SCHEDULES

SCHEDULE 4

Section 22

PENSION PROTECTION FUND

Requirements to obtain actuarial valuations

1 The Pensions Act 2004 is amended as follows.

Commencement Information
I1 Sch. 4 para. 1 in force at 3.1.2012 for specified purposes by S.I. 2011/3034, **art. 3(i)(i)**
I2 Sch. 4 para. 1 in force at 23.7.2012 for specified purposes by S.I. 2012/1681, **art. 3(b)(i)**
I3 Sch. 4 para. 1 in force at 13.3.2013 in so far as not already in force by S.I. 2013/585, **art. 2(b)(i)**

2 In section 58(3) (right to apply under section 423 of the Insolvency Act 1986)—

(a) for the words from "an actuarial" to the first "scheme" substitute " a determination made, or actuarial valuation obtained, in respect of the scheme by the Board of the Pension Protection Fund under section 143(2) ", and

(b) for "that section" substitute " section 143 ".

Commencement Information
I4 Sch. 4 para. 2 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

3 (1) Section 141 (effect of review of ill-health pension) is amended as follows.

(2) In subsection (4) after "which" insert " a determination under section 143(2)(a) or ".

(3) In subsection (5)(a) after "first" insert " makes a determination under section 143(2)(a) or ".

Commencement Information
I5 Sch. 4 para. 3 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

4 In section 142(1) (interpretation) in the definition of "scheme valuation" for "143" substitute " 143(2)(b) ".

Commencement Information
I6 Sch. 4 para. 4 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

5 (1) Section 143 (Board's obligation to obtain valuation of assets and protected liabilities) is amended as follows.

(2) For subsection (2) substitute—

"(2) The Board must, as soon as reasonably practicable—

(a) determine whether the condition in subsection (2)(a) of the section in question is satisfied, or

(b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation of the scheme as at the relevant time.

(2A) Before doing so, it must give a notice stating whether it will make a determination under subsection (2)(a) or obtain an actuarial valuation under subsection (2)(b) to—

(a) the trustees or managers of the scheme, and

(b) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer."

(3) In subsection (3) for "those purposes" substitute " the purposes of this section ".

(4) In subsection (4) for "this section" substitute " a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b) ".

(5) In subsection (5B) for "mentioned in subsection (2)" substitute " of this section ".

(6) After subsection (5B) insert—

"(5C) The Board must issue a statement setting out how (subject to any provision made under subsection (4)) it will make determinations under subsection (2)(a)."

(7) In subsection (6)—

(a) after "subsection (4)," insert " for the purposes of an actuarial valuation obtained under subsection (2)(b) ", and

(b) for "paragraphs (a) and (b) of that subsection" substitute " subsection (4)(a) and (b) ".

(8) In subsection (9)—

(a) for "requires the" substitute " requires a determination to be made, or an ", and

(b) after "purposes of" insert " the determination or ".

(9) In subsection (10) for "requires the" substitute " requires a determination to be made, or an ".

(10) In subsection (11)(b)(ii) after "first" insert " makes a determination under subsection (2)(a) or ".

Commencement Information

I7 Sch. 4 para. 5 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

6 After section 143 insert—

"**143A Determinations under section 143**

(1) Where the Board makes a determination under section 143(2)(a) it must give a copy of the determination to—

(a) the Regulator,

(b) the trustees or managers of the scheme, and

(c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(2) For the purposes of this Chapter a determination under section 143(2)(a) is not binding until—

(a) the period within which the determination may be reviewed by virtue of Chapter 6 has expired, and

(b) if the determination is so reviewed—

(i) the review and any reconsideration,

(ii) any reference to the PPF Ombudsman in respect of the determination, and

(iii) any appeal against the PPF Ombudsman's determination or directions,

has been finally disposed of.

(3) For the purposes of determining whether or not the condition in section 127(2)(a) or, as the case may be, section 128(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under section 143(2)(a) is conclusive.

This subsection is subject to section 172(3) and (4) (treatment of fraud compensation payments).

(4) Where a determination under section 143(2)(a) becomes binding under this section the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding determination to—

(a) the Regulator,

(b) the trustees or managers of the scheme, and

(c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(5) A notice under subsection (4) must be in the prescribed form and contain the prescribed information."

Commencement Information

I8 Sch. 4 para. 6 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

7 (1) Section 144 (approval of valuation) is amended as follows.

(2) In subsection (1) for "143" substitute " 143(2)(b) ".

(3) In subsection (2) for "that section" substitute " section 143 ".

Commencement Information

I9 Sch. 4 para. 7 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

8 In section 145(1) (binding valuations) for "143" substitute " 143(2)(b) ".

Commencement Information

I10 Sch. 4 para. 8 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

9 (1) Section 151 (application for Board to assume responsibility for schemes) is amended as follows.

(2) In subsections (2)(b) and (3)(b) for the words from "the valuation" to "scheme" substitute " the determination made by the Board or valuation obtained by the Board in respect of the scheme under section 143(2) ".

(3) In subsection (6)—

(a) in paragraphs (a)(ii) and (b)(ii) after "binding" insert " determination or ", and

(b) in paragraph (a)(ii) for "section" substitute " subsection ".

(4) In subsection (10) for "under that section" substitute " under section 143(2)(b) ".

Commencement Information

I11 Sch. 4 para. 9 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

10 In section 154(5)(b) (requirement to wind up scheme) after "that the" insert " determination made by the Board or ".

Commencement Information

I12 Sch. 4 para. 10 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

11 (1) Section 158 (Board's duty to assume responsibility for closed schemes) is amended as follows.

(2) For subsection (3) substitute—

"(3) The Board must, as soon as reasonably practicable—

(a) determine whether the condition in subsection (1) is satisfied, or

(b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of section 143) of the scheme as at the relevant time.

(3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under subsection (3)(a) or obtain an actuarial valuation under subsection (3)(b)."

(3) In subsection (4) for "those purposes as it applies for the purposes mentioned in subsection (2)" substitute " the purposes of this section as it applies for the purposes ".

(4) In subsection (5)—

(a) for "a valuation obtained under subsection (3)" substitute " a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b) ",

(b) for "a valuation obtained under section 143" substitute " a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b) ", and

(c) after paragraph (a) insert—

"(aa) section 143A (determinations under section 143), other than subsections (1)(c) and (4)(c) (duty to give copy of determinations to employer's insolvency practitioner);".

(5) In subsection (6)—

(a) after "sections 143" insert " , 143A ",

(b) omit "and" at the end of paragraph (a), and

(c) after that paragraph insert—

"(aa) subsection (3) of section 143A applies as if the reference to section 128(2)(a) included a reference to subsection (1) of this section, and".

Commencement Information

I13 Sch. 4 para. 11 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

12 (1) Section 160 (transfer notice) is amended as follows.

(2) In subsection (3) for "valuation obtained under section 143" substitute " determination made or valuation obtained under section 143(2) ".

(3) In subsection (4) after "until the" insert " determination made or ".

Commencement Information

I14 Sch. 4 para. 12 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

13 (1) Schedule 9 (reviewable matters) is amended as follows.

(2) For paragraph 8 substitute—

"7B A notice under section 143(2A) (whether Board will make a determination or obtain an actuarial valuation).

7C The failure by the Board either to—

(a) make a determination under section 143(2)(a), or

(b) obtain an actuarial valuation under section 143(2)(b).

7D A determination by the Board under section 143(2)(a) (whether condition in section 127(2)(a) or 128(2)(a) satisfied)."

(3) After paragraph 14 insert—

"14A A notice under section 158(3A) (whether Board will make a determination or obtain an actuarial valuation).

14B The failure by the Board either to—

(a) make a determination under section 158(3)(a), or

(b) obtain an actuarial valuation under section 158(3)(b).

14C A determination by the Board under section 158(3)(a) (whether condition in section 158(1) satisfied).”

Commencement Information

I15 Sch. 4 para. 13 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(ii)**

Requirement to obtain protected benefits quotation

14 In section 151(4)(a) of the Pensions Act 2004 (application for Board to assume responsibility for scheme) after “form,” insert “ or evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, ”.

Commencement Information

I16 Sch. 4 para. 14 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(iii)**

15 (1) Section 152 of the Pensions Act 2004 (Board's duty to assume responsibility for scheme) is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsection (2) applies where the application is accompanied by a protected benefits quotation.”

(3) After subsection (2) insert—

“(2A) Subsection (2B) applies where—

(a) the application is accompanied by evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and

(b) the Board is satisfied that that is the case.

(2B) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the amount of the protected liabilities at that time.”

(4) In subsection (3)—

(a) after “subsection (2)” insert “ or (2B) ”, and

(b) for “a determination notice” substitute “ a notice to that effect (a “determination notice”) ”.

(5) Omit subsection (4).

(6) In subsection (5)—

(a) after “in subsection (2)” insert “ or (2B) ”, and

(b) for "under subsection (2)" substitute " under that subsection ".

(7) Omit subsection (8).

(8) In subsection (10) for "Regulations" substitute " Where subsection (2) applies, regulations ".

(9) After subsection (10) insert—

"(10A) The Board may, for the purposes of subsection (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of the scheme as at the reconsideration time (within the meaning of section 151).

(10B) A valuation under subsection (10A) must be prepared in accordance with such requirements as may be prescribed.

(10C) Section 143(3) to (6) applies in relation to a determination under subsection (2B) and a valuation under subsection (10A) as it applies in relation to a determination under section 143(2)(a) and an actuarial valuation obtained under section 143(2)(b).

(10D) In the application of section 143 by virtue of subsection (10C)—

(a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of section 151), and

(b) references to the pre-approval period are to be read as references to the period which begins immediately after the reconsideration time, and ends immediately before the Board first issues a determination notice under this section."

Commencement Information

I17 Sch. 4 para. 15 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(iii)**

16 In the following provisions of the Pensions Act 2004 after "152(2)" insert " or (2B) "

(a) section 154(2)(c) (requirement to wind up certain schemes), and

(b) section 172(4) and (5)(c) (fraud compensation regime).

Commencement Information

I18 Sch. 4 para. 16 in force at 23.7.2012 by S.I. 2012/1681, **art. 3(b)(iii)**

Removal of restriction on transfer notices

17 (1) The Pensions Act 2004 is amended as follows.

(2) In section 160(7) (transfer notice)—

(a) for "172(1) and (2)" substitute " 172(2) ", and

(b) omit "within first 12 months of assessment period or".

(3) Omit section 172(1) (no transfer notice within first 12 months of assessment period).

Commencement Information

I19 Sch. 4 para. 17 in force at 3.1.2012 by S.I. 2011/3034, **art. 3(i)(ii)**

Parliamentary control of subordinate legislation

18 (1) Section 316(2) of the Pensions Act 2004 (subordinate legislation subject to affirmative procedure) is amended as follows.

(2) Omit paragraph (a) (the administration levy).

(3) In paragraph (f) (the levy ceiling) after "ceiling)" insert " which is made by virtue of section 178(8) ".

(4) **[**[F1]In paragraph (s) (the compensation cap) after "Fund)" insert " except an order which is made by virtue of paragraph 27 of that Schedule ".**]**

Textual Amendments

F1 Sch. 4 para. 18(4) omitted (E.W.S.) (coming into force in accordance with reg. 1(b) of the amending S.I.) by virtue of The Pensions Act 2004 (Amendment) (Pension Protection Fund Compensation) Regulations 2023 (S.I. 2023/1309), **reg. 5(a)**

Commencement Information

I20 Sch. 4 para. 18 in force at 3.1.2012 by S.I. 2011/3034, **art. 3(i)(iii)**

Pension credit members

19 (1) Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.

(2) For paragraph 21 (pension credit members under normal benefit age at assessment date) substitute—

"21 (1) This paragraph applies to a person who—

(a) is a pension credit member of the scheme immediately before the assessment date, but

(b) has not attained normal benefit age before that date.

(2) But it applies only to the extent that the member's pension credit rights do not involve the member being credited by the scheme with notional pensionable service.

(3) Paragraphs 15, 18 and 19 apply to the pension credit member as they apply to a deferred member who has not attained normal pension age before the assessment date, subject to the following modifications.

(4) In paragraph 15—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age,

(b) in sub-paragraph (4) for the words from "the aggregate of" to the end substitute " the accrued amount ", and

(c) for sub-paragraph (5) substitute—

"(5) In sub-paragraph (4) "the accrued amount" means an amount equal to the initial annual rate of the pension to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day."

(5) In paragraph 18—

(a) for sub-paragraph (1)(b) substitute—

"(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999.", and

(b) in sub-paragraph (3) the references to normal pension age are to be read as references to normal benefit age.

(6) In paragraph 19—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age,

(b) in sub-paragraph (4) for the words from "the aggregate of" to the end substitute " the accrued amount ",

(c) for sub-paragraph (5) substitute—

"(5) In sub-paragraph (4) "the accrued amount" means an amount equal to the amount of the scheme lump sum to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day.", and

(d) omit sub-paragraph (6).

(7) In this paragraph "transfer day" has the meaning given by section 29 of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits).

21A (1) This paragraph applies to a person who—

(a) is a pension credit member of the scheme immediately before the assessment date, but

(b) has not attained normal benefit age before that date.

(2) But it applies only to the extent that the member's pension credit rights involve the member being credited by the scheme with notional pensionable service.

(3) Paragraphs 15 to 19 apply to the pension credit member as they apply to a deferred member who has not attained normal pension age before the assessment date, subject to the following modifications.

(4) In paragraph 15—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age, and

(b) for sub-paragraph (5) substitute—

"(5) In sub-paragraph (4) "the accrued amount" means an amount equal to the initial annual rate of the pension to which the

deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day."

(5) In paragraph 16(2)(a) for the words from "day after" to "ended" substitute " transfer day ".

(6) In paragraph 17(2)(b) the reference to normal pension age is to be read as a reference to normal benefit age.

(7) In paragraph 18—

(a) for sub-paragraph (1)(b) substitute—

"(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999.", and

(b) in sub-paragraph (3) the references to normal pension age are to be read as references to normal benefit age.

(8) In paragraph 19—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age, and

(b) for sub-paragraph (5) substitute—

"(5) In sub-paragraph (4) "the accrued amount" means an amount equal to the amount of the scheme lump sum to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day."

(9) In this paragraph "transfer day" has the meaning given by section 29 of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits)."

(3) In each of the following after "21" insert " or 21A "

(a) paragraph 25(1) (early payment of compensation),

(b) paragraph 25(3) (as amended by paragraph 12 of Schedule 8 to the Pensions Act 2008),

(c) in paragraph 25B(4) (terminal illness lump sum) paragraph (b) of the definition of "relevant age", and

(d) paragraph 28(8)(c) (annual increase in periodic compensation).

(4) In paragraph 36(5)(a) (meaning of "pensionable service") after "credit" insert " (except for the purposes of paragraphs 21 and 21A) ".

Commencement Information

I21 Sch. 4 para. 19 in force at 3.1.2012 by S.I. 2011/3034, **art. 3(i)(iv)**

20 In the Pensions Act 2008 omit paragraphs 10 and 11 of Schedule 8 (which amend paragraph 21 of Schedule 7 to the Pensions Act 2004).

Commencement Information

I22 Sch. 4 para. 20 in force at 3.1.2012 by S.I. 2011/3034, **art. 3(i)(iv)**

Postponement of compensation

21 Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.

Commencement Information

I23 Sch. 4 para. 21 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

22 For paragraph 25A (deferral of compensation) and the heading before it substitute—

"Postponement of compensation

25A (1) Regulations may prescribe circumstances in which, and conditions subject to which—

(a) a person who becomes entitled to periodic compensation under paragraph 5, 8, 11 or 15 may elect to postpone the commencement of periodic compensation under that paragraph, and

(b) a person who becomes entitled to lump sum compensation under paragraph 7, 10, 14 or 19 may elect to postpone the payment of lump sum compensation under that paragraph.

(2) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 ceases to be postponed, the Board must determine—

(a) the amount mentioned in sub-paragraph (3)(a) of that paragraph, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and

(b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(3) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to periodic compensation, are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).

(4) Where the payment of lump sum compensation under paragraph 7, 10, 14 or 19 ceases to be postponed, the Board must determine—

(a) the relevant amount, as at the time the lump sum compensation would have been payable if its payment had not been postponed, and

(b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(5) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to lump sum compensation, are to the difference between the amounts in sub-paragraphs (4)(a) and (4)(b).

(6) In sub-paragraph (4) the "relevant amount" means (as appropriate)—

(a) the amount mentioned in paragraph 7(2)(a),

(b) the aggregate of the amounts mentioned in paragraph 10(2)(a) and (b),

(c) the amount mentioned in paragraph 14(3)(a), or

(d) the amount mentioned in paragraph 19(3)(a).”

Commencement Information

I24 Sch. 4 para. 22 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

23 (1) In paragraph 5(3) (periodic compensation for postponed pensioner at assessment date)—

(a) omit “and” at the end of paragraph (a), and

(b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(2) In paragraph 7(2) (lump sum compensation for postponed pensioner at assessment date) for the words from “the amount” to the end substitute “the aggregate of—

(a) the amount of the scheme lump sum which would have been payable had the postponement ceased immediately before the assessment date, and

(b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”

(3) In paragraph 8(3) (periodic compensation for active member over pension age at assessment date)—

(a) omit “and” at the end of paragraph (a), and

(b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(4) In paragraph 10(2) (lump sum compensation for active member over pension age at assessment date)—

(a) omit “and” at the end of paragraph (a), and

(b) after paragraph (b) insert “, and

(c) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”

(5) In paragraph 11(3) (periodic compensation for active member under pension age at assessment date)—

(a) omit “and” at the end of paragraph (a), and

(b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of

paragraph 25A, the amount of the actuarial increase under that paragraph, and".

(6) In paragraph 14(3) (lump sum compensation for active member under pension age at assessment date) for "the protected amount" substitute "the aggregate of—

(a) the protected amount, and

(b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph."

(7) In paragraph 15(3) (periodic compensation for deferred member under pension age at assessment date)—

(a) omit "and" at the end of paragraph (a), and

(b) after that paragraph insert—

"(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and".

(8) In paragraph 19(3) (lump sum compensation for deferred member under pension age at assessment date) for "the protected amount" substitute "the aggregate of—

(a) the protected amount, and

(b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph."

(9) **[**[F2]In paragraph 26 (compensation cap)—

(a) in sub-paragraphs (3)(c) and (6)(e) for "14(3)" substitute " 14(3)(a) ", and

(b) in sub-paragraphs (3)(e) and (6)(g) for "19(3)" substitute " 19(3)(a) ".**]**

Textual Amendments

F2 Sch. 4 para. 23(9) omitted (E.W.S.) (coming into force in accordance with reg. 1(b) of the amending S.I.) by virtue of The Pensions Act 2004 (Amendment) (Pension Protection Fund Compensation) Regulations 2023 (S.I. 2023/1309), **reg. 5(b)**

Commencement Information

I25 Sch. 4 para. 23 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

24 (1) In paragraph 6 (periodic compensation for widow or widower of postponed pensioner at assessment date)—

(a) in sub-paragraph (3) after "including" insert " any actuarial increase under paragraph 25A and ", and

(b) after sub-paragraph (3) insert—

"(3A) If, on the day the postponed pensioner ("P") died, commencement of P's periodic compensation under paragraph 5 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of P's death."

(2) In paragraph 9 (periodic compensation for widow or widower of active member over pension age at assessment date)—

(a) in sub-paragraph (3) after "including" insert " any actuarial increase under paragraph 25A and ", and

(b) after sub-paragraph (3) insert—

"(3A) If, on the day the active member ("A") died, commencement of A's periodic compensation under paragraph 8 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of A's death."

(3) In paragraph 13 (periodic compensation for widow or widower of active member under pension age at assessment date)—

(a) in sub-paragraph (3)(a) after "including" insert " any actuarial increase under paragraph 25A and ",

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

"(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).", and

(c) after sub-paragraph (3) insert—

"(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the active member ("A") died commencement of A's periodic compensation under paragraph 11 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of A's death."

(4) In paragraph 18 (periodic compensation for widow or widower of deferred member under pension age at assessment date)—

(a) in sub-paragraph (3)(a) after "including" insert " any actuarial increase under paragraph 25A and ",

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

"(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).", and

(c) after sub-paragraph (3) insert—

"(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the deferred member ("D") died commencement of D's periodic compensation under paragraph 15 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of D's death."

Commencement Information

I26 Sch. 4 para. 24 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

25 In paragraph 24(1) (commutation of periodic compensation) for "becomes payable" substitute " commences ".

Commencement Information
I27 Sch. 4 para. 25 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

26 (1) In paragraph 25B (eligibility for terminal illness lump sum)—

(a) in sub-paragraph (4) in the definition of "relevant age"—

(i) in paragraph (a) omit "or deferred" and "or (as the case may be) 25A", and

(ii) in paragraph (b) omit "or deferred", and

(b) after sub-paragraph (4) insert—

"(5) Sub-paragraph (6) applies where—

(a) the commencement of a person's periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or

(b) the payment of a person's lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph.

(6) This paragraph applies as if—

(a) the person first becomes entitled to compensation under the paragraph in question immediately after the period of postponement ends, and

(b) in sub-paragraph (1)(b), for "if the person lived to the relevant age, the person would become entitled on attaining that age" there were substituted " if the period of postponement ended, the person would become entitled "."

(2) In paragraph 25E (effect of successful application for terminal illness lump sum) after sub-paragraph (6) insert—

"(7) Where on the granting of the application—

(a) the commencement of a person's periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or

(b) the payment of a person's lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph,

this paragraph applies as if the references to the person attaining the relevant age were references to the period of postponement ending."

Commencement Information
I28 Sch. 4 para. 26 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

27 (1) Paragraph 28 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (3)—

(a) in the definition of "underlying rate" for "any of the paragraphs mentioned in sub-paragraph (1)" substitute " paragraph 3 or 22 ", and

(b) after that definition insert—

""underlying rate" means, in the case of periodic compensation under paragraph 5, 8, 11 or 15, the aggregate of—

(a) so much of the amount mentioned in sub-paragraph (3)(a) of the paragraph in question as is attributable to post-1997 service,

(b) so much of the amount mentioned in sub-paragraph (3)(aa) of the paragraph in question as is attributable to post-1997 service, and

(c) the amount within sub-paragraph (3)(b) of that paragraph immediately before the indexation date."

(3) In sub-paragraph (5)—

(a) in paragraph (a) for the second "the" substitute " each ",

(b) omit the "and" at the end of that paragraph, and

(c) after paragraph (b) insert—

"(c) for the purposes of sub-paragraph (2), the definition of "underlying rate" in the case of periodic compensation under paragraph 5, 8, 11 or 15 applies as if the reference in paragraph (b) of the definition to the amount mentioned in sub-paragraph (3)(aa) of the paragraph in question was a reference to that amount reduced by the commutation percentage, and

(d) that amount (as so reduced) is attributable to post-1997 service and pre-1997 service in the same proportions as that amount would have been so attributable had no part of the periodic compensation been commuted."

(4) After sub-paragraph (5) insert—

"(5A) The amount mentioned in sub-paragraph (3)(aa) of paragraph 5, 8, 11 or 15 is attributable—

(a) to post-1997 service, in so far as it relates to so much of the amount mentioned in sub-paragraph (3)(a) of the paragraph in question as is attributable to post-1997 service, and

(b) to pre-1997 service, in so far as it relates to so much of that amount as is attributable to pre-1997 service.

(5B) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 has been postponed by virtue of paragraph 25A, this paragraph applies as if the person first becomes entitled to periodic compensation under the paragraph in question on the day on which the periodic compensation commences."

Commencement Information

I29 Sch. 4 para. 27 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

28 (1) In paragraph 29 (Board's powers to alter rates of revaluation and indexation) after sub-paragraph (6) insert—

"(6A) A determination under sub-paragraph (2) which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of periodic compensation to a person is postponed by virtue of paragraph 25A, the

determination applies as if the person first becomes entitled to the periodic compensation on the day on which the periodic compensation commences."

(2) In paragraph 30 (Secretary of State's powers to vary percentage paid as compensation) after sub-paragraph (6) insert—

"(6A) An order under this paragraph which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of compensation to a person is postponed by virtue of paragraph 25A, the order applies as if the person first becomes entitled to the compensation immediately after the period of postponement ends."

Commencement Information

I30 Sch. 4 para. 28 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(ii)**

Pension compensation sharing: postponement of compensation

29 Schedule 5 to the Pensions Act 2008 (pension compensation payable on discharge of pension compensation credit) is amended as follows.

Commencement Information

I31 Sch. 4 para. 29 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

30 (1) Omit paragraph 11 (deferral of compensation).

(2) In Part 4 after the Part heading insert—

"Postponement of compensation

16A (1) Regulations may prescribe circumstances in which, and conditions subject to which, a person who becomes entitled to periodic compensation under paragraph 4 or 6 may elect to postpone the commencement of periodic compensation under that paragraph.

(2) Where the commencement of periodic compensation under paragraph 4 or 6 ceases to be postponed, the Board must determine—

(a) the relevant amount, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and

(b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(3) References in this Schedule to the amount of an actuarial increase under this paragraph are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).

(4) In sub-paragraph (2) the "relevant amount" means (as appropriate)—

(a) the amount mentioned in paragraph 4(3)(a), or

(b) the aggregate of the amounts mentioned in paragraph 6(3)(a) and (b)."

Commencement Information

I32 Sch. 4 para. 30 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

31 (1) In paragraph 4(3) (periodic compensation for transferee over pension compensation age on transfer day)—

(a) omit "and" at the end of paragraph (a), and

(b) after that paragraph insert—

"(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and".

(2) In paragraph 4(4) (provisions to which paragraph 4 is subject) after "subject to" insert " paragraph 16A (postponement of compensation) and ".

(3) In paragraph 6(3) (periodic compensation for transferee under pension compensation age on transfer day)—

(a) omit "and" at the end of paragraph (b), and

(b) after that paragraph insert—

"(ba) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and".

(4) In paragraph 6(4) (provisions to which paragraph 6 is subject)—

(a) omit the entry for paragraph 11,

(b) omit "and" at the end of the entry for paragraph 15, and

(c) after that entry insert— " paragraph 16A (postponement of compensation), and ".

Commencement Information

I33 Sch. 4 para. 31 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

32 (1) In paragraph 5 (periodic compensation for widow etc of transferee over pension compensation age on transfer day)—

(a) in sub-paragraph (3) after "(including" insert " any actuarial increase under paragraph 16A and ", and

(b) after sub-paragraph (3) insert—

"(3A) If, on the day the transferee ("T") died, commencement of T's periodic compensation under paragraph 4 was postponed by virtue of paragraph 16A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of T's death."

(2) In paragraph 7 (periodic compensation for widow etc of transferee under pension compensation age on transfer day)—

(a) in sub-paragraph (3)(a) after "(see paragraph 8)" insert " , any actuarial increase under paragraph 16A ",

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

"(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 16A).", and

(c) after sub-paragraph (3) insert—

"(3A) For the purposes of sub-paragraph (3)(a), if on the day the transferee ("T") died commencement of T's periodic compensation under paragraph 6 was postponed by virtue of paragraph 16A, assume that the periodic compensation commenced immediately before the date of T's death."

Commencement Information

I34 Sch. 4 para. 32 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

33 In paragraph 9(1) (commutation of periodic compensation) for "becomes payable" substitute " commences ".

Commencement Information

I35 Sch. 4 para. 33 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

34 (1) In paragraph 12 (eligibility for terminal illness lump sum)—

(a) in sub-paragraph (4) in the definition of "relevant age"—

(i) in paragraph (a) omit "or deferred" and "or (as the case may be) 11", and

(ii) in paragraph (b) omit "or deferred", and

(b) after sub-paragraph (4) insert—

"(5) Sub-paragraph (6) applies where the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A.

(6) This paragraph applies as if—

(a) the person first becomes entitled to compensation under paragraph 6 immediately after the period of postponement ends, and

(b) in sub-paragraph (1)(b), for "if the transferee lived to the relevant age, he or she would become entitled on attaining that age" there were substituted " if the period of postponement ended, the transferee would become entitled ".

(2) In paragraph 15 (effect of successful application for terminal illness lump sum) after sub-paragraph (3) insert—

"(4) Where on the granting of the application the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A, this paragraph applies as if the references to the transferee attaining the relevant age were references to the period of postponement ending."

Commencement Information

I36 Sch. 4 para. 34 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

35 (1) Paragraph 17 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (4) in the definition of "the underlying rate"—

(a) omit "and" at the end of paragraph (a), and

(b) after that paragraph insert—

"(aa) so much of any actuarial increase under paragraph 16A as relates to the amount in paragraph (a), and".

(3) In sub-paragraph (7)—

(a) after "references in" insert " paragraph (a) of ", and

(b) at the end insert " (and paragraph (aa) of the definition applies accordingly). "

(4) After sub-paragraph (7) insert—

"(7A) Where the commencement of periodic compensation has been postponed by virtue of paragraph 16A, this paragraph applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences."

Commencement Information

I37 Sch. 4 para. 35 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

36 In paragraph 20 (Board's power to alter rates of revaluation and indexation) after sub-paragraph (5) insert—

"(5A) A determination under sub-paragraph (1)(b) which has effect as mentioned in sub-paragraph (5)(b)(ii) may provide that, where the payment of periodic compensation to the transferee is postponed by virtue of paragraph 16A, the determination applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences."

Commencement Information

I38 Sch. 4 para. 36 in force at 13.3.2013 by S.I. 2013/585, **art. 2(b)(iii)**

Calculation of compensation: admissible rules etc

37 (1) Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.

(2) In paragraph 3(6) (pensions in payment at assessment date) for "35(3)" substitute " 35(3A) ".

(3) In paragraph 5(5) (pensions postponed at assessment date) for "35(3)" substitute " 35(3A) ".

(4) In paragraph 35 (admissible rules, recent discretionary increases etc)—

(a) for sub-paragraph (3) substitute—

"(3) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account any recent rule changes is that those liabilities are greater than they otherwise would be.

(3A) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account any recent discretionary increases is that those liabilities are greater than they otherwise would be.", and

(b) in sub-paragraph (4) for "sub-paragraph (3)" substitute " sub-paragraphs (3) and (3A) ".

Commencement Information

I39 Sch. 4 para. 37 in force at 3.1.2012 by S.I. 2011/3034, **art. 3(i)(v)**

Changes to legislation:
There are currently no known outstanding effects for the Pensions Act 2011, SCHEDULE 4.