

PENSIONS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 8: Amendments of Schedule 7 to the Pension Act 2004

349. This Schedule makes amendments to Schedule 7 to the PA 2004 (Pension Compensation Provisions) which relates to the calculation of pension compensation with the aim of improving the way it works.
350. The amendments in Schedule 8 are intended to –
- clarify, through the amendments made in *paragraphs 2, 3, 17 and 18*, the interpretation of admissible rules in paragraph 35 of Schedule 7. Both rule changes and discretionary increases made, in relation to the scheme, in the period immediately before the insolvency event are ignored for the purposes of calculating pension compensation under Schedule 7.
 - provide, through the amendments made in *paragraphs 4 to 9 and 14*, for a terminal illness lump sum to be paid to members, on application, who have a progressive disease in consequence of which death can reasonably be expected in the following six months. The main provisions for the new terminal illness payment are as follows:
 - *New paragraph 25B* inserted into Schedule 7 to the PA 2004 will enable members who have a progressive disease, and who are not already receiving compensation in respect of a particular pension scheme, to apply for a terminal illness lump sum payment.
 - *New paragraph 25C* sets out the manner in which an application must be made and allows the Board of the PPF to require the application to include certain information. The Board could use this power for example, to obtain information concerning the member's illness.
 - *New paragraph 25D* sets out how the Board must respond to an application, and allows for applications to be held over and determined at a later date where the member does not satisfy the conditions relating to their terminal illness, but may satisfy the conditions in the next six months.
 - *New paragraph 25E* means that a successful applicant will receive a lump sum calculated in accordance with sub-paragraph (2) (twice the annual rate of compensation which they would have been entitled to had they reached normal pension age) in lieu of future rights to compensation.
 - *New paragraph 25F* gives for the Board of the PPF access to certain information held by the Secretary of State for Work and Pensions to assist in dealing with applications for terminal illness lump sums.
 - remove an anomaly in the treatment of pension credit members of schemes which enter the Fund. Through amendments made by paragraphs *10 to 12*, where a pension

*These notes refer to the Pensions Act 2008 (c.30)
which received Royal Assent on 26 November 2008*

credit member (i.e. a member whose rights derive from a pension sharing order or qualifying agreement) was entitled to revaluation under the scheme in which they were a pension credit member, they will be entitled to receive a revaluation addition under paragraph 21 of Schedule 7 like other scheme members.

351. *Paragraph 13* inserts powers to specify in regulations when a person may choose to delay receipt of pension compensation and to receive an adjusted amount from a later date. The regulations allow such a delay, for example, when a person has several small tranches of entitlement under their scheme rules payable at different dates, but would rather delay receipt of the earlier tranches and receive a higher income at a later time.
352. *Paragraph 15* make amendments which deal with schemes whose rules would provide for a higher, or lower, rate of pension payment after a period of time, (for example, upon the pensioner reaching a certain age). Currently, the compensation provisions in Schedule 7 to the PA 2004 specify that compensation is calculated based on the rate of pension a person would be entitled to on the assessment date, or on reaching their normal pension age. The provisions introduced by this paragraph will enable regulations to provide that a different amount of compensation is to be paid. For example, the compensation could reflect the level of pension which would have been payable at the time the compensation is paid.
353. *Paragraph 16* provides for more consistent wording in the provisions which set out the methods for establishing a member's normal pension age.