

**Status:** Point in time view as at 27/03/2013.

**Changes to legislation:** The Pensions (Northern Ireland) Order 2005, Active members who have not attained normal pension age at assessment date is up to date with all changes known to be in force on or before 07 August 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)

## SCHEDULES

### <sup>F1</sup>SCHEDULE 6

#### PENSION COMPENSATION PROVISIONS

**F1** mod. by SR 2005/171

#### **Modifications etc. (not altering text)**

- C1** Sch. 6 modified (1.8.2006) by Pension Protection Fund (Pension Sharing) Regulations (Northern Ireland) 2006 (S.R. 2006/282), **reg. 3(2)**
- C2** Sch. 6 modified by S.R. 2005/149, **reg. 13A** (as inserted (1.4.2009) by Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2009 (S.R. 2009/78), **reg. 4**)
- C3** Sch. 6 modified by S.R. 2005/149, **reg. 024(02)** (as added (6.4.2010) by The Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2010 (S.R. 2010/80), **regs. 1(b), 4(4)**)

*Active members who have not attained normal pension age at assessment date*

**11.**—(1) Compensation is payable in accordance with this paragraph where a person who, under the admissible rules, is (immediately before the assessment date) an active member of the scheme has not, before that date, attained normal pension age in respect of his rights under the admissible rules of the scheme to a pension.

(2) If the active member survives to attain normal pension age in respect of that pension (“the pension”), he is entitled to periodic compensation in respect of the pension commencing at that age and continuing for life.

(3) The annual rate of the periodic compensation is 90% of the aggregate of—

(a) the protected notional pension, <sup>F2</sup>...

[<sup>F3</sup>(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]

(b) any increases under paragraph 28 (annual increases in periodic compensation).

(4) In sub-paragraph (3) “the protected notional pension” means the aggregate of—

(a) the accrued amount, and

(b) the revaluation amount for the revaluation period (see paragraph 12).

(5) Subject to sub-paragraphs (6) and (7), the accrued amount is—

**AR × PE × PS**

where—

AR is the active member's annual accrual rate in respect of the pension under the admissible rules, PE is the active member's annual pensionable earnings in respect of the pension under the admissible rules, and

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PS is the active member's pensionable service in respect of the pension under the admissible rules in years (including any fraction of a year).

(6) If the accrual rates or pensionable earnings differ in respect of different parts of the active member's pensionable service relating to the pension, an amount is calculated in accordance with the formula in sub-paragraph (5) in respect of each of those parts and the accrued amount is the aggregate of those amounts.

For this purpose the references in sub-paragraph (5) to the active member's pensionable service, accrual rate and pensionable earnings are to be read as references to the part of his pensionable service in question and to his accrual rate and pensionable earnings in respect of that part.

(7) In any case where the Board is satisfied that it is not possible to identify one or more of the elements of the formula in sub-paragraph (5), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.

(8) This paragraph is subject to—

(a) paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund),

(b) paragraph 24 (commutation),

[<sup>F4</sup>(ba) paragraph 25E (terminal illness lump sum),]

(c) paragraph 26 (compensation cap), and

(d) paragraph 30 (power of Department to change percentage rates by order).<sup>F5</sup>

**F2** Word in Sch. 6 para. 11(3)(a) omitted (27.3.2013) by virtue of [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 23\(5\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F3** Sch. 6 para. 11(3)(aa) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 23\(5\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

**F4** Sch. 6 para. 11(8)(ba) inserted (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 100, 118(1), [Sch. 6 para. 4](#); S.R. 2009/147, art. 2(a)(i)(b)

**F5** mod. by SR 2005/149

**12.—**(1) This paragraph applies for the purposes of paragraph 11(4)(b).

(2) The revaluation period is the period which—

(a) begins with the assessment date, and

(b) ends with the day before the day on which the active member attains normal pension age in respect of the pension.

(3) The revaluation amount for the revaluation period is—

(a) in a case where the revaluation period is less than one month, nil, and

[<sup>F6</sup>(b) in any other case, the aggregate of—

(i) the higher revaluation percentage of so much of the accrued amount as is attributable to the active member's pensionable service falling before the day on which section 80 of the Pensions (No. 2) Act (Northern Ireland) 2008 comes into operation (“the Pensions Act commencement day”), and

(ii) the lower revaluation percentage of so much of the accrued amount as is attributable to the active member's pensionable service falling on or after that day.]

[<sup>F7</sup>(3A) For the purposes of sub-paragraph (3)(b)—

(a) any service within paragraph 36(4)(b) (notional pensionable service) is to be treated as falling on or after the Pensions Act commencement day if, or to the extent that, it is so treated for the purposes of the scheme;

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- (b) regulations may make provision in relation to cases where it is unclear whether or not any particular pensionable service (either actual or notional) falls, or is to be treated as falling, on or after that day.]

[<sup>F8</sup>(4) In sub-paragraph (3)(b)—

“the higher revaluation percentage” means the lesser of—

- (a) the percentage increase referred to in paragraph (a) of the definition of “the higher revaluation percentage” in paragraph 12(4) of Schedule 7 to the Pensions Act 2004 (“the inflation percentage”), and
- (b) the higher maximum revaluation rate;

“the lower revaluation percentage” means the lesser of—

- (a) the inflation percentage, and
- (b) the lower maximum revaluation rate.

(5) For the purposes of sub-paragraph (4)—

“the higher maximum revaluation rate”, in relation to the revaluation period, is—

- (a) if that period is a period of 12 months, 5%, and
- (b) in any other case, the percentage referred to in paragraph (b) of the definition of “the higher maximum revaluation rate” in paragraph 12(5) of Schedule 7 to the Pensions Act 2004;

“the lower maximum revaluation rate”, in relation to the revaluation period, is—

- (a) if that period is a period of 12 months, 2.5%, and
- (b) in any other case, the percentage referred to in paragraph (b) of the definition of “the lower maximum revaluation rate” in paragraph 12(5) of Schedule 7 to the Pensions Act 2004.

This is subject to paragraph 29 (power of Board to determine maximum revaluation rates etc.).]

(6) In this paragraph “the active member”, “the accrued amount” and “the pension” are to be construed in accordance with paragraph 11.

<b>F6</b>	Sch. 6 para. 12(3)(b) substituted (6.4.2009) by <a href="#">Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)</a> , ss. 80(1)(b), 118(1), <a href="#">Sch. 1 para. 5(2)</a> ; S.R. 2009/147, <a href="#">art. 3</a>
<b>F7</b>	Sch. 6 para. 12(3A) inserted (6.4.2009) by <a href="#">Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)</a> , ss. 80(1)(b), 118(1), <a href="#">Sch. 1 para. 5(3)</a> ; S.R. 2009/147, <a href="#">art. 3</a>
<b>F8</b>	Sch. 6 para. 12(4)(5) substituted (6.4.2009) by <a href="#">Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)</a> , ss. 80(1)(b), 118(1), <a href="#">Sch. 1 para. 5(4)</a> ; S.R. 2009/147, <a href="#">art. 3</a>

**13.—**(1) This paragraph applies where the active member dies on or after the assessment date.

(2) Subject to sub-paragraph (4), the widow or widower of the active member is entitled to periodic compensation commencing on the day following the active member's death and continuing for life.

(3) The annual rate of the periodic compensation at any time is—

- (a) where the active member died after attaining normal pension age, half of the annual rate of the periodic compensation (including [<sup>F9</sup>any actuarial increase under paragraph 25A and] any increases under paragraph 28) to which the member would at that time have been entitled under paragraph 11 in respect of the pension had the member not died, and

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- (b) where the active member died before attaining normal pension age, half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the member would have been entitled at normal pension age under paragraph 11 if—
- (i) normal pension age had been the member's actual age immediately before the date of the member's death, and
  - (ii) the member had not died
- [<sup>F10</sup>(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).]

[<sup>F11</sup>(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 paragraph 25A, assume that the periodic compensation commenced immediately before the date of A's death.]

[<sup>F12</sup>(3A) For the purposes of this paragraph, a person's entitlement under paragraph 11 is to be determined disregarding paragraph 25E(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).]

(4) The active member's widow or widower is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

(5) In this paragraph “the pension” and “the active member” are to be construed in accordance with paragraph 11.

- F9** Words in Sch. 6 para. 13(3)(a) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 24\(3\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)
- F10** Words in Sch. 6 para. 13(3)(b) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 24\(3\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)
- F11** Sch. 6 para. 13(3ZA) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 24\(3\)\(c\)](#); S.R. 2013/83, art. 2(b)(ii)
- F12** Sch. 6 para. 13(3A) inserted (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 100, 118\(1\)](#), [Sch. 6 para. 5](#); S.R. 2009/147, art. 2(a)(i)(b)

**14.—(1)** Compensation is payable in accordance with this paragraph where immediately before the assessment date, under the admissible rules of the scheme, an active member of the scheme has not attained normal pension age in respect of his rights to a lump sum (“the scheme lump sum”).

(2) If the active member survives to attain normal pension age in respect of the scheme lump sum, he is entitled to compensation in respect of the scheme lump sum when he attains that age.

(3) The compensation is a lump sum equal to 90% of [<sup>F13</sup>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.]

(4) In sub-paragraph (3) “the protected amount” means the aggregate of—

- (a) the accrued amount, and
- (b) the revaluation amount for the revaluation period.

(5) Subject to sub-paragraphs (6) and (7), the accrued amount is—

**AR × PE × PS**

where—

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AR is the active member's annual accrual rate in respect of the scheme lump sum under the admissible rules,

PE is the active member's annual pensionable earnings in respect of the scheme lump sum under the admissible rules, and

PS is the active member's pensionable service in respect of the scheme lump sum, under the admissible rules, in years (including any fraction of a year).

(6) If the accrual rates or pensionable earnings differ in respect of different parts of the active member's pensionable service relating to the scheme lump sum, an amount is calculated in accordance with the formula in sub-paragraph (5) in respect of each of those parts and the accrued amount is the aggregate of those amounts.

For this purpose the references in that sub-paragraph to the active member's pensionable service, accrual rate and pensionable earnings are to be read as references to the part of his pensionable service in question and to his accrual rate and pensionable earnings in respect of that part.

(7) In any case where the Board is satisfied that it is not possible to identify one or more of the elements of the formula in sub-paragraph (5), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.

(8) Paragraph 12 applies for the purpose of determining the revaluation amount except that—

- (a) in that paragraph the references to the pension are to be read as references to the scheme lump sum, and
- (b) in sub-paragraph (6) of that paragraph the reference to paragraph 11 is to be read as a reference to this paragraph.

(9) This paragraph is subject to—

- (a) paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund),
- [<sup>F14</sup>(aa) paragraph 25E (terminal illness lump sum),]
- (b) paragraph 26 (compensation cap), and
- (c) paragraph 30 (power of Department to change percentage rates by order).<sup>F15</sup>

**F13** Words in Sch. 6 para. 14(3) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 23\(6\)](#); S.R. 2013/83, art. 2(b)(ii)

**F14** Sch. 6 para. 14(9)(aa) inserted (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 100, 118(1), [Sch. 6 para. 6](#); S.R. 2009/147, art. 2(a)(i)(b)

**F15** mod. by SR 2005/149

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