

Status: Point in time view as at 02/07/2012. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, SCHEDULE 4. (See end of Document for details)

Schedules

SCHEDULE 4

Section 22.

Pension Protection Fund

Requirements to obtain actuarial valuations

1. The Pensions (Northern Ireland) Order 2005 is amended as follows.

Commencement Information

- I1** Sch. 4 para. 1 in operation at 7.6.2012 for specified purposes by S.R. 2012/233, **art. 2(2)(k)(i)**
- I2** Sch. 4 para. 1 in operation at 2.7.2012 for specified purposes by S.R. 2012/265, **art. 2(3)(a)(i)(4)(a)(i)**

VALID FROM 23/07/2012

2. In Article 54(3) (right to apply under Article 367 of the Insolvency (Northern Ireland) Order 1989)—

- (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 under Article 127(2) ”, and
- (b) for “that Article” substitute “ Article 127 ”.

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- 3.—(1) Article 125 (effect of review of ill health pension) is amended as follows.

(2) In paragraph (4) after “which” insert “ a determination under Article 127(2)(a) or ”.

(3) In paragraph (5)(a) after “first” insert “ makes a determination under Article 127(2)(a) or ”.

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4. In Article 126 (interpretation) in the definition of “scheme valuation” for “127” substitute “ 127(2)(b) ”.

5.—(1) Article 127 (Board's obligation to obtain valuation of assets and protected liabilities) is amended as follows.

(2) For paragraph (2) substitute—

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

(a) determine whether the condition in paragraph (2)(a) of the Article 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 paragraph (2)(a) or obtain an actuarial valuation under paragraph (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 paragraph (3) for “those purposes” substitute “ the purposes of this Article ”.

(4) In paragraph (4) for “this Article” substitute “ a determination made under paragraph (2)(a) or an actuarial valuation obtained under paragraph (2)(b) ”.

(5) In paragraph (5B) for “mentioned in paragraph (2)” substitute “ of this Article ”.

(6) After paragraph (5B) insert—

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

(7) In paragraph (6)—

(a) after “paragraph (4),” insert “ for the purposes of an actuarial valuation obtained under paragraph (2)(b) ”, and

(b) for “sub-paragraphs (a) and (b) of that paragraph” substitute “ paragraph (4)(a) and (b) ”.

(8) In paragraph (9)—

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

(b) after “purposes of” insert “ the determination or ”.

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(9) In paragraph (10) for “requires the” substitute “ requires a determination to be made, or an ”.

(10) In paragraph (11)(b)(ii) after “first” insert “ makes a determination under paragraph (2)(a) or ”.

Commencement Information

I3 Sch. 4 para. 5 in operation at 2.7.2012 for specified purposes by S.R. 2012/265, art. 2(3)(a)(ii)

6. After Article 127 insert—

“Determinations under Article 127

127A.—(1) Where the Board makes a determination under Article 127(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 Article 127(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 Article 111(2)(a) or, as the case may be, Article 112(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under Article 127(2)(a) is conclusive.

This paragraph is subject to Article 156(3) and (4) (treatment of fraud compensation payments).

(4) Where a determination under Article 127(2)(a) becomes binding under this Article 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,

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- (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 paragraph (4) must be in the prescribed form and contain the prescribed information.”.

Commencement Information

I4 Sch. 4 para. 6 in operation at 2.7.2012 for specified purposes by S.R. 2012/265, art. 2(3)(a)(ii)

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- 7.—**(1) Article 128 (approval of valuation) is amended as follows.
- (2) In paragraph (1) for “127” substitute “ 127(2)(b) ”.
 - (3) In paragraph (2) for “that Article” substitute “ Article 127 ”.

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8. In Article 129(1) (binding valuations) for “127” substitute “ 127(2)(b) ”.

9.—(1) Article 135 (application for Board to assume responsibility for schemes) is amended as follows.

(2) In paragraphs (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 Article 127(2) ”.

(3) In paragraph (6) in sub-paragraphs (a)(ii) and (b)(ii) after “binding” insert “ determination or ”.

(4) In paragraph (10) for “under that Article” substitute “ under Article 127(2)(b) ”.

Commencement Information

I5 Sch. 4 para. 9 in operation at 2.7.2012 for specified purposes by S.R. 2012/265, art. 2(3)(a)(ii)

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10. In Article 138(5)(b) (requirement to wind up scheme) after “that the” insert “ determination made by the Board or ”.

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11.—(1) Article 142 (Board's duty to assume responsibility for closed schemes) is amended as follows.

(2) For paragraph (3) substitute—

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

- (a) determine whether the condition in paragraph (1) is satisfied, or
- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of Article 127) 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 paragraph (3)(a) or obtain an actuarial valuation under paragraph (3)(b).”.

(3) In paragraph (4) for “those purposes as it applies for the purposes mentioned in paragraph (2)” substitute “ the purposes of this Article as it applies for the purposes ”.

(4) In paragraph (5)—

- (a) for “a valuation obtained under paragraph (3)” substitute “ a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3)(b) ”,
- (b) for “a valuation obtained under Article 127” substitute “ a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b) ”, and
- (c) after sub-paragraph (a) insert—

“(aa) Article 127A (determinations under Article 127), other than paragraphs (1)(c) and (4)(c) (duty to give copy of determinations to employer's insolvency practitioner);”.

(5) In paragraph (6)—

- (a) after “Articles 127” insert “ , 127A ”,
- (b) omit “and” at the end of sub-paragraph (a), and
- (c) after that sub-paragraph insert—

“(aa) paragraph (3) of Article 127A applies as if the reference to Article 112(2)(a) included a reference to paragraph (1) of this Article, and”.

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12.—(1) Article 144 (transfer notice) is amended as follows.

(2) In paragraph (3) for “valuation obtained under Article 127” substitute “determination made or valuation obtained under Article 127(2)”.

(3) In paragraph (4) after “until the” insert “determination made or”.

VALID FROM 23/07/2012

13.—(1) Schedule 8 (reviewable matters) is amended as follows.

(2) For paragraph 8 substitute—

7B. A notice under Article 127(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 Article 127(2)(a), or

(b) obtain an actuarial valuation under Article 127(2)(b).

7D. A determination by the Board under Article 127(2)(a) (whether condition in Article 111(2)(a) or Article 112(2)(a) satisfied).”.

(3) After paragraph 14 insert—

14A. A notice under Article 142(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 Article 142(3)(a), or

(b) obtain an actuarial valuation under Article 142(3)(b).

14C. A determination by the Board under Article 142(3)(a) (whether condition in Article 142(1) satisfied).”.

Requirement to obtain protected benefits quotation

14. In Article 135(4)(a) of the Pensions (Northern Ireland) Order 2005 (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, ”.

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Commencement Information

- I6** Sch. 4 para. 14 in operation at 2.7.2012 for specified purposes by S.R. 2012/265, art. 2(3)(a)(iii)

VALID FROM 23/07/2012

15.—(1) Article 136 of the Pensions (Northern Ireland) Order 2005 (Board's duty to assume responsibility for scheme) is amended as follows.

(2) After paragraph (1) insert—

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

(3) After paragraph (2) insert—

“(2A) Paragraph (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 paragraph (3)—

- (a) after “paragraph (2)” insert “ or (2B) ”, and
- (b) for “a determination notice” substitute “ a notice to that effect (a “determination notice”) ”.

(5) Omit paragraph (4).

(6) In paragraph (5)—

- (a) after “in paragraph (2)” insert “ or (2B) ”, and
- (b) for “under paragraph (2)” substitute “ under that paragraph ”.

(7) Omit paragraph (8).

(8) In paragraph (10) for “Regulations” substitute “ Where paragraph (2) applies, regulations ”.

(9) After paragraph (10) insert—

“(10A) The Board may, for the purposes of paragraph (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of

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the scheme as at the reconsideration time (within the meaning of Article 135).

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

(10C) Article 127(3) to (6) applies in relation to a determination under paragraph (2B) and a valuation under paragraph (10A) as it applies in relation to a determination under Article 127(2)(a) and an actuarial valuation obtained under Article 127(2)(b).

(10D) In the application of Article 127 by virtue of paragraph (10C)—

- (a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of Article 135), 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 Article.”.

VALID FROM 23/07/2012

16. In the following provisions of the Pensions (Northern Ireland) Order 2005 after “136(2)” insert “ or (2B) ”

- (a) Article 138(2)(c) (requirement to wind up certain schemes), and
- (b) Article 156(4) and (5)(c) (fraud compensation regime).

Removal of restriction on transfer notices

17.—(1) The Pensions (Northern Ireland) Order 2005 is amended as follows.

(2) In Article 144(7) (transfer notice)—

- (a) for “156(1) and (2)” substitute “ 156(2) ”, and
- (b) omit “within first 12 months of assessment period or”.

(3) Omit Article 156(1) (no transfer notice within first 12 months of assessment period).

Commencement Information

I7 Sch. 4 para. 17 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(k)(ii)

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Assembly control of orders and regulations

18. In Article 288(3) of the Pensions (Northern Ireland) Order 2005 (Assembly etc. control of orders and regulations) omit sub-paragraph (b) (the administration levy).

Commencement Information

18 Sch. 4 para. 18 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(k)(iii)

Pension credit members

19.—(1) Schedule 6 to the Pensions (Northern Ireland) Order 2005 (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—

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- “(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member became entitled under Article 26(1)(b) of the 1999 Order.”, 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 Article 26 of the 1999 Order (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

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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 Article 26(1)(b) of the 1999 Order.”, 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 Article 26 of the 1999 Order (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 6 to the Pensions (No. 2) Act (Northern Ireland) 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

I9 Sch. 4 para. 19 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(k)(iv)

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20. In the Pensions (No. 2) Act (Northern Ireland) 2008 omit paragraphs 10 and 11 of Schedule 6 (which amend paragraph 21 of Schedule 6 to the Pensions (Northern Ireland) Order 2005).

Commencement Information

I10 Sch. 4 para. 20 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(k)(iv)

VALID FROM 27/03/2013

Postponement of compensation

21. Schedule 6 to the Pensions (Northern Ireland) Order 2005 (pension compensation provisions) is amended as follows.

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).

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(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).”.

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—

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“(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

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- (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) 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) ”.
- 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

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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.”.

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

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 ”.”.

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(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.”.

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 were 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

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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.”.

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 (Department'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.”.

VALID FROM 27/03/2013

Pension compensation sharing: postponement of compensation

29. Schedule 4 to the Pensions (No. 2) Act (Northern Ireland) 2008 (pension compensation payable on discharge of pension compensation credit) is amended as follows.

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

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(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).”.

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

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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 ”.

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.”.

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

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

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(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.”.

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.”.

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

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“(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.”.

Calculation of compensation: admissible rules etc.

37.—(1) Schedule 6 to the Pensions (Northern Ireland) Order 2005 (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

III Sch. 4 para. 37 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(k)(v)

Status:

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Changes to legislation:

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