

Changes to legislation: Pensions Act 2008, Part 4 is up to date with all changes known to be in force on or before 27 February 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 5

PENSION COMPENSATION PAYABLE ON DISCHARGE OF PENSION COMPENSATION CREDIT

Modifications etc. (not altering text)

- C1** Sch. 5 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

PART 4

PROVISIONS APPLICABLE IRRESPECTIVE OF AGE OF TRANSFEREE ON TRANSFER DAY

[^{F1}Postponement of compensation

Textual Amendments

- F1** Sch. 5 para. 16A and cross-heading inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 30(2)**; S.I. 2013/585, art. 2(b)(iii)

- 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).]

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Annual increase in periodic compensation

- 17 (1) This paragraph provides for annual increases to compensation payable to the transferee.
- (2) The transferee is entitled, on each indexation date, to an increase of the appropriate percentage of the underlying rate.
- (3) The increase to which the transferee is entitled on the first indexation date is restricted to 1/12 of the amount calculated under sub-paragraph (2) for each full month in the period beginning with the transfer day and ending with that indexation date.
- (4) For the purposes of sub-paragraph (2)—
- “the appropriate percentage”, as at an indexation date, is the lesser of—
- (a) the percentage increase in the [^{F2}general level of prices in Great Britain] for the period of 12 months ending with the 31 May last falling before that date, and
- (b) 2.5%;
- “the indexation date” means—
- (a) the 1 January next falling after the transferee first becomes entitled to the periodic compensation, and
- (b) each subsequent 1 January during the transferee's lifetime;
- “the underlying rate”, as at an indexation date, is the aggregate of—
- (a) the indexed proportion (as determined under sub-paragraph (5) or (6) below) of the aggregate of the initial annual rate of compensation and (in the case of compensation payable under paragraph 6) the revaluation amount, ^{F3}...
- (aa) [^{F4}so much of any actuarial increase under paragraph 16A as relates to the amount in paragraph (a), and]
- (b) any annual increase to which the transferee is entitled under this paragraph in respect of earlier indexation dates.
- [^{F5}(4A) For the purposes of paragraph (a) of the definition of “the appropriate percentage” in sub-paragraph (4), 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.
- (4B) The Secretary of State must publish any decision made under sub-paragraph (4A).]
- (5) Where the transferor's PPF compensation is payable in accordance with paragraph 3, 5, 8, 11, 15 or 22 of Schedule 7 to the Pensions Act 2004 (“the relevant paragraph of Schedule 7”), “the indexed proportion” is the proportion of the amount mentioned in sub-paragraph (3)(a) of the relevant paragraph of Schedule 7 that is attributable to the transferor's post-1997 service.
- Paragraph 28(4) of that Schedule applies for the purpose of attributing amounts to the transferor's post-1997 service under this sub-paragraph.
- (6) Where the transferor's PPF compensation is payable otherwise than as mentioned in sub-paragraph (5), “the indexed proportion” is such proportion as is determined in accordance with regulations made by the Secretary of State.
- (7) Where the compensation payable to the transferee is—

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(a) reduced as a result of the commutation of periodic compensation under paragraph 9, or

(b) restricted under regulations under paragraph 18 (compensation cap),

the references in [^{F6}paragraph (a) of] the definition of “the underlying rate” in sub-paragraph (4) above to the initial annual compensation rate and the revaluation amount are to that rate and that amount as so restricted or reduced [^{F7}(and paragraph (aa) of the definition applies accordingly).]

[^{F8}(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.]

(8) The definition of “the appropriate percentage” in sub-paragraph (4) is subject to paragraph 20 (power of Board to alter rates of revaluation and indexation).

(9) In this paragraph—

“post-1997 service” has the same meaning as in paragraph 28 of Schedule 7 to the Pensions Act 2004 (c. 35) (annual increase in periodic pension compensation);

“the commutation percentage”, in relation to periodic compensation, means the percentage of that compensation commuted under paragraph 9.

Textual Amendments

- F2** Words in Sch. 5 para. 17(4) substituted (1.1.2012) by [Pensions Act 2011 \(c. 19\)](#), **ss. 20(6)**, 38(4); [S.I. 2011/3034](#), {art. 2}
- F3** Word in Sch. 5 para. 17(4)(a) omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 35(2)(a)**; [S.I. 2013/585](#), art. 2(b)(iii)
- F4** Words in Sch. 5 para. 17(4) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 35(2)(b)**; [S.I. 2013/585](#), art. 2(b)(iii)
- F5** Sch. 5 para. 17(4A)(4B) inserted (1.1.2012) by [Pensions Act 2011 \(c. 19\)](#), **ss. 20(7)**, 38(4); [S.I. 2011/3034](#), {art. 2}
- F6** Words in Sch. 5 para. 17(7) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 35(3)(a)**; [S.I. 2013/585](#), art. 2(b)(iii)
- F7** Words in Sch. 5 para. 17(7) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 35(3)(b)**; [S.I. 2013/585](#), art. 2(b)(iii)
- F8** Sch. 5 para. 17(7A) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 35(4)**; [S.I. 2013/585](#), art. 2(b)(iii)

Commencement Information

- I1** Sch. 5 para. 17 wholly in force at 6.4.2011; para. 17 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 17 in force so far as not already in force at 6.4.2011 by [S.I. 2011/664](#), **art. 2(3)**, [Sch. Pt. 2](#)

Compensation cap

- 18 (1) The Secretary of State may by regulations make provision for restricting the amount of periodic compensation payable under this Schedule in a case in which, on the transfer day, the transferor is not entitled to present payment of PPF compensation.

^{F9}(2)

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Textual Amendments

- F9** Sch. 5 para. 18(2) 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. 4](#)

Commencement Information

- I2** Sch. 5 para. 18 wholly in force at 6.4.2011; para. 18 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 18 in force so far as not already in force at 6.4.2011 by [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

Compensation in form of dependant's benefits

- 19 (1) The Secretary of State may by regulations make provision for compensation to be payable to—
- (a) prescribed descriptions of partners, or
 - (b) prescribed descriptions of dependants,
- of prescribed descriptions of transferees.
- (2) The regulations may, in particular—
- (a) provide for compensation in the form of periodic or lump sum payments;
 - (b) provide for periodic compensation to be payable for a prescribed period;
 - (c) apply paragraph 17 (annual increases in respect of periodic compensation), with or without modifications, in respect of compensation in the form of periodic payments.

Commencement Information

- I3** Sch. 5 para. 19 wholly in force at 6.4.2011; para. 19 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 19 in force so far as not already in force at 6.4.2011 by [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

Board's power to alter rates of revaluation and indexation

- 20 (1) The Board may determine the percentage that is to be—
- (a) the maximum revaluation rate for the purposes of paragraph 8(4)(b);
 - (b) the appropriate percentage for the purposes of paragraph 17(2).
- (2) Before making a determination under this paragraph the Board must—
- (a) consult such persons as it considers appropriate, and
 - (b) publish details of the proposed determination in such manner as it considers appropriate and consider any representations made in respect of it.
- (3) The rate determined under this paragraph may be nil.
- (4) A determination under this paragraph may be expressed so as to have effect for a limited period.
- (5) A determination under sub-paragraph (1)(b)—
- (a) has effect in relation to future increases under paragraph 17 only, and
 - (b) may be expressed to have effect—

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- (i) in all cases (whether the entitlement to the periodic compensation first arose before or after the date the determination is made), or
- (ii) only in cases where entitlement to the periodic compensation first arose on or after a date determined by the Board.

[^{F10}(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.]

- (6) Notice of any determination under this paragraph must be published in such manner as the Board considers appropriate.

Textual Amendments

F10 Sch. 5 para. 20(5A) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 36](#); [S.I. 2013/585](#), art. 2(b)(iii)

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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. 3(1A) inserted by [2023 c. 44 s. 1\(2\)](#)
- s. 5(1C) inserted by [2023 c. 44 s. 1\(3\)](#)
- s. 13(3)(ec) inserted by [2023 c. 20 Sch. para. 56](#)
- s. 13A inserted by [2023 c. 44 s. 1\(4\)](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)
- s. 143(6)(7) inserted by [2023 c. 44 s. 1\(5\)\(b\)](#)