

**Changes to legislation:** Pensions Act 2008, Part 3 is up to date with all changes known to be in force on or before 14 March 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 3

#### TRANSFeree ATTAINS PENSION COMPENSATION AGE AFTER TRANSFER DAY

##### *Compensation payable to transferee*

- 6 (1) Compensation is payable in accordance with this paragraph where the transferee attains pension compensation age after the transfer day.
- (2) The transferee is entitled to periodic compensation commencing at that age and continuing for life.
- (3) The annual rate of the periodic compensation is the aggregate of—
- (a) the initial annual rate of compensation,
  - (b) the revaluation amount (see paragraph 8), <sup>F1</sup>...
  - <sup>F2</sup>(ba) 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]
  - (c) any increases under paragraph 17 (annual increases in periodic compensation).
- (4) This paragraph is subject to—
- paragraph 9 (commutation),
  - paragraph 10 (early payment),
  - <sup>F3</sup>...
  - paragraph 15 (terminal illness lump sum), <sup>F4</sup>...
  - <sup>F5</sup>paragraph 16A (postponement of compensation), and]
  - paragraph 18 (compensation cap).

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#### Textual Amendments

- F1** Word in Sch. 5 para. 6(3)(b) omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 31\(3\)\(a\)](#); S.I. 2013/585, art. 2(b)(iii)
- F2** Sch. 5 para. 6(3)(ba) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 31\(3\)\(b\)](#); S.I. 2013/585, art. 2(b)(iii)
- F3** Sch. 5 para. 6(4) entry omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 31\(4\)\(a\)](#); S.I. 2013/585, art. 2(b)(iii)
- F4** Word in Sch. 5 para. 6(4) omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 31\(4\)\(b\)](#); S.I. 2013/585, art. 2(b)(iii)
- F5** Sch. 5 para. 6(4) entry inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 31\(4\)\(c\)](#); S.I. 2013/585, art. 2(b)(iii)

#### *Compensation payable to widow, widower or surviving civil partner*

- 7 (1) This paragraph applies where—
- (a) the transferee dies after liability in respect of the pension compensation credit has been discharged under section 116,
  - (b) the transferee—
    - (i) was, before death, entitled under paragraph 6 to periodic compensation commencing at pension compensation age, or
    - (ii) would have become so entitled had he or she not died, and
  - (c) the transferee is survived by a widow, widower or surviving civil partner (“the surviving partner”).
- (2) Subject to sub-paragraph (4), the surviving partner is entitled to periodic compensation commencing on the day following the transferee's death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is—
- (a) where the transferee dies after attaining pension compensation age, half of the annual rate of the periodic compensation (including the revaluation amount (see paragraph 8) [<sup>F6</sup>, any actuarial increase under paragraph 16A] and any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 6 had the transferee not died;
  - (b) where the transferee dies before attaining pension compensation age, half of the annual rate of the periodic compensation (including the revaluation amount (see paragraph 8) and any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 6 if—
    - (i) the transferee's pension compensation age had been the transferee's actual age immediately before the date of the transferee's death, and
    - (ii) the transferee had not died.

[<sup>F7</sup>(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 16A).]

[<sup>F8</sup>(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.]

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- (4) For the purposes of this paragraph, a person's entitlement under paragraph 6 is to be determined disregarding paragraph 15(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).
- (5) The surviving partner is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

#### Textual Amendments

- F6** Words in Sch. 5 para. 7(3)(a) inserted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 32(2)(a)**; S.I. 2013/585, art. 2(b)(iii)
- F7** Words in Sch. 5 para. 7(3)(b) inserted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 32(2)(b)**; S.I. 2013/585, art. 2(b)(iii)
- F8** Sch. 5 para. 7(3A) inserted (13.3.2013) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 32(2)(c)**; S.I. 2013/585, art. 2(b)(iii)

#### Commencement Information

- II** Sch. 5 para. 7 wholly in force at 6.4.2011; para. 7 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 7 in force so far as not already in force at 6.4.2011 by S.I. 2011/664, **art. 2(3)**, Sch. Pt. 2

#### Revaluation

- 8 (1) This paragraph applies for the purpose of calculating the revaluation amount mentioned in paragraph 6(3)(b).
- (2) In this paragraph, “the revaluation period” means the period—
- beginning with the transfer day, and
  - ending with the day before the transferee attains pension compensation age.
- (3) The revaluation amount is—
- in a case in which the revaluation period is less than a month, nil;
  - in any other case, the revaluation percentage of the initial annual rate of compensation.
- (4) For the purposes of sub-paragraph (3)(b) “the revaluation percentage” means the lesser of—
- the percentage increase in the general level of prices in Great Britain during the revaluation period, determined in the prescribed manner, and
  - the maximum revaluation rate.
- (5) For the purposes of sub-paragraph (4)(b) “the maximum revaluation rate” is—
- in a case in which the revaluation period is a period of 12 months, 2.5%, and
  - in any other case, the percentage that would be the percentage mentioned in sub-paragraph (4)(a) had the general level of prices in Great Britain increased at the rate of 2.5% compound per annum during that period.

This is subject to paragraph 20 (power of Board to alter rates of revaluation and indexation).

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#### **Commencement Information**

- I2** Sch. 5 para. 8 wholly in force at 6.4.2011; para. 8 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 8 in force so far as not already in force at 6.4.2011 by [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

#### *Commutation of periodic compensation*

- 9 (1) A transferee who is entitled to periodic compensation under paragraph 6 may, in prescribed circumstances, opt to commute for a lump sum a portion of the periodic compensation with effect from the time it [<sup>F9</sup>commences].
- (2) Except in such circumstances as may be prescribed, the portion commuted under sub-paragraph (1) must not exceed 25%.
- (3) Any reduction required to be made by virtue of paragraph 18 (compensation cap) must be made before determining the amount of the transferee's periodic compensation which may be commuted under this paragraph.
- (4) Where the transferee opts to commute any part of his or her periodic compensation under this paragraph, the lump sum payable under sub-paragraph (1) is the actuarial equivalent of the commuted portion of the periodic compensation calculated from tables designated for this purpose by the Board.
- (5) The Board must publish in such manner as it considers appropriate the tables designated by it for the purposes of sub-paragraph (4).
- (6) Regulations may prescribe the manner in which an option to commute periodic compensation under this paragraph may be exercised.
- (7) The Secretary of State may, by order, amend sub-paragraph (2) so as to substitute a different percentage for that for the time being specified there.

#### **Textual Amendments**

- F9** Word in Sch. 5 para. 9(1) substituted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 33](#); [S.I. 2013/585](#), [art. 2\(b\)\(iii\)](#)

#### **Commencement Information**

- I3** Sch. 5 para. 9 wholly in force at 6.4.2011; para. 9 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 9 in force so far as not already in force at 6.4.2011 by [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

#### *Early payment of compensation*

- 10 (1) Regulations may prescribe circumstances in which, and conditions subject to which, the transferee may become entitled to periodic compensation under paragraph 6 before attaining pension compensation age.
- (2) The Board must determine the amount of the actuarial reduction to be applied to compensation to which the transferee is entitled by virtue of this paragraph.
- (3) Where, by virtue of this paragraph, periodic compensation is payable to the transferee before he or she attains pension compensation age, paragraph 8(2)(b) (end of revaluation period) applies as if the reference to the day before the transferee attains

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pension compensation age were to the day on which compensation is payable by virtue of this paragraph.

#### Commencement Information

- I4** Sch. 5 para. 10 wholly in force at 6.4.2011; para. 10 in force for certain purposes at Royal Assent see s. 149(2)(k); para. 10 in force so far as not already in force at 6.4.2011 by [S.I. 2011/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

#### Deferral of compensation

<sup>F10</sup>11 .....

#### Textual Amendments

- F10** Sch. 5 para. 11 omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 30\(1\)](#); [S.I. 2013/585](#), [art. 2\(b\)\(iii\)](#)

#### Terminal illness lump sum: eligibility

- 12 (1) This paragraph applies where all of the following conditions are met—
- (a) the transferee is terminally ill;
  - (b) if the transferee lived to the relevant age, he or she would become entitled on attaining that age to compensation under paragraph 6 in respect of the pension compensation credit;
  - (c) the transferee has not yet become entitled to any compensation under this Chapter in respect of the pension compensation credit;
  - (d) the whole or any part of the transferee's lifetime allowance is available.
- (2) The transferee may make an application to the Board to commute the future entitlement mentioned in sub-paragraph (1)(b) for a lump sum (“a terminal illness lump sum”) payable on the granting of the application.
- (3) For the purposes of this Chapter, a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 6 months.
- (4) In this paragraph—
- “lifetime allowance”, in relation to a person, has the same meaning as in Part 4 of the Finance Act 2004 (c. 12) (pension schemes etc) (see section 218 of that Act);
  - “relevant age”, in relation to a person, means—
    - (a) in relation to compensation entitlement to which has been accelerated <sup>F11</sup>... under regulations under paragraph 10<sup>F12</sup>..., the age at which the person becomes entitled to the compensation in accordance with the regulations;
    - (b) in relation to compensation entitlement to which has not been so accelerated or deferred, pension compensation age.
- <sup>F13</sup>(5) Sub-paragraph (6) applies where the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A.

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- (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”.]

#### **Textual Amendments**

- F11** Words in Sch. 5 para. 12(4) omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\), s. 38\(4\)](#), [Sch. 4 para. 34\(1\)\(a\)\(i\)](#); [S.I. 2013/585, art. 2\(b\)\(iii\)](#)
- F12** Words in Sch. 5 para. 12(4) omitted (13.3.2013) by virtue of [Pensions Act 2011 \(c. 19\), s. 38\(4\)](#), [Sch. 4 para. 34\(1\)\(a\)\(ii\)](#); [S.I. 2013/585, art. 2\(b\)\(iii\)](#)
- F13** Sch. 5 para. 12(5), (6) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\), s. 38\(4\)](#), [Sch. 4 para. 34\(1\)\(b\)](#); [S.I. 2013/585, art. 2\(b\)\(iii\)](#)

#### *Terminal illness lump sum: application and evidence*

- 13 An application for a terminal illness lump sum—
- (a) must be made in writing, either on a form approved by the Board for the purposes of this paragraph or in such other manner as the Board may accept as sufficient in the circumstances of the case;
  - (b) must be accompanied by such information as the Board may require for the purpose of determining the application.

#### *Terminal illness lump sum: determination of application*

- 14 (1) The Board must determine an application for a terminal illness lump sum in accordance with this paragraph.
- (2) The Board must—
- (a) if satisfied that the conditions in paragraph 12(1) are met, grant the application;
  - (b) in any other case (subject to sub-paragraph (3)), reject the application.
- (3) The Board may hold over the application for determination at a later date if it is satisfied that—
- (a) although the condition in paragraph 12(1)(a) is not met, the transferee suffers from a progressive disease and may become terminally ill within six months, and
  - (b) the conditions in paragraph 12(1)(b) to (d) are met.

#### *Terminal illness lump sum: effect of successful application*

- 15 (1) If the Board grants an application for a terminal illness lump sum, the transferee—
- (a) becomes entitled to a terminal illness lump sum calculated in accordance with this paragraph, and
  - (b) loses the entitlement he or she otherwise would have had on attaining the relevant age to compensation under paragraph 6 in respect of the pension compensation credit.

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- (2) The amount of the terminal illness lump sum is 2 times the amount to which the transferee would have been entitled under paragraph 6 in respect of the pension compensation credit in the year following the granting of the application, if he or she had attained the relevant age on the granting of the application.
- (3) In this paragraph “the relevant age” has the same meaning as in paragraph 12.
- [<sup>F14</sup>(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.]

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#### Textual Amendments

- F14** Sch. 5 para. 15(4) inserted (13.3.2013) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 34\(2\)](#); [S.I. 2013/585](#), art. 2(b)(iii)

#### *Terminal illness lump sum: information*

- 16 (1) Relevant information held by the Secretary of State about an individual may be disclosed to the Board for use for a purpose relating to its functions under paragraphs 12 to 15.
- (2) In sub-paragraph (1), “relevant information” means information held for the purposes of any function of the Secretary of State relating to—
- (a) social security, or
  - (b) any scheme made under section 286 of the Pensions Act 2004 (c. 35) (financial assistance scheme).

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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\(5\)\(b\)](#)