

Changes to legislation: Pensions Act 2004, Paragraph 28 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 7

PENSION COMPENSATION PROVISIONS

Modifications etc. (not altering text)

- C1** Sch. 7 amendment to earlier affecting provision S.I. 2005/652, reg. 14(2) (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **7**
- C1** Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Hybrid Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/449\)](#), regs. 1(1), **3(2)-(4)**
- C1** Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **13(1)**
- C1** Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **14(2)**
- C1** Sch. 7 modified (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **15**
- C1** Sch. 7 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **12** (with reg. 23(3))
- C1** Sch. 7 modified (1.8.2006) by [The Pension Protection Fund \(Pension Sharing\) Regulations 2006 \(S.I. 2006/1690\)](#), regs. 1(1), **3**
- C1** Sch. 7 applied (24.7.2014) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), **42(1)**, 53, 57 (with regs. 6, 41, 44(1), 47(1), 69(2), 72(1), 76(1)); coming into force immediately after s. 29 of 2011 c. 19 - see S.I. 2014/1683, art. 2
- C1** Sch. 7 applied (24.7.2014 immediately after 2011 c. 19, s. 29, see S.I. 2014/1683, art. 2) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), **42(1)**, 53, 57 (with regs. 6, 41, 44(1), 47(1), 69(2), 72(1), 76(1))
- C1** Sch. 7 modified by S.I. 2005/670, reg. 29 (as inserted in Pt. 12 of S.I. 2005/670 by S.I. 2018/95, reg. 2(6)) (24.2.2018) by [The Pension Protection Fund \(Compensation\) \(Amendment\) Regulations 2018 \(S.I. 2018/95\)](#), regs. 1, **2(6)**
- C1** Sch. 7 modified by S.I. 2005/670, reg. 30 (as inserted (for specified purposes and with effect in accordance with reg. 30(3)-(5) of the amending S.I.) by [The Pension Protection Fund \(Pensionable Service\) and Occupational Pension Schemes \(Investment and Disclosure\) \(Amendment and Modification\) Regulations 2018 \(S.I. 2018/988\)](#), regs. 1(2)(b), **2(3)**)

Annual increase in periodic compensation

- 28 (1) This paragraph provides for the increases mentioned in sub-paragraph (3)(b) of paragraphs 3, 5, 8, 11, 15 and 22.
- (2) Where a person is entitled to periodic compensation under any of those paragraphs, he is entitled, on the indexation date, to an increase under this paragraph of—
- (a) the appropriate percentage of the amount of the underlying rate immediately before that date, or

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- (b) where the person first became entitled to the periodic compensation during the period of 12 months ending immediately before that date, 1/12th of that amount for each full month for which he was so entitled.

(3) In sub-paragraph (2)—

“appropriate percentage” means the lesser of—

- (a) the percentage increase in the [^{F1}general level of prices in Great Britain] for the period of 12 months ending with the 31st May last falling before the indexation date, and

- (b) 2.5%;

“indexation date” means—

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

- (b) each subsequent 1st January during his lifetime;

“underlying rate” means, in the case of periodic compensation under [^{F2}paragraph 3 or 22], 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, and

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

[^{F3}“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.]

[^{F4}(3A) For the purposes of paragraph (a) of the definition of “appropriate percentage” in sub-paragraph (3), the Secretary of State may (from time to time) decide, as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.

(3B) The Secretary of State must publish any decision made under sub-paragraph (3A).]

[^{F5}(4)

(5) Where a portion of periodic compensation under one of the paragraphs mentioned in sub-paragraph (1) has been commuted under paragraph 24—

- (a) for the purposes of sub-paragraph (2), [^{F6}each] definition of “underlying rate” in sub-paragraph (3) applies as if the reference in paragraph (a) of the definition to the amount mentioned in sub-paragraph (3)(a) of the paragraph in question was a reference to that amount reduced by the commutation percentage, ^{F7}...

- (b) 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.

[^{F8}(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

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- 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.]
- [^{F9}(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.]
- (6) In this paragraph—
- “post-1997 service” means—
- (a) pensionable service which is within paragraph 36(4)(a) and occurs on or after 6th April 1997, or
- (b) pensionable service which is within paragraph 36(4)(b) and meets such requirements as may be prescribed;
- “pre-1997 service” means—
- (a) pensionable service which is within paragraph 36(4)(a) and occurred before 6th April 1997, or
- (b) pensionable service which is within paragraph 36(4)(b) and meets such requirements as may be prescribed;
- “the commutation percentage”, in relation to periodic compensation, means the percentage of that compensation commuted under paragraph 24.
- (7) But in this paragraph, in relation to any relevant pension credit amount, “post-1997 service” and “pre-1997 service” have such meanings as may be prescribed.
- (8) In sub-paragraph (7), “relevant pension credit amount” means an amount mentioned in sub-paragraph (3)(a) of—
- (a) paragraph 3,
- (b) paragraph 5, or
- (c) paragraph 15 as it applies by virtue of paragraph 21 [^{F10}or 21A] , which is attributable (directly or indirectly) to a pension credit.
- (9) This paragraph is subject to paragraph 29 (Board’s power to alter rates of revaluation and indexation).

Textual Amendments

- F1** Words in Sch. 7 para. 28(3) substituted (1.1.2012) by [Pensions Act 2011 \(c. 19\)](#), **ss. 20(2)**, 38(4); [S.I. 2011/3034](#), **art. 2**
- F2** Words in Sch. 7 para. 28(3) substituted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), **s. 38(4)**, [Sch. 4 para. 27\(2\)\(a\)](#); [S.I. 2013/585](#), **art. 2(b)(ii)**

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- F3** Words in Sch. 7 para. 28(3) inserted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 27(2)(b)**; S.I. 2013/585, art. 2(b)(ii)
- F4** Sch. 7 para. 28(3A)(3B) inserted (1.1.2012) by Pensions Act 2011 (c. 19), **ss. 20(3)**, 38(4); S.I. 2011/3034, art. 2
- F5** Sch. 7 para. 28(4) omitted (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. 3(12)**
- F6** Word in Sch. 7 para. 28(5)(a) substituted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 27(3)(a)**; S.I. 2013/585, art. 2(b)(ii)
- F7** Word in Sch. 7 para. 28(5)(a) omitted (13.3.2013) by virtue of Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 27(3)(b)**; S.I. 2013/585, art. 2(b)(ii)
- F8** Sch. 7 para. 28(5)(c)(d) inserted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 27(3)(c)**; S.I. 2013/585, art. 2(b)(ii)
- F9** Sch. 7 para. 28(5A)(5B) inserted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 27(4)**; S.I. 2013/585, art. 2(b)(ii)
- F10** Words in Sch. 7 para. 28(8)(c) inserted (3.1.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 19(3)(d)**; S.I. 2011/3034, art. 3(i)(iv)

Commencement Information

- I1** Sch. 7 para. 28(1)-(5)(8)(9) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- I2** Sch. 7 para. 28(6)(7) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by S.I. 2005/275, art. 2(3), **Sch. Pt. 3**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to legislation.gov.uk. Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))