

## SCHEDULES

### SCHEDULE 20

Section 48.

#### PENSION PROTECTION FUND: INCREASED COMPENSATION CAP FOR LONG SERVICE

##### PART 1

###### THE NEW COMPENSATION CAP

1. Schedule 6 to the 2005 Order (pension compensation provisions) is amended as follows.

2. In paragraph 26 (the compensation cap), for the definition of “the compensation cap” in sub-paragraph (7) substitute—

““the compensation cap” has the meaning given by paragraph 26A;”.

3. After paragraph 26 insert—

(1) This paragraph gives the meaning of “the compensation cap” for the purposes of paragraph 26.

(2) The amount of the compensation cap for a person depends on the person’s age and length of pensionable service at the time when the person first becomes entitled to the relevant compensation.

(3) “The compensation cap” for a person who has 20 or fewer years of pensionable service at that time is the standard amount.

(4) “The compensation cap” for a person who has more than 20 years of pensionable service at that time is—

(a) the standard amount, plus

(b) for each additional year, an amount found by multiplying the standard amount by 3%.

(5) A person has an “additional year” for each whole year of pensionable service that exceeds 20 years of pensionable service.

(6) If the total amount calculated under sub-paragraph (4)(b) would exceed the standard amount, it is to be treated as being equal to the standard amount.

(7) In sub-paragraphs (3) and (4) “the standard amount”—

(a) for a person who is 65 years old at the relevant time, means the amount specified by the Department by order, and

(b) for a person of any other age at the relevant time, means the amount specified under paragraph (a) as adjusted in accordance with actuarial adjustment factors published by the Board.

(8) A person credited with a length of notional pensionable service because of pension credit rights is to be treated for the purposes of this paragraph as having pensionable service of that length (in addition to any pensionable service that the person is treated as having under sub-paragraph (9)).

(9) In any case where the Board is satisfied that, under the admissible rules, a person is entitled to benefits that are not attributable to a particular period of pensionable service, the Board may for the purposes of this paragraph treat the person as having a length of pensionable service to reflect those benefits (which is in addition to any other pensionable service that the person has).

(10) In any case where the Board is satisfied that it is not possible to identify the length of some or all of a person's pensionable service under the admissible rules, the Board may, having regard to those rules, determine its length for the purposes of this paragraph.

(11) Where a person becomes entitled to relevant compensation in respect of benefits under two or more connected occupational pension schemes at the same time, this paragraph applies in relation to the relevant compensation in respect of each benefit as if—

- (a) a reference to the length of the person's pensionable service were a reference to the total length of the person's pensionable service under all of the schemes (counting any period of overlap once only), and
- (b) sub-paragraphs (9) and (10) apply for the purposes of working out the length of the person's pensionable service in respect of each scheme as if a reference to the admissible rules were to the admissible rules of that scheme.

(12) When applying this paragraph in relation to relevant compensation in respect of a benefit, ignore any pensionable service that relates to a benefit that is not from the same source.

(13) For the purposes of sub-paragraph (12)—

- (a) benefits attributable to a person's pensionable service under a scheme are from the same source as benefits attributable to the person's pensionable service under that or a connected occupational pension scheme,
- (b) benefits under a scheme which are attributable to a pension credit from a transferor are from the same source as benefits under that or a connected occupational pension scheme which are attributable to a pension credit from the same transferor, and
- (c) benefits are not otherwise from the same source.

(14) Expressions used in this paragraph have the same meaning as in paragraph 26.”.

4. In paragraph 24(2), at the end insert “of the periodic compensation at that time”.

5. In paragraph 26(9), after “this paragraph” insert “and paragraph 26A”.

6. In paragraph 27 (increasing the compensation cap in line with earnings), for “paragraph 26(7)” substitute “paragraph 26A(7)”.

7. In paragraph 18(2) of Schedule 4 to the Pensions (No. 2) Act, for “the compensation cap” to the end substitute “a modified version of the compensation cap in paragraph 26A of Schedule 6 to the 2005 Order.”.

## PART 2

### EFFECT OF CHANGE IN TRANSITIONAL CASES

#### *Recalculation of periodic compensation going forwards*

8.—(1) This paragraph applies in relation to a person if—

- (a) the person is entitled to periodic compensation under paragraph 3, 11 or 15 of Schedule 6 to the 2005 Order,
- (b) the compensation is restricted in accordance with paragraph 26 of that Schedule (compensation cap), and
- (c) the person first became entitled to the compensation before the commencement date.

(2) The protected pension rate for the person is to be recalculated as if the amendments made by Part 1 had always been in operation and the recalculated protected pension rate has effect for the person as from the commencement date.

(3) For the purposes of that recalculation, paragraph 26A(7) of Schedule 6 to the 2005 Order (inserted by Part 1) has effect as if—

- (a) the references to an order made by the Department were references to the relevant old order, and
- (b) the reference to actuarial adjustment factors were a reference to the relevant old actuarial adjustment factors.

(4) In this paragraph—

“the protected pension rate”—

- (a) for a person entitled to periodic compensation under paragraph 3 or 15 of Schedule 6 to the 2005 Order means the protected pension rate for the purposes of sub-paragraph (3)(a) of that paragraph;

- (b) for a person entitled to periodic compensation under paragraph 11 of that Schedule, means the protected notional pension for the purposes of subparagraph (3)(a) of that paragraph;

“the relevant old order” means the order in operation under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person first became entitled to the periodic compensation;

“the relevant old actuarial adjustment factors” means the actuarial adjustment factors published by the Board under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person first became entitled to the periodic compensation.

(5) Nothing in this paragraph affects increases already accrued under paragraph 28 of Schedule 6 to the 2005 Order in relation to periods before the commencement date.

*New cap does not generally affect old payments*

**9.**—(1) Nothing in this Schedule affects—

- (a) periodic compensation for a person for periods before the commencement date, or
- (b) lump sum compensation for a person who became entitled to the compensation before the commencement date.

(2) In this paragraph—

“periodic compensation” means compensation within paragraph 26(4)(a), (b) or (d) of Schedule 6 to the 2005 Order,

“lump sum compensation” means compensation within paragraph 26(4)(c) or (e) of that Schedule.

*Survivors' compensation*

**10.** When working out the annual rate of a person's periodic compensation under paragraph 4(3), 13(3) or 18(3) of Schedule 6 to the 2005 Order, take into account any effect that paragraph 8 would have had on the dead person's rate if it were not for the death.

*Cases involving early payment or postponement of compensation*

**11.** Nothing in this Schedule affects the amount of—

- (a) an actuarial reduction under paragraph 25 of Schedule 6 to the 2005 Order in a case where a person became entitled to periodic compensation or lump sum compensation before the commencement date, or

- (b) an actuarial increase under paragraph 25A of that Schedule in a case where the commencement of periodic compensation or the payment of lump sum compensation was postponed before the commencement date (even if it continues to be postponed on or after that date).

*Recalculation of terminal illness lump sums given in the past year*

**12.**—(1) This paragraph applies in relation to a person who is alive on the commencement date if—

- (a) the person has become entitled to a terminal illness lump sum under paragraph 25E of Schedule 6 to the 2005 Order at any time in the period of one year ending with the commencement date, and
- (b) the amount of the terminal illness lump sum was restricted in accordance with paragraph 26 of that Schedule (compensation cap).

(2) The terminal illness lump sum for the person is to be recalculated under Schedule 6 to the 2005 Order as if the amendments made by Part 1 of this Schedule had been in operation at the time that the person became entitled to it.

(3) For the purposes of that recalculation, paragraph 26A(7) of Schedule 6 to the 2005 Order (inserted by Part 1) has effect as if—

- (a) the references to an order made by the Department were references to the relevant old order, and
- (b) the reference to actuarial adjustment factors were a reference to the relevant old actuarial adjustment factors.

(4) In sub-paragraph (3)—

“the relevant old order” means the order in operation under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person became entitled to the terminal illness lump sum;

“the relevant old actuarial adjustment factors” means the actuarial adjustment factors published by the Board under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person became entitled to the terminal illness lump sum.

*Meaning of “the pension compensation provisions” in Part 3 of the 2005 Order*

**13.** Article 146(2) of the 2005 Order is to be treated as including a reference to this Part among “the pension compensation provisions”.

## PART 3

### SCHEMES UNDERGOING ASSESSMENT OR WINDING UP ON THE COMMENCEMENT DATE

#### *Schemes undergoing assessment on the commencement date*

**14.—(1)** This paragraph applies in relation to an eligible scheme that is undergoing assessment on the commencement date.

#### *Continue to use the old cap as the basis of assessment*

(2) For the purposes of the following, ignore any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of the 2005 Order—

- (a) any provision in which the definition of “protected liabilities” in Article 115 of that Order applies, and
- (b) any provision in which the definition of “protected benefits quotation” in Article 135(8) of that Order applies.

#### *Going forwards, pay pensions on the basis of the new cap*

(3) For the purposes of Article 122(2) of the 2005 Order take into account any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of that Order on the assessment date.

#### *Schemes that begin winding up before the commencement date*

**15.—(1)** This paragraph applies in relation to an eligible scheme that is being wound up if the winding up began (or is treated as having begun) before the commencement date.

#### *Use the old cap when working out the preferential liabilities (generally)*

(2) For the purposes of Articles 73 and 73A of the 1995 Order, ignore any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of the 2005 Order.

#### *Going forwards, pay pensions on the basis of the new cap during assessment*

(3) If for any period the scheme is being wound up and is also undergoing assessment (“the overlap period”), sub-paragraph (4) applies.

(4) For the purposes of Article 73A of the 1995 Order, as it applies in relation to the overlap period, take into account any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of the 2005 Order.

*Meaning of “undergoing assessment”*

**16.** For the purposes of this Part of this Schedule an eligible scheme is “undergoing assessment” if an assessment period has begun in relation to the scheme but has not yet ended.

*Meaning of “eligible scheme”*

**17.** Article 110(4) of the 2005 Order (list of provisions in relation to which regulations may provide that a scheme remains an “eligible scheme”) is to be treated as including a reference to this Part of this Schedule.

## PART 4

### INTERPRETATION AND POWER TO MAKE FURTHER TRANSITIONAL PROVISION

*Interpretation*

**18.** In this Schedule “the commencement date” means the date on which it comes fully into operation.

**19.** Other expressions used in this Schedule have the same meaning as in Part 3 of the 2005 Order.

*Further transitional provision*

**20.** The inclusion of Parts 2 and 3 does not prevent transitional provision being made by order under section 53(5).

**21.—(1)** In relation to a case involving multiple benefits, transitional provision made by order under section 53(5) may, in particular—

- (a) disapply or modify any provision of this Schedule;
- (b) make provision similar to any provision of this Schedule.

(2) For these purposes, “a case involving multiple benefits” means a case mentioned in paragraph 26(9) of Schedule 6 to the 2005 Order.

**22.—(1)** Transitional provision made by order under section 53(5) may, in particular, make provision in relation to compensation payable under Chapter 1 of

Part 3 of the Pensions (No. 2) Act (compensation sharing on divorce etc.) that is similar to any provision of Part 2 of this Schedule.

(2) Regulations under paragraph 18 of Schedule 4 to the Pensions (No. 2) Act which restrict an amount payable to a person in any period by reference to a modified version of the compensation cap in paragraph 26A of Schedule 6 to the 2005 Order (inserted by Part 1 of this Schedule) may also make provision similar to any provision of Part 3 of this Schedule.