was a pension credit member, the normal benefit age of that member.

(5) Sub-paragraph (6) applies where the transferor's PPF compensation is determined only under this Schedule.

(6) The transferee's pension compensation age is the same as the pension compensation age of the transferor.

(7) In this paragraph, "normal benefit age", "normal pension age" and "pension credit member" have the same meanings as in Schedule 6 to the 2005 Order.

PART 2

TRANSFEEE ATTAINS PENSION COMPENSATION AGE BEFORE OR ON TRANSFER DAY

Compensation payable to transferee

4.—(1) Compensation is payable in accordance with this paragraph where the transferee attains pension compensation age before or on the transfer day.

(2) The transferee is entitled to periodic compensation commencing on the transfer day and continuing for life.

(3) The annual rate of the periodic compensation is the aggregate of—

- (a) the initial annual rate of compensation, and
- (b) any increases under paragraph 17 (annual increases in periodic compensation).

(4) This paragraph is subject to paragraph 18 (compensation cap).

Compensation payable to widow, widower or surviving civil partner

5.—(1) This paragraph applies where—

- (a) the transferee dies after liability in respect of the pension compensation credit has been discharged under section 94,
- (b) the transferee was before death entitled under paragraph 4 to periodic compensation commencing on the transfer day, and
- (c) the transferee is survived by a widow, widower or surviving civil partner ("the surviving partner").

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(2) Subject to sub-paragraph (4), the surviving partner is entitled to periodic compensation commencing on the day following the transferee's death and continuing for life.

(3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 4 had the transferee not died.

(4) The surviving partner is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

PART 3

TRANSFEEE ATTAINS PENSION COMPENSATION AGE AFTER TRANSFER DAY

Compensation payable to transferee

6.—(1) Compensation is payable in accordance with this paragraph where the transferee attains pension compensation age after the transfer day.

(2) The transferee is entitled to periodic compensation commencing at that age and continuing for life.

(3) The annual rate of the periodic compensation is the aggregate of—

- (a) the initial annual rate of compensation,
- (b) the revaluation amount (see paragraph 8), and
- (c) any increases under paragraph 17 (annual increases in periodic compensation).

(4) This paragraph is subject to—

- paragraph 9 (commutation),
- paragraph 10 (early payment),
- paragraph 11 (deferred payment),
- paragraph 15 (terminal illness lump sum), and
- paragraph 18 (compensation cap).

Compensation payable to widower, widow or surviving civil partner

7.—(1) This paragraph applies where—

- (a) the transferee dies after liability in respect of the pension compensation credit has been discharged under section 94,
- (b) the transferee—

- (i) was, before death, entitled under paragraph 6 to periodic compensation commencing at pension compensation age, or
 - (ii) would have become so entitled had he or she not died, and
 - (c) the transferee is survived by a widow, widower or surviving civil partner (“the surviving partner”).
- (2) Subject to sub-paragraph (4), the surviving partner is entitled to periodic compensation commencing on the day following the transferee’s death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is—
- (a) where the transferee dies after attaining pension compensation age, half of the annual rate of the periodic compensation (including the revaluation amount (see paragraph 8) and any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 6 had the transferee not died;
 - (b) where the transferee dies before attaining pension compensation age, half of the annual rate of the periodic compensation (including the revaluation amount (see paragraph 8) and any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 6 if—
 - (i) the transferee’s pension compensation age had been the transferee’s actual age immediately before the date of the transferee’s death, and
 - (ii) the transferee had not died.
- (4) For the purposes of this paragraph, a person’s entitlement under paragraph 6 is to be determined disregarding paragraph 15(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).
- (5) The surviving partner is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

Revaluation

- 8.—**(1) This paragraph applies for the purpose of calculating the revaluation amount mentioned in paragraph 6(3)(b).
- (2) In this paragraph “the revaluation period” means the period—
- (a) beginning with the transfer day, and
 - (b) ending with the day before the transferee attains pension compensation age.
- (3) The revaluation amount is—
- (a) in a case in which the revaluation period is less than a month, nil;
 - (b) in any other case, the revaluation percentage of the initial annual rate of compensation.

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(4) For the purposes of sub-paragraph (3)(b) “the revaluation percentage” means the lesser of—

- (a) the percentage increase referred to in paragraph 8(4)(a) of Schedule 5 to the Pensions Act 2008, and
- (b) the maximum revaluation rate.

(5) For the purposes of sub-paragraph (4)(b) “the maximum revaluation rate” is—

- (a) in a case in which the revaluation period is a period of 12 months, 2.5%, and
- (b) in any other case, the percentage referred to in paragraph 8(5)(b) of Schedule 5 to the Pensions Act 2008.

This is subject to paragraph 20 (power of Board to alter rates of revaluation and indexation).

Commutation of periodic compensation

9.—(1) A transferee who is entitled to periodic compensation under paragraph 6 may, in prescribed circumstances, opt to commute for a lump sum a portion of the periodic compensation with effect from the time it becomes payable.

(2) Except in such circumstances as may be prescribed, the portion commuted under sub-paragraph (1) must not exceed 25%.

(3) Any reduction required to be made by virtue of paragraph 18 (compensation cap) must be made before determining the amount of the transferee’s periodic compensation which may be commuted under this paragraph.

(4) Where the transferee opts to commute any part of his or her periodic compensation under this paragraph, the lump sum payable under sub-paragraph (1) is the actuarial equivalent of the commuted portion of the periodic compensation calculated from tables designated for this purpose by the Board.

(5) The Board must publish in such manner as it considers appropriate the tables designated by it for the purposes of sub-paragraph (4).

(6) Regulations may prescribe the manner in which an option to commute periodic compensation under this paragraph may be exercised.

(7) The Department may, by order, amend sub-paragraph (2) so as to substitute a different percentage for that for the time being specified there.

Early payment of compensation

10.—(1) Regulations may prescribe circumstances in which, and conditions subject to which, the transferee may become entitled to periodic compensation under paragraph 6 before attaining pension compensation age.

(2) The Board must determine the amount of the actuarial reduction to be applied to compensation to which the transferee is entitled by virtue of this paragraph.

(3) Where, by virtue of this paragraph, periodic compensation is payable to the transferee before he or she attains pension compensation age, paragraph 8(2)(b) (end of revaluation period) applies as if the reference to the day before the transferee attains pension compensation age were to the day on which compensation is payable by virtue of this paragraph.

Deferral of compensation

11.—(1) Regulations may prescribe circumstances in which, and conditions subject to which, the transferee may opt to defer entitlement to periodic compensation under paragraph 6 until some time after attaining pension compensation age.

(2) The Board must determine the amount of the actuarial increase to be applied to compensation to which the transferee is entitled by virtue of this paragraph.

(3) Where, by virtue of this paragraph, periodic compensation is payable to the transferee after he or she attains pension compensation age, paragraph 8(2)(b) (end of revaluation period) applies as if the reference to the day before the transferee attains pension compensation age were to the day on which compensation is payable by virtue of this paragraph.

Terminal illness lump sum: eligibility

12.—(1) This paragraph applies where all of the following conditions are met—

- (a) the transferee is terminally ill;
- (b) if the transferee lived to the relevant age, he or she would become entitled on attaining that age to compensation under paragraph 6 in respect of the pension compensation credit;
- (c) the transferee has not yet become entitled to any compensation under this Chapter in respect of the pension compensation credit;
- (d) the whole or any part of the transferee's lifetime allowance is available.

(2) The transferee may make an application to the Board to commute the future entitlement mentioned in sub-paragraph (1)(b) for a lump sum ("a terminal illness lump sum") payable on the granting of the application.

(3) For the purposes of this Chapter a person is "terminally ill" at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within six months.

(4) In this paragraph—

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“lifetime allowance”, in relation to a person, has the same meaning as in Part 4 of the Finance Act 2004 (c. 12) (pension schemes etc.) (see section 218 of that Act);

“relevant age”, in relation to a person, means—

- (a) in relation to compensation entitlement to which has been accelerated or deferred under regulations under paragraph 10 or (as the case may be) 11, the age at which the person becomes entitled to the compensation in accordance with the regulations;
- (b) in relation to compensation entitlement to which has not been so accelerated or deferred, pension compensation age.

Terminal illness lump sum: application and evidence

13. An application for a terminal illness lump sum—

- (a) must be made in writing, either on a form approved by the Board for the purposes of this paragraph or in such other manner as the Board may accept as sufficient in the circumstances of the case;
- (b) must be accompanied by such information as the Board may require for the purpose of determining the application.

Terminal illness lump sum: determination of application

14.—(1) The Board must determine an application for a terminal illness lump sum in accordance with this paragraph.

(2) The Board must—

- (a) if satisfied that the conditions in paragraph 12(1) are met, grant the application;
- (b) in any other case (subject to sub-paragraph (3)), reject the application.

(3) The Board may hold over the application for determination at a later date if it is satisfied that—

- (a) although the condition in paragraph 12(1)(a) is not met, the transferee suffers from a progressive disease and may become terminally ill within six months, and
- (b) the conditions in paragraph 12(1)(b) to (d) are met.

Terminal illness lump sum: effect of successful application

15.—(1) If the Board grants an application for a terminal illness lump sum, the transferee—

- (a) becomes entitled to a terminal illness lump sum calculated in accordance with this paragraph, and
 - (b) loses the entitlement he or she otherwise would have had on attaining the relevant age to compensation under paragraph 6 in respect of the pension compensation credit.
- (2) The amount of the terminal illness lump sum is 2 times the amount to which the transferee would have been entitled under paragraph 6 in respect of the pension compensation credit in the year following the granting of the application, if he or she had attained the relevant age on the granting of the application.
- (3) In this paragraph “the relevant age” has the same meaning as in paragraph 12.

Terminal illness lump sum: information

- 16.**—(1) Relevant information held by the Department or the Secretary of State about an individual may be disclosed to the Board for use for a purpose relating to its functions under paragraphs 12 to 15.
- (2) In sub-paragraph (1) “relevant information” means—
- (a) information held for the purposes of any function of the Department relating to social security; or
 - (b) information held for the purposes of any function of the Secretary of State relating to any scheme made under section 286 of the Pensions Act 2004 (c. 35) (financial assistance scheme).

PART 4

PROVISIONS APPLICABLE IRRESPECTIVE OF AGE OF TRANSFEREE ON TRANSFER DAY

Annual increase in periodic compensation

- 17.**—(1) This paragraph provides for annual increases to compensation payable to the transferee.
- (2) The transferee is entitled, on each indexation date, to an increase of the appropriate percentage of the underlying rate.
- (3) The increase to which the transferee is entitled on the first indexation date is restricted to 1/12 of the amount calculated under sub-paragraph (2) for each full month in the period beginning with the transfer day and ending with that indexation date.
- (4) For the purposes of sub-paragraph (2)—
- “the appropriate percentage”, as at an indexation date, is the lesser of—

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(a) the percentage increase referred to in paragraph (a) of the definition of “the appropriate percentage” in paragraph 17(4) of Schedule 5 to the Pensions Act 2008, and

(b) 2.5%;

“the indexation date” means—

(a) the 1st January next falling after the transferee first becomes entitled to the periodic compensation, and

(b) each subsequent 1st January during the transferee’s lifetime;

“the underlying rate”, as at an indexation date, is the aggregate of—

(a) the indexed proportion (as determined under sub-paragraph (5) or (6)) of the aggregate of the initial annual rate of compensation and (in the case of compensation payable under paragraph 6) the revaluation amount, and

(b) any annual increase to which the transferee is entitled under this paragraph in respect of earlier indexation dates.

(5) Where the transferor’s PPF compensation is payable in accordance with paragraph 3, 5, 8, 11, 15 or 22 of Schedule 6 to the 2005 Order (“the relevant paragraph of Schedule 6”), “the indexed proportion” is the proportion of the amount mentioned in sub-paragraph (3)(a) of the relevant paragraph of Schedule 6 that is attributable to the transferor’s post-1997 service.

Paragraph 28(4) of that Schedule applies for the purpose of attributing amounts to the transferor’s post-1997 service under this sub-paragraph.

(6) Where the transferor’s PPF compensation is payable otherwise than as mentioned in sub-paragraph (5), “the indexed proportion” is such proportion as is determined in accordance with regulations made by the Department.

(7) Where the compensation payable to the transferee is—

(a) reduced as a result of the commutation of periodic compensation under paragraph 9, or

(b) restricted under regulations under paragraph 18 (compensation cap),

the references in the definition of “the underlying rate” in sub-paragraph (4) to the initial annual compensation rate and the revaluation amount are to that rate and that amount as so restricted or reduced.

(8) the definition of “the appropriate percentage” in sub-paragraph (4) is subject to paragraph 20 (power of Board to alter rates of revaluation and indexation).

(9) In this paragraph “post-1997 service” has the same meaning as in paragraph 28 of Schedule 6 to the 2005 Order (annual increase in periodic pension compensation).

Compensation cap

18.—(1) The Department may by regulations make provision for restricting the amount of periodic compensation payable under this Schedule in a case in which, on the transfer day, the transferor is not entitled to present payment of PPF compensation.

(2) Without prejudice to the generality of sub-paragraph (1), the regulations may restrict an amount payable to a person in any period by reference to the compensation cap specified by the Department by order under paragraph 26(7) of Schedule 6 to the 2005 Order (compensation cap).

Compensation in form of dependant's benefits

19.—(1) The Department may by regulations make provision for compensation to be payable to—

- (a) prescribed descriptions of partners, or
- (b) prescribed descriptions of dependants,

of prescribed descriptions of transferees.

(2) The regulations may, in particular—

- (a) provide for compensation in the form of periodic or lump sum payments;
- (b) provide for periodic compensation to be payable for a prescribed period;
- (c) apply paragraph 17 (annual increases in respect of periodic compensation), with or without modifications, in respect of compensation in the form of periodic payments.

Board's power to alter rates of revaluation and indexation

20.—(1) The Board may determine the percentage that is to be—

- (a) the maximum revaluation rate for the purposes of paragraph 8(4)(b);
- (b) the appropriate percentage for the purposes of paragraph 17(2).

(2) Before making a determination under this paragraph the Board must—

- (a) consult such persons as it considers appropriate, and
- (b) publish details of the proposed determination in such manner as it considers appropriate and consider any representations made in respect of it.

(3) The rate determined under this paragraph may be nil.

(4) A determination under this paragraph may be expressed so as to have effect for a limited period.

(5) A determination under sub-paragraph (1)(b)—

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- (a) has effect in relation to future increases under paragraph 17 only, and
- (b) may be expressed to have effect—
 - (i) in all cases (whether the entitlement to the periodic compensation first arose before or after the date the determination is made), or
 - (ii) only in cases where entitlement to the periodic compensation first arose on or after a date determined by the Board.
- (6) Notice of any determination under this paragraph must be published in such manner as the Board considers appropriate.