

## SCHEDULES

### <sup>F1</sup>SCHEDULE 6 **N.I.**

Article 146.

#### 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)**)

#### *Introductory*

**1** <sup>F2</sup>. <sup>F3</sup> This Schedule applies for the purposes of determining the compensation payable where the Board assumes responsibility for an eligible scheme (“the scheme”) in accordance with this Chapter.

**F2** mod. by SR 2005/55

**F3** mod. by SR 2005/91

**2** <sup>F4</sup>. <sup>F5</sup> In this Schedule references to “the assessment date” are to the date on which the assessment period in relation to the scheme, or (where there has been more than one such assessment period) the last one, began.

**F4** mod. by SR 2005/55

**F5** mod. by SR 2005/171

#### *Pensions in payment at assessment date*

**3.—(1)** Compensation is payable in accordance with this paragraph where, immediately before the assessment date, a person is entitled to present payment of a pension under the admissible rules of the scheme.

(2) That person (“the pensioner”) is entitled to periodic compensation in respect of that pension (“the pension”) commencing at the assessment date and continuing for life or, in a case to which sub-paragraph (8) applies, until such time as entitlement to the pension would have ceased under the admissible rules.

(3) The annual rate of the periodic compensation is the appropriate percentage of the aggregate of—

(a) the protected pension rate, and

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

(4) <sup>F6</sup> In sub-paragraph (3) “the appropriate percentage” means—

**Status:** Point in time view as at 27/03/2013.

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- (a) in a case to which sub-paragraph (7) applies, 90%, and
  - (b) in any other case, 100%.
- (5) In sub-paragraph (3) “the protected pension rate” means the annual rate of the pension, under the admissible rules, immediately before the assessment date.
- (6) In determining for the purposes of sub-paragraph (5) the annual rate of the pension immediately before the assessment date, any recent discretionary increase is to be disregarded if paragraph [F735(3A)] applies [F8to the scheme].
- (7) This sub-paragraph applies where the pensioner has not attained normal pension age in respect of the pension before the assessment date and his entitlement to the pension—
- (a) is attributable to his pensionable service, and
  - (b) did not arise by virtue of any provision of the admissible rules of the scheme making special provision as to early payment of pension on grounds of ill health.
- (8) This sub-paragraph applies where the pension was not attributable to—
- (a) the pensioner's pensionable service, or
  - (b) (directly or indirectly) to a pension credit to which the pensioner became entitled under Article 26(1)(b) of the 1999 Order.
- (9) This paragraph does not apply if compensation is payable in respect of the pension in accordance with paragraph 5 (pension benefits postponed at assessment date).
- (10) This paragraph is subject to—
- (a) paragraph 26 (compensation cap), and
  - (b) paragraph 30 (power of Department to change percentage rates by order).

**F6** mod. by SR 2005/130

**F7** Word in Sch. 6 para. 3(6) substituted (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 37\(2\)](#); S.R. 2012/233, art. 2(2)(k)(v)

**F8** Words in Sch. 6 para. 3(6) added (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 100, 118\(1\), Sch. 6 para. 2](#); S.R. 2009/147, art. 2(a)(i)(b)

- 4.—(1) This paragraph applies where—
- (a) the pensioner dies on or after the assessment date, and
  - (b) the pension was attributable—
    - (i) to the pensioner's pensionable service, or
    - (ii) (directly or indirectly) to a pension credit to which the pensioner became entitled under Article 26(1)(b) of the 1999 Order.
- (2) Subject to sub-paragraph (4), the pensioner's widow or widower is entitled to periodic compensation commencing on the day following the pensioner's death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the pensioner would at that time have been entitled under paragraph 3 in respect of the pension had the pensioner not died.
- (4) The pensioner'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 pensioner” are to be construed in accordance with paragraph 3.

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### *Pension benefits postponed at assessment date*

5.—(1) Compensation is payable in accordance with this paragraph where immediately before the assessment date—

- (a) a person is entitled to present payment of a pension under the admissible rules of the scheme,
- (b) payment of that pension is postponed, and
- (c) he has attained normal pension age in relation to the pension.

(2) That person (“the postponed pensioner”) is entitled to periodic compensation in respect of that pension (“the pension”) commencing at the assessment date and continuing for life or, in a case to which sub-paragraph (7) applies, until such time as entitlement to the pension would have ceased under the admissible rules.

(3) The annual rate of the periodic compensation is 100% of the aggregate of—

- (a) the protected pension rate,<sup>F9</sup> ...

[<sup>F10</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 pension rate” means what would have been the annual rate of the pension, under the admissible rules, if the postponement of payment had ceased immediately before the assessment date.

<sup>F11</sup>(5) In determining for the purposes of sub-paragraph (4) the annual rate of the pension immediately before the assessment date, any recent discretionary increase is to be disregarded if paragraph [<sup>F13</sup>35(3A)] applies [<sup>F14</sup>to the scheme].

(6) Where the pension is attributable (directly or indirectly) to a pension credit, the reference in sub-paragraph (1)(c) to “normal pension age” is to be read as a reference to “normal benefit age”.

(7) This sub-paragraph applies where the pension was not attributable to—

- (a) the postponed pensioner's pensionable service, or
- (b) (directly or indirectly) to a pension credit to which the postponed pensioner became entitled under Article 26(1)(b) of the 1999 Order.

(8) This paragraph is subject to—

- (a) paragraph 24 (commutation), and
- (b) paragraph 30 (power of Department to change percentage rates by order).

**F9** Word in Sch. 6 para. 5(3)(a) omitted (27.3.2013) by virtue of [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 23\(1\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F10** Sch. 6 para. 5(3)(aa) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 23\(1\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

**F11** mod. by SR 2005/149

**F12** mod. by SR 2005/171

**F13** Word in Sch. 6 para. 5(5) substituted (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 37\(3\)](#); S.R. 2012/233, art. 2(2)(k)(v)

**F14** Words in Sch. 6 para. 5(5) added (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 100, 118\(1\), Sch. 6 para. 3](#); S.R. 2009/147, art. 2(a)(i)(b)

6.—(1) This paragraph applies where the postponed pensioner—

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- (a) dies on or after the assessment date,
- (b) the pension was attributable—
  - (i) to the postponed pensioner's pensionable service, or
  - (ii) (directly or indirectly) to a pension credit to which the postponed pensioner became entitled under Article 26(1)(b) of the 1999 Order.

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

(3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including [<sup>F15</sup>any actuarial increase under paragraph 25A and] any increases under paragraph 28) to which the postponed pensioner would at that time have been entitled under paragraph 5 in respect of the pension had the postponed pensioner not died.

[<sup>F16</sup>(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.]

(4) The postponed pensioner'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 postponed pensioner” and “the pension” are to be construed in accordance with paragraph 5.

- F15** Words in Sch. 6 para. 6(3) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 24\(1\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)
- F16** Sch. 6 para. 6(3A) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 24\(1\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

7.—(1) Compensation is payable in accordance with this paragraph where immediately before the assessment date—

- (a) a person is entitled to present payment of a lump sum under the admissible rules of the scheme (“the scheme lump sum”),
- (b) payment of that lump sum is postponed, and
- (c) he has attained normal pension age in relation to the lump sum.

(2) That person is entitled to compensation in the form of a lump sum of an amount equal to 100% of [<sup>F17</sup>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) The compensation is payable at the assessment date.

(4) Where the scheme lump sum is attributable (directly or indirectly) to a pension credit, the reference in sub-paragraph (1)(c) to “normal pension age” is to be read as a reference to “normal benefit age”.

(5) This paragraph does not apply in relation to a lump sum to which a person is entitled by reason of commuting any part of a pension under the scheme.

(6) This paragraph is subject to paragraph 30 (power of Department to change percentage rates by order).

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**F17** Words in Sch. 6 para. 7(2) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(2\)](#); S.R. 2013/83, art. 2(b)(ii)

### *Active members over normal pension age at assessment date*

**8.—(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, before that date, attained normal pension age in respect of his rights under the admissible rules of the scheme to a pension.

(2) The active member is entitled to periodic compensation in respect of that pension (“the pension”) commencing at the assessment date and continuing for life.

(3) The annual rate of the periodic compensation is 100% of the aggregate of—

(a) the protected notional pension,<sup>F18</sup> ...

[<sup>F19</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) any increases in the pension to which the active member would have been entitled under the admissible rules (by virtue of the fact that the pension did not come into payment at normal pension age) if he had ceased to be an active member of the scheme immediately before the assessment date.

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

$$AR \times PE \times PS$$

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

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 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) This paragraph is subject to—

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

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- (b) paragraph 24 (commutation), and
- (c) paragraph 30 (power of Department to change percentage rates by order).<sup>F20</sup>

<b>F18</b>	Word in Sch. 6 para. 8(3)(a) omitted (27.3.2013) by virtue of <a href="#">Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3)</a> , <a href="#">Sch. 4 para. 23(3)(a)</a> ; S.R. 2013/83, art. 2(b)(ii)
<b>F19</b>	Sch. 6 para. 8(3)(aa) inserted (27.3.2013) by <a href="#">Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3)</a> , <a href="#">Sch. 4 para. 23(3)(b)</a> ; S.R. 2013/83, art. 2(b)(ii)
<b>F20</b>	mod. by SR 2005/149

- 9.—(1) This paragraph applies where the active member dies on or after the assessment date.
- (2) Subject to sub-paragraph (4), the active member's widow or widower is entitled to periodic compensation commencing on the day following the member's death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including [<sup>F21</sup>any actuarial increase under paragraph 25A and] any increases under paragraph 28) to which the active member would at that time have been entitled under paragraph 8 in respect of the pension had the member not died.
- [<sup>F22</sup>(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.]
- (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 8.

<b>F21</b>	Words in Sch. 6 para. 9(3) inserted (27.3.2013) by <a href="#">Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3)</a> , <a href="#">Sch. 4 para. 24(2)(a)</a> ; S.R. 2013/83, art. 2(b)(ii)
<b>F22</b>	Sch. 6 para. 9(3A) inserted (27.3.2013) by <a href="#">Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3)</a> , <a href="#">Sch. 4 para. 24(2)(b)</a> ; S.R. 2013/83, art. 2(b)(ii)

- 10.—(1) Compensation is payable in accordance with this paragraph where an active member of the scheme has, before the assessment date, attained normal pension age in respect of his rights under the admissible rules of the scheme to a lump sum (“the scheme lump sum”).
- (2) The active member is entitled to compensation of an amount equal to 100% of the aggregate of—
- (a) the accrued amount,<sup>F23</sup>...
  - (b) any increases to which the active member would have been entitled under the admissible rules (by virtue of the fact that the lump sum was not paid at normal pension age) had the active member ceased to be an active member immediately before the assessment date<sup>F24</sup>, 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.]
- (3) The compensation is payable at the assessment date.
- (4) Subject to sub-paragraphs (5) and (6), the accrued amount is—



## AR × PE × PS

where—

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).

(5) 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 (4) 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.

(6) 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 (4), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.

(7) This paragraph does not apply in relation to a lump sum to which a person is entitled by reason of commuting any part of a pension under the scheme.

(8) This paragraph is subject to—

- (a) paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund), and
- (b) paragraph 30 (power of Department to change percentage rates by order).<sup>F25</sup>

**F23** Word in Sch. 6 para. 10(2)(a) omitted (27.3.2013) by virtue of [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 23\(4\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F24** Sch. 6 para. 10(2)(c) and preceding word inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 23\(4\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

**F25** mod. by SR 2005/149

### *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>F26</sup>...

[<sup>F27</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).

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- (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

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>F28</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>F29</sup>

**F26** 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)

**F27** 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)

**F28** 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)**

**F29** 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



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[<sup>F30</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>F31</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;
- (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>F32</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.

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| <p><b>F30</b> Sch. 6 para. 12(3)(b) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), <b>Sch. 1 para. 5(2)</b>; S.R. 2009/147, <b>art. 3</b></p> <p><b>F31</b> Sch. 6 para. 12(3A) inserted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), <b>Sch. 1 para. 5(3)</b>; S.R. 2009/147, <b>art. 3</b></p> <p><b>F32</b> Sch. 6 para. 12(4)(5) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), <b>Sch. 1 para. 5(4)</b>; S.R. 2009/147, <b>art. 3</b></p> |
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**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>F33</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
- (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>F34</sup>(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).]

[<sup>F35</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>F36</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.

**F33** 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)

**F34** 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)

**F35** 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)

**F36** 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>F37</sup>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.]
- (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—

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>F38</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>F39</sup>

**F37** 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)

**F38** 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)

**F39** mod. by SR 2005/149

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

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

(2) If that person ( “the deferred 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 pension rate,<sup>F40</sup> ...

[<sup>F41</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 pension rate” means the aggregate of—

(a) the accrued amount,

(b) the revaluation amount for the first revaluation period (see paragraph 16), and

(c) the revaluation amount for the second revaluation period (see paragraph 17).

<sup>F42F43</sup>(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 he attained normal pension age when the pensionable service relating to the pension ended.

<sup>F43F44</sup>(6) This paragraph is subject to—

(a) paragraph 24 (commutation),

[<sup>F45</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).

**F40** Word in Sch. 6 para. 15(3)(a) omitted (27.3.2013) by virtue of [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(7\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F41** Sch. 6 para. 15(3)(aa) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(7\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

**F42** mod. by SR 2005/130

**F43** mod. by SR 2005/149

**F44** mod. by SR 2005/171

**F45** Sch. 6 para. 15(6)(aa) inserted (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 100, 118\(1\)](#), [Sch. 6 para. 7](#); S.R. 2009/147, [art. 2\(a\)\(i\)\(b\)](#)

## **N.I.**

**16.**—(1) This paragraph applies for the purposes of paragraph 15(4)(b).

(2) The first revaluation period is the period which—

(a) begins with the day after the day on which the deferred member's pensionable service in respect of the pension ended, and

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- (b) ends with the day before the assessment date.
- (3) The revaluation amount for the first revaluation period is—
  - (a) where that period is less than one month, nil, and
  - (b) in any other case, the amount determined in the prescribed manner.
- (4) In this paragraph “the deferred member” and “the pension” are to be construed in accordance with paragraph 15.

**17.—**(1) This paragraph applies for the purposes of paragraph 15(4)(c).

- (2) The second revaluation period is the period which—
  - (a) begins with the assessment date, and
  - (b) ends with the day before the day on which the deferred member attains normal pension age in respect of the pension.
- (3) The revaluation amount for the second revaluation period is—
  - (a) where that period is less than one month, nil, and
  - <sup>F46</sup>(b) in any other case, the aggregate of—
    - (i) the higher revaluation percentage of so much of the relevant amount as is attributable to the deferred 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 relevant amount as is attributable to the deferred member's pensionable service falling on or after that day.]

<sup>F47</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;
- (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>F48</sup>(4) In sub-paragraph (3)—

- “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 17(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;
- “the relevant amount” means the aggregate of—
  - (a) the accrued amount, and
  - (b) the revaluation amount for the first revaluation period (see paragraph 16).

(5) For the purposes of sub-paragraph (3)—

- “the higher maximum revaluation rate”, in relation to the second revaluation period, is—
  - (a) if that period is a period of 12 months, 5%, and

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- (b) in any other case, the percentage referred to in paragraph (b) of the definition of “the higher maximum revaluation rate” in paragraph 17(5) of Schedule 7 to the Pensions Act 2004;
- “the lower maximum revaluation rate”, in relation to the second 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 17(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 deferred member”, “the accrued amount” and “the pension” are to be construed in accordance with paragraph 15.

- F46** Sch. 6 para. 17(3)(b) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), **Sch. 1 para. 6(2)**; S.R. 2009/147, **art. 3**
- F47** Sch. 6 para. 17(3A) inserted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), **Sch. 1 para. 6(3)**; S.R. 2009/147, **art. 3**
- F48** Sch. 6 para. 17(4)(5) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), **Sch. 1 para. 6(4)**; S.R. 2009/147, **art. 3**

**18.—**(1) This paragraph applies where—

- (a) the deferred member dies on or after the assessment date, and
- (b) the pension was attributable to the deferred member's pensionable service.

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

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

- (a) where the deferred member died after attaining normal pension age, half of the annual rate of the periodic compensation (including [<sup>F49</sup>any actuarial increase under paragraph 25A and] any increases under paragraph 28) to which the deferred member would at that time have been entitled under paragraph 15 in respect of the pension had the member not died,
- (b) where the deferred 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 deferred member would have been entitled at that time under paragraph 15 if—
- (i) normal pension age had been the deferred member's actual age immediately before the date of the deferred member's death, and
- (ii) the deferred member had not died.

[<sup>F50</sup>(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).]

[<sup>F51</sup>(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.]

[<sup>F52</sup>(3A) For the purposes of this paragraph, a person's entitlement under paragraph 15 is to be determined disregarding paragraph 25E(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).]



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(4) The deferred 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 deferred member” and “the pension” are to be construed in accordance with paragraph 15.

**F49** Words in Sch. 6 para. 18(3)(a) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), Sch. 4 para. 24(4)(a); S.R. 2013/83, art. 2(b)(ii)

**F50** Words in Sch. 6 para. 18(3)(b) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), Sch. 4 para. 24(4)(b); S.R. 2013/83, art. 2(b)(ii)

**F51** Sch. 6 para. 18(3ZA) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), Sch. 4 para. 24(4)(c); S.R. 2013/83, art. 2(b)(ii)

**F52** Sch. 6 para. 18(3A) inserted (1.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 100, 118(1), Sch. 6 para. 8; S.R. 2009/147, art. 2(a)(i)(b)

**19** <sup>F53</sup>—<sup>F54</sup>(1) Compensation is payable in accordance with this paragraph where, under the admissible rules of the scheme, a deferred member has not attained normal pension age in respect of his rights to a lump sum under the scheme (“the scheme lump sum”) before the assessment date.

(2) If the deferred member survives to attain normal pension age in respect of the scheme lump sum, he is entitled to compensation under this paragraph on attaining that age.

(3) The compensation is a lump sum equal to 90% of [<sup>F55</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,
- (b) the revaluation amount for the first revaluation period, and
- (c) the revaluation amount for the second revaluation period.

(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 normal pension age been the actual age attained by the deferred member when the pensionable service relating to the lump sum ended.

<sup>F54</sup><sup>F56</sup>(6) Paragraphs 16 and 17 apply in relation to this paragraph as if in those paragraphs—

- (a) references to the pension were to the scheme lump sum, and
- (b) “the deferred member” and “the accrued amount” had the same meaning as in this paragraph.

(7) This paragraph does not apply in relation to a lump sum to which a person is entitled by reason of commuting any part of a pension under the scheme.

(8) This paragraph is subject to—

[<sup>F57</sup>(za) paragraph 25E (terminal illness lump sum),]

- (a) paragraph 26 (compensation cap), and
- (b) paragraph 30 (power of Department to change percentage rates by order).

**F53** mod. by SR 2005/130

**F54** mod. by SR 2005/149

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- F55** Words in Sch. 6 para. 19(3) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\), Sch. 4 para. 23\(8\)](#); S.R. 2013/83, art. 2(b)(ii)
- F56** mod. by SR 2005/171
- F57** Sch. 6 para. 19(8)(za) inserted (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 100, 118\(1\), Sch. 6 para. 9](#); S.R. 2009/147, art. 2(a)(i)(b)

*Compensation in respect of scheme right to transfer payment or contribution refund*

**20.**—(1) Compensation is payable in accordance with this paragraph where—

- (a)<sup>F58</sup> a person's pensionable service terminates on the commencement of the assessment period,
- (b)<sup>F59</sup> as a result, he has rights, under the admissible rules, to—
- (i) a transfer payment calculated by reference to the value of benefits which have accrued to him under the scheme ( “the protected transfer payment”), or
  - (ii) a cash payment calculated by reference to the amount of contributions made by him or on his behalf to the scheme ( “the protected contribution repayment”),
- (c) Chapter 5 of Part IV of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds) does not apply to him, and
- (d) he does not have relevant accrued rights to benefit (within the meaning of section 97AA(4) of that Act).

(2) That person is entitled to compensation in the form of a lump sum in respect of the protected transfer payment or protected contribution repayment.

(3) The amount of the compensation is 90% of the amount of the protected transfer payment or protected contribution repayment (whichever is the greater).

(4)<sup>F58</sup> For the purposes of sub-paragraph (3), the amount of the protected transfer payment or protected contribution repayment is to be calculated in accordance with the admissible rules, which are to be applied for this purpose subject to any prescribed modifications.

(5) The compensation is payable immediately after the transfer notice given under Article 144 is received by the trustees or managers of the scheme.

(6) This paragraph is subject to paragraph 30 (power of Department to change percentage rates by order).

(7) Regulations may modify any provision of paragraph 8, 10, 11 or 14 (compensation for persons who were active members immediately before assessment date) as it applies in the case of a person who is entitled to compensation under this paragraph.

(8) Regulations may modify any provision of sub-paragraphs (1) to (6) as it applies in the case of a person who is entitled to compensation under paragraph 8, 10, 11 or 14.

**F58** mod. by SR 2005/171

**F59** mod. by SR 2005/84

*Pension credit members who have not attained normal benefit age at assessment date*

**[F60]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.

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(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—

“(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).]

**F60** Sch. 6 paras. 21, 21A substituted (7.6.2012) for Sch. 6 para. 21 by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 19\(2\)](#); S.R. 2012/233, art. 2(2)(k)(iv)

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

**C4** Sch. 6 para. 21: repeal (7.6.2012) of earlier amending provision [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), [Sch. 6 para. 10](#) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 20](#); S.R. 2012/233, art. 2(2)(k)(iv)

**C5** Sch. 6 para. 21: repeal (7.6.2012) of earlier amending provision [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), [Sch. 6 para. 11](#) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 20](#); S.R. 2012/233, art. 2(2)(k)(iv)

[<sup>F61</sup>**21A.**—(1) This paragraph applies to a person who—

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- (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 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).]

**F61** Sch. 6 paras. 21, 21A substituted (7.6.2012) for Sch. 6 para. 21 by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 19\(2\)](#); S.R. 2012/233, [art. 2\(2\)\(k\)\(iv\)](#)

### *Survivors who do not meet conditions for scheme benefits at assessment date*

- 22.**—(1) Compensation is payable in accordance with this paragraph where—
- (a) a member of the scheme has died before the assessment date,
  - (b) as a result of that death, a pension, which is attributable to the member's pensionable service, is payable to that person's widow or widower or any other person (“the survivor”) if conditions specified in the scheme rules are met, and

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- (c) the survivor first satisfies those conditions on or after that date.
- (2) The survivor is entitled to periodic compensation in respect of that pension (“the pension”)—
  - (a) commencing if, and when, the pension would have become payable under the admissible rules, and
  - (b) continuing until such time as entitlement to the pension would have ceased under the admissible rules.
- (3) The annual rate of the periodic compensation is 100% of the aggregate of—
  - (a) the initial rate of the pension which would have been payable in accordance with the admissible rules had the conditions mentioned in sub-paragraph (1)(c) been satisfied, immediately before the assessment date, and
  - (b) any increases under paragraph 28 (annual increases in periodic compensation).
- (4) This paragraph is subject to paragraph 30 (power of Department to change percentage rates by order).

### *Compensation in form of dependants' benefits*

**23.**—(1) Regulations may provide for compensation to be payable, in such circumstances as may be prescribed, to or in respect of—

- (a) partners of prescribed descriptions of persons of prescribed descriptions who were members of the scheme immediately before the assessment date,
- (b) dependants of prescribed descriptions of persons of prescribed descriptions who—
  - (i) were members of the scheme, or had rights to benefits payable under the scheme rules in respect of a member, immediately before the assessment date,
  - (ii) became entitled to benefits under the scheme rules in respect of a member on or after the assessment date but before the time the trustees or managers of the scheme received a transfer notice under Article 144, or
  - (iii) have become entitled to compensation under paragraph 22 (survivors who do not meet conditions for scheme benefits at assessment date), in relation to the scheme.
- (2) 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 paragraphs 28 and 29(2) (annual increases in respect of periodic compensation) in respect of compensation in the form of periodic payments (with or without modifications).

### *<sup>F62</sup>Effect of discharge of liability during or immediately before assessment period*

**F62** SR 2005/137

**23A** <sup>F63</sup>—(1) This paragraph applies if—

- (a) at any time during the assessment period in relation to the scheme (or, if there has been more than one such assessment period, the last one) any liability to provide pensions or other benefits to or in respect of any member or members under the scheme is discharged by virtue of—
  - (i) regulations under Article 119(4), or
  - (ii) the Board validating any action mentioned in Article 119(9), or

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- (b) any such liability is discharged on the assessment date, but before the commencement of the assessment period,

and compensation is payable in accordance with this Schedule in respect of the pensions or other benefits (apart from this paragraph).

(2) Any entitlement to compensation under this Schedule in respect of the pensions or other benefits that arose before the discharge ceases on the discharge, except so far as the entitlement was to a payment falling to be made before the discharge.

(3) After the discharge any compensation payable under this Schedule in respect of the pensions or other benefits is determined on the basis that—

- (a) the discharge occurred immediately before the assessment date, and
- (b) the admissible rules of the scheme provided—
- (i) for the discharge to occur at that time, and
- (ii) accordingly, for entitlement under those rules to the pensions or other benefits then to cease or, as the case may be, to cease to the extent to which liability in respect of them is discharged.]

**F63** mod. by SR 2005/171

### *Commutation of periodic compensation*

**24**<sup>F64</sup>.—<sup>F65F66</sup>(1) In prescribed circumstances, a person entitled to periodic compensation under paragraph 5, 8, 11 or 15 may opt to commute for a lump sum a portion of the periodic compensation with effect from the time it [<sup>F67</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 under paragraph 26 (compensation cap) must be made before determining the amount of a person's periodic compensation which may be commuted under this paragraph.

(4) Where a person opts to commute any part of his 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) This paragraph does not apply where—

- (a) before the assessment date, the person concerned has received benefits under the scheme rules which were in the form of a lump sum (otherwise than as a result of the commutation of any part of a pension) and were attributable to his own service under the scheme, or
- (b) immediately before the assessment date, the person concerned has rights to a lump sum under the admissible rules (otherwise than by commutation of any part of a pension) and those rights are attributable to such service.

(8) The Department may, by order, amend sub-paragraph (2) to substitute a different percentage for the percentage for the time being specified in that sub-paragraph.

**F64** mod. by SR 2005/130



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- F65** mod. by SR 2005/149  
**F66** mod. by SR 2005/171  
**F67** Word in Sch. 6 para. 24(1) substituted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 25**; S.R. 2013/83, art. 2(b)(ii)

### *Early payment of compensation*

**25**<sup>F68</sup>.—(1) Regulations may prescribe circumstances in which, and conditions subject to which, a person may become entitled to—

- (a) periodic compensation under paragraph 11 or 15, or
- (b) lump sum compensation under paragraph 14 or 19,

before he attains normal pension age (or, in a case to which paragraph 21 [<sup>F69</sup>or 21A] applies, normal benefit age).

(2) The Board must determine the amount of the actuarial reduction to be applied to compensation where a person becomes so entitled by virtue of regulations under this paragraph.

(3) Where, by virtue of this paragraph, periodic compensation is payable to a person under paragraph 11 or 15 before that person attains normal pension age—

- (a) paragraph 12(2) applies as if the reference to the date on which the active member attains normal pension age were a reference to the date on which the compensation is payable by virtue of this paragraph, and
- (b) paragraph 17(2)(b) applies as if the reference to the date on which the deferred member attains normal pension age were a reference to the date on which the compensation is payable by virtue of this paragraph.

- F68** mod. by SR 2005/171  
**F69** Words in Sch. 6 para. 25(1) inserted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 19(3)(a)**; S.R. 2012/233, art. 2(2)(k)(iv)

### *[<sup>F70</sup>Postponement of compensation]*

- F70** Sch. 6 para. 25A and preceding heading substituted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 22**; S.R. 2013/83, art. 2(b)(ii)

[<sup>F70</sup>**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.

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(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).

(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).]

*<sup>F71</sup>Terminal illness lump sum: eligibility*

**F71** Sch. 6 paras. 25B-25F and preceding cross headings inserted (1.4.2009 for certain purposes otherwise prosp.) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 100, 118(1), [Sch. 6 para. 14](#); [S.R. 2009/147](#), [art. 2\(a\)\(iii\)\(b\)](#)

**25B.**—(1) This paragraph applies to a person in relation to whom all of the following conditions are met—

- (a) the person is terminally ill;
- (b) if the person lived to the relevant age, the person would become entitled on attaining that age to relevant compensation in relation to the scheme;
- (c) the person has not yet become entitled to any compensation under the pension compensation provisions in relation to the scheme;
- (d) the whole or any part of the person's lifetime allowance is available.

(2) A person to whom this paragraph applies 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 six 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>F72</sup>... under regulations under paragraph 25 <sup>F72</sup>..., the age at which the person becomes entitled to the compensation in accordance with the regulations;

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- (b) in relation to compensation entitlement to which has not been so accelerated <sup>F73</sup>..., normal pension age (or, in a case to which paragraph 21 [<sup>F74</sup>or 21A] applies, normal benefit age);  
“relevant compensation” means—
  - (a) periodic compensation under paragraph 11 or 15, or
  - (b) lump sum compensation under paragraph 14 or 19.

- [<sup>F75</sup>(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”.]

**F72** Words in Sch. 6 para. 25B(4) omitted (27.3.2013) by virtue of [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 26\(1\)\(a\)\(i\)](#); S.R. 2013/83, art. 2(b)(ii)

**F73** Words in Sch. 6 para. 25B(4) omitted (27.3.2013) by virtue of [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 26\(1\)\(a\)\(ii\)](#); S.R. 2013/83, art. 2(b)(ii)

**F74** Words in Sch. 6 para. 25B(4) inserted (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 19\(3\)\(c\)](#); S.R. 2012/233, art. 2(2)(k)(iv)

**F75** Sch. 6 para. 25B(5)(6) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 26\(1\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

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

- 25C** 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*

- 25D.—(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 25B(1) are met in relation to the applicant, 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—

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- (a) although the condition in paragraph 25B(1)(a) is not met in relation to the applicant, the applicant suffers from a progressive disease and may become terminally ill within six months, and
- (b) the conditions in paragraph 25B(1)(b) to (d) are met in relation to the applicant.

*Terminal illness lump sum: effect of successful application*

**25E.**—(1) If the Board grants an application for a terminal illness lump sum, the applicant—

- (a) becomes entitled to a terminal illness lump sum calculated in accordance with this paragraph, and
- (b) loses the entitlement the applicant otherwise would have had on attaining the relevant age to relevant compensation in relation to the scheme.

(2) The amount of the terminal illness lump sum is 2 times the sum of—

- (a) the periodic compensation annual amount, and
- (b) the lump sum compensation annual amount.

(3) In sub-paragraph (2) “the periodic compensation annual amount” means the annual amount to which the applicant would have been entitled under paragraph 11 or 15 in relation to the scheme in the year following the granting of the application, if the applicant had attained the relevant age on the granting of the application.

(4) In sub-paragraph (2) “the lump sum compensation annual amount” means the annualised value of the lump sum to which the applicant would have been entitled under paragraph 14 or 19 in relation to the scheme on the granting of the application, if the applicant had attained the relevant age on the granting of the application.

(5) In sub-paragraph (4) “the annualised value” of a lump sum means the annualised actuarially equivalent amount of that sum, determined in accordance with actuarial factors published by the Board.

(6) In this paragraph “relevant compensation” and “the relevant age” have the same meanings as in paragraph 25B.

[  
F76(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.]

**F76** Sch. 6 para. 25E(7) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 26\(2\)](#); S.R. 2013/83, art. 2(b)(ii)

*Terminal illness lump sum: information*

**25F.**—(1) Relevant information held by the Department or the Secretary of State about an individual may be disclosed to the Board for use for a purpose relating to—

- (a) the Board's functions under paragraphs 25B to 25E;

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- (b) the compliance of the trustees or managers of a pension scheme with Article 122 (limit on amount of scheme benefits payable during an assessment period).
- (2) In sub-paragraph (1) “relevant information” means—
  - (a) information held for the purposes of any function of the Department relating to social security; or
  - (b) information held for the purposes of any function of the Secretary of State relating to any scheme made under section 286 of the Pensions Act 2004 (financial assistance scheme).]

### *Compensation cap*

- 26.**—(1) Where—
- (a) a person becomes entitled to relevant compensation in respect of a benefit (“benefit A”) under the scheme, and
  - (b) sub-paragraph (2)(a) or (b) applies,
- the amount of the compensation must be restricted in accordance with sub-paragraph (3).
- (2) For the purposes of sub-paragraph (1)—
    - (a) this paragraph applies if—
      - (i) the annual value of benefit A exceeds the compensation cap, and
      - (ii) paragraph (b)(i) does not apply, and
    - (b) this paragraph applies if—
      - (i) <sup>F77</sup> at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits under the scheme or a connected occupational pension scheme (“benefit or benefits B”), and
      - (ii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap.
  - (3) Where the relevant compensation in respect of benefit A is required to be restricted in accordance with this sub-paragraph—
    - (a) if that compensation is within sub-paragraph (4)(a), the protected pension rate for the purposes of paragraph 3(3)(a) is the cap fraction of the rate determined in accordance with paragraph 3(5);
    - (b) if that compensation is within sub-paragraph (4)(b), the protected notional pension for the purposes of paragraph 11(3)(a) is the cap fraction of the rate determined in accordance with paragraph 11(4);
    - (c) if that compensation is within sub-paragraph (4)(c), the protected amount for the purposes of paragraph [<sup>F78</sup>14(3)(a)] is the cap fraction of the amount determined in accordance with paragraph 14(4);
    - (d) if that compensation is within sub-paragraph (4)(d), the protected pension rate for the purposes of paragraph 15(3)(a) is the cap fraction of the rate determined in accordance with paragraph 15(4);
    - (e) if that compensation is within sub-paragraph (4)(e), the protected amount for the purposes of paragraph [<sup>F79</sup>19(3)(a)] is the cap fraction of the amount determined in accordance with paragraph 19(4).
  - (4) For the purposes of this paragraph “relevant compensation” means—
    - (a) periodic compensation under paragraph 3 (in a case to which sub-paragraph (7) of that paragraph applies),

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- (b) periodic compensation under paragraph 11,
  - (c) compensation under paragraph 14,
  - (d) periodic compensation under paragraph 15, or
  - (e) compensation under paragraph 19.
- (5) For the purposes of this paragraph, “the cap fraction” means—

$$\frac{C}{V}$$

where—

C is the compensation cap, and

V is the annual value of benefit A or, in a case to which sub-paragraph (2)(b) applies, the aggregate of the annual values of benefit A and benefit or benefits B.

(6) For the purposes of this paragraph the “annual value” of a benefit in respect of which a person has become entitled to relevant compensation means—

- (a) if the relevant compensation is within sub-paragraph (4)(a) and neither paragraph (b) nor (c) applies, the amount of the protected pension rate for the purposes of paragraph 3(3)(a);
- (b) if the relevant compensation is within sub-paragraph (4)(a) and is in respect of a pension of which a portion has been commuted for a lump sum, the amount which would have been the protected pension rate for those purposes had that portion not been commuted;
- (c) if the relevant compensation is within sub-paragraph (4)(a) and the person became entitled to a relevant lump sum under the scheme at the same time as he became entitled to the pension to which that compensation relates, an amount equal to the aggregate of—
  - (i) the protected pension rate for the purposes of paragraph 3(3)(a), and
  - (ii) the annualised value of the relevant lump sum;
- (d) if the relevant compensation is within sub-paragraph (4)(b), the amount of the protected notional pension for the purposes of paragraph 11(3)(a);
- (e) if the relevant compensation is within sub-paragraph (4)(c), the annualised value of the protected amount for the purposes of paragraph <sup>F80</sup>14(3)(a);
- (f) if the relevant compensation is within sub-paragraph (4)(d), the amount of the protected pension rate for the purposes of paragraph 15(3)(a);
- (g) if the relevant compensation is within sub-paragraph (4)(e), the annualised value of the protected amount for the purposes of paragraph <sup>F81</sup>19(3)(a);

and for the purposes of determining the annual value of a benefit any reduction required to be made by this paragraph is to be disregarded.

<sup>F82F77</sup>(7) In this paragraph—

“annualised value” of a lump sum or amount means the annualised actuarially equivalent amount of that sum or amount determined in accordance with actuarial factors published by the Board;

“the compensation cap”, in relation to the person who becomes entitled to relevant compensation in respect of benefit A, means—

- (a) the amount specified by the Department by order, or
- (b) where the person—
  - (i) has not attained the age of 65, or



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(ii) has attained the age of 66,

at the time he first becomes entitled to that compensation, that amount as adjusted by the Board in accordance with actuarial adjustment factors published by it;

and for the purposes of this paragraph, except in prescribed circumstances, the scheme is connected with another occupational pension scheme if the same person is or was an employer in relation to both schemes.

(8) For the purposes of sub-paragraph (6)(c) a lump sum under the scheme is a relevant lump sum if the person's entitlement to the lump sum—

(a) is attributable to his pensionable service, and

(b) did not arise by virtue of any provision of the admissible rules of the scheme making special provision as to early payment of pension on grounds of ill health.

(9) Regulations may provide for this paragraph to apply with prescribed modifications where a person becomes entitled to relevant compensation in respect of a benefit and he has previously—

(a)<sup>F77</sup> become entitled to relevant compensation in respect of a benefit or benefits under the scheme or a connected occupational pension scheme, or

(b)<sup>F77</sup> become entitled to one or more lump sums under the scheme or a connected occupational pension scheme.

(10) Regulations may prescribe sums which are to be disregarded for the purposes of this paragraph.

**F77** mod. by SR 2005/171

**F78** Word in Sch. 6 para. 26(3)(c) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(9\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F79** Word in Sch. 6 para. 26(3)(e) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(9\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

**F80** Word in Sch. 6 para. 26(6)(e) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(9\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F81** Word in Sch. 6 para. 26(6)(g) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 23\(9\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

**F82** mod. by SR 2005/149

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

**C6** Sch. 6 para. 26 applied (with modifications) by [S.R. 2005/149, reg. 20](#) (as amended (retrospectively) by [The Pension Protection Fund \(Modification\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/59\)](#), [regs. 1\(2\)](#), [2\(a\)-\(c\)](#)) and as amended (6.4.2017) by [regs. 1\(3\)](#), [2\(d\)](#) of those Regulations)

*Increasing the compensation cap in line with earnings*

**27**<sup>F83</sup>. Where, pursuant to paragraph 27 of Schedule 7 to the Pensions Act 2004, the Secretary of State makes an order under paragraph 26(7) of that Schedule, the Department may make a corresponding order for Northern Ireland.

**F83** mod. by SR 2005/171

*Annual increase in periodic compensation*

**28.**—(1) This paragraph provides for the increases mentioned in sub-paragraph (3)(b) of paragraphs 3, 5, 8, 11, 15 and 22.

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(2) Where a person is entitled to periodic compensation under any of those paragraphs, he is entitled, on the indexation date, to an increase under this paragraph of—

- (a) the appropriate percentage of the amount of the underlying rate immediately before that date, or
- (b) where the person first became entitled to the periodic compensation during the period of 12 months ending immediately before that date, 1/12th of that amount for each full month for which he was so entitled.

(3) In sub-paragraph (2)—

“appropriate percentage” means the lesser of—

- (a) the percentage increase referred to in paragraph 28(3)(a) of Schedule 7 to the Pensions Act 2004, and
- (b) 2.5%;

“indexation date” means—

- (a) the 1st January next falling after a person first becomes entitled to the periodic compensation, and
- (b) each subsequent 1st January during his lifetime;

“underlying rate” means, in the case of periodic compensation under [<sup>F84</sup> paragraph 3 or 22], 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, and
- (b) the amount within sub-paragraph (3)(b) of that paragraph immediately before the indexation date.

[<sup>F85</sup> “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.]

(4) Where paragraph 26(3) (compensation cap) applies to restrict the amount of periodic compensation under one of the paragraphs mentioned in sub-paragraph (1), the amount mentioned in sub-paragraph (3)(a) of the paragraph in question is attributable to post-1997 service and pre-1997 service in the same proportions as the amount so mentioned would have been so attributable had paragraph 26(3) not applied.

(5) Where a portion of periodic compensation under one of the paragraphs mentioned in sub-paragraph (1) has been commuted under paragraph 24—

- (a) for the purposes of sub-paragraph (2), [<sup>F86</sup> each] definition of “underlying rate” in sub-paragraph (3) applies as if the reference in paragraph (a) of the definition to the amount mentioned in sub-paragraph (3)(a) of the paragraph in question were a reference to that amount reduced by the commutation percentage, <sup>F87</sup> ...
- (b) that amount (as so reduced) is attributable to post-1997 service and pre-1997 service in the same proportions as that amount would have been so attributable had no part of the periodic compensation been commuted.

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[<sup>F88</sup>(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 amount would have been so attributable had no part of the periodic compensation been commuted.]

[<sup>F89</sup>(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.]

(6) In this paragraph—

“post-1997 service” means—

(a) pensionable service which is within paragraph 36(4)(a) and occurs on or after 6th April 1997; or

(b) pensionable service which is within paragraph 36(4)(b) and meets such requirements as may be prescribed;

“pre-1997 service” means—

(a) pensionable service which is within paragraph 36(4)(a) and occurred before 6th April 1997; or

(b) pensionable service which is within paragraph 36(4)(b) and meets such requirements as may be prescribed;

“the commutation percentage”, in relation to periodic compensation, means the percentage of that compensation commuted under paragraph 24.

(7) But in this paragraph, in relation to any relevant pension credit amount, “post-1997 service” and “pre-1997 service” have such meanings as may be prescribed.

(8) In sub-paragraph (7), “relevant pension credit amount” means an amount mentioned in sub-paragraph (3)(a) of—

(a) paragraph 3,

(b) paragraph 5, or

(c) paragraph 15 as it applies by virtue of paragraph 21 [<sup>F90</sup>or 21A],

which is attributable (directly or indirectly) to a pension credit.

(9) This paragraph is subject to paragraph 29 (Board's power to alter rates of revaluation and indexation).

**F84** Words in Sch. 6 para. 28(3) substituted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 27\(2\)\(a\)](#); S.R. 2013/83, art. 2(b)(ii)

**F85** Words in Sch. 6 para. 28(3) inserted (27.3.2013) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(3\)](#), [Sch. 4 para. 27\(2\)\(b\)](#); S.R. 2013/83, art. 2(b)(ii)

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

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- F86** Word in Sch. 6 para. 28(5)(a) substituted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 27(3)(a)**; S.R. 2013/83, art. 2(b)(ii)
- F87** Word in Sch. 6 para. 28(5)(a) omitted (27.3.2013) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 27(3)(b)**; S.R. 2013/83, art. 2(b)(ii)
- F88** Sch. 6 para. 28(5)(c)(d) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 27(3)(c)**; S.R. 2013/83, art. 2(b)(ii)
- F89** Sch. 6 para. 28(5A)(5B) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 27(4)**; S.R. 2013/83, art. 2(b)(ii)
- F90** Words in Sch. 6 para. 28(8)(c) inserted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 19(3)(d)**; S.R. 2012/233, art. 2(2)(k)(iv)

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

- C7** Sch. 6 para. 28(4) applied (15.12.2008 for certain purposes, otherwise 6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 94, 118(1)(2)(j), **Sch. 4 para. 17(5)**; S.R. 2011/108, **art. 2(2)**, Sch.

*Board's powers to alter rates of revaluation and indexation*

**29.**—<sup>[F91]</sup>(1) The Board may determine what is to be the higher maximum revaluation rate or the lower maximum revaluation rate for the purposes of paragraphs 12(4) and 17(4), and where it does so the relevant definitions in paragraphs 12(5) and 17(5) do not apply.]

(2) The Board may also determine the percentage that is to be the appropriate percentage for the purposes of paragraph 28 (and where it does so the definition of “appropriate percentage” in paragraph 28(3) does not apply).

(3) 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.

(4) The rate determined under this paragraph may be nil.

(5) A determination under this paragraph may be expressed so as to have effect for a limited period.

(6) A determination under sub-paragraph (2)—

- (a) has effect in relation to future increases under paragraph 28 only, and
- (b) may be expressed to have effect—
  - (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.

<sup>[F92]</sup>(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.]

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

- F91** Sch. 6 para. 29(1) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(b), 118(1), **Sch. 1 para. 7**; S.R. 2009/147, **art. 3**

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

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**F92** Sch. 6 para. 29(6A) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), Sch. 4 para. 28(1); S.R. 2013/83, art. 2(b)(ii)

*Department's powers to vary percentage paid as compensation*

**30.—**(1) The Department may, on the recommendation of the Board, by order provide that any of the provisions mentioned in sub-paragraph (2) is to have effect as if a different percentage were substituted for the percentage specified in the provision on the making of this Order ( “the original percentage”).

(2) The provisions are paragraphs 3(4)(a) and (b), 5(3), 7(2), 8(3), 10(2), 11(3), 14(3), 15(3), 19(3), 20(3) and 22(3) (percentage used to calculate periodic or lump sum compensation entitlement).

(3) Subject to sub-paragraph (4), an order under sub-paragraph (1) has effect only in respect of any period for which the Board has, under paragraph 29—

(a) reduced the maximum revaluation rate for the purposes of paragraphs 12(4) and 17(4) to nil, and

(b) reduced the appropriate percentage for the purposes of paragraph 28 to nil in all cases.

(4) Sub-paragraph (3) does not prevent an order under sub-paragraph (1) having effect to the extent that it provides for paragraph 3(4)(a), 11(3), 14(3), 15(3), 19(3) or 20(3) (provisions where the original percentage is 90%) to have effect as if for the original percentage there were substituted a higher percentage.

(5) Before making a recommendation for the purposes of sub-paragraph (1) the Board must—

(a) consult such persons as it considers appropriate, and

(b) publish details of the proposed recommendation in such manner as it considers appropriate and consider any representations made in respect of it.

(6) Subject to sub-paragraph (3), an order under this paragraph may have effect—

(a) for a limited period specified in the order;

(b) in relation—

(i) to all payments of compensation which fall to be made after such date as may be specified in the order (whether the entitlement to the periodic compensation first arose before or after that date), or

(ii) only to payments of compensation to which a person first becomes entitled after such a date.

[<sup>F93</sup>(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.]

(7) The date specified under sub-paragraph (6)(b)(i) or (ii) must not be earlier than the date of the order.

**F93** Sch. 6 para. 30(6A) inserted (27.3.2013) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), Sch. 4 para. 28(2); S.R. 2013/83, art. 2(b)(ii)

*Special provision in relation to certain pensions in payment before the assessment date*

**31.—**(1) The powers conferred by this paragraph are exercisable in relation to cases where—

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- (a) immediately before the assessment date, a person ( “the pensioner”) is entitled to present payment of a pension under the scheme rules ( “the pre-assessment date pension”), but
  - (b) the effect of disregarding rules within paragraphs (a) and (b) of paragraph 35(2) is that the pensioner is not entitled to compensation under paragraph 3(2) by reason of the pension or a part of the pension.
- (2) Regulations may provide—
- (a) for the pensioner to be treated, for the purposes of the pension compensation provisions, as entitled, immediately before the assessment date, to present payment of a pension under the admissible rules, and
  - (b) for the compensation payable under paragraph 3 in respect of that pension to be determined in the prescribed manner and, for this purpose, for any provision of this Schedule to be applied with such modifications as may be prescribed.
- (3) Regulations may also provide, in cases where—
- (a) the pensioner is not treated as entitled to present payment of a pension by virtue of regulations under sub-paragraph (2), but
  - (b) he is or may become entitled to compensation in respect of the pre-assessment date pension otherwise than under paragraph 3,
- for any provision of this Schedule to apply with such modifications as may be prescribed.

## N.I.

### *Short periods of service which terminate on commencement of assessment period*

- 32.**—(1) This paragraph applies to a member of the scheme if—
- (a) <sup>F94</sup> his pensionable service terminates on the commencement of the assessment period, and
  - (b) as a result, he has rights, in relation to the scheme, under Chapter 5 of Part IV of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds).
- (2) Where this paragraph applies, for the purposes of this Schedule the member is to be treated as if, immediately before the assessment date, he—
- (a) had relevant accrued rights to benefits under the scheme (within the meaning of section 97AA(4) of that Act), and
  - (b) did not have any other rights to benefits (other than benefits attributable (directly or indirectly) to a pension credit) under the scheme.

**F94** mod. by SR 2005/171

### *Power to modify Schedule in its application to certain schemes*

- 33.** Where the scheme is a prescribed scheme or a scheme of a prescribed description, this Schedule applies with such modifications as may be prescribed.

### *Normal pension age*

- 34.**—(1) In this Schedule “normal pension age”, in relation to the scheme and any pension or lump sum under it, means the age specified in the admissible rules as the earliest age at which the pension or lump sum becomes payable without actuarial adjustment (disregarding any admissible rule making special provision as to early payment on the grounds of ill health [<sup>F95</sup>or otherwise]).
- (2) Where different ages are specified in relation to different parts of a pension or lump sum—

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- (a) this Schedule has effect as if those parts were separate pensions or, as the case may be, lump sums, and
- (b) references in relation to a part of the pension or lump sum to the normal pension age are to be read as references to the age specified in the

admissible rules as the earliest age at which that part becomes payable under the scheme without actuarial adjustment (disregarding any special provision as to early payment on grounds of ill health or otherwise).

(3) In any case where the Board is satisfied that it is not possible to identify the normal pension age from the admissible rules of the scheme, it may, having regard to those rules, determine how the normal pension age is to be determined.

**F95** Words in Sch. 6 para. 34(1) inserted (1.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 100, 118(1), [Sch. 6 para. 16](#); S.R. 2009/147, [art. 2\(a\)\(iv\)\(b\)](#)

*Scheme rules, admissible rules etc.*

**35.**—(1) In this Schedule, in relation to the scheme, each of the following expressions has the meaning given by this paragraph—

- “admissible rules”,
- “recent rule changes”, and
- “recent discretionary increase”.

(2) “The admissible rules” means the scheme rules disregarding—

- <sup>F96</sup>(a) in the case of a scheme to which sub-paragraph (3) applies, any recent rule changes, and]
- (b) in any case, any scheme rule which comes into operation on, or operates by reference to, the winding up of the scheme or any associated event.

<sup>F97</sup>(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.]

(4 <sup>F98</sup> In [<sup>F99</sup>sub-paragraphs (3) and (3A)] “the relevant time” means the time immediately before the assessment period which begins on the assessment date.

(5 <sup>F98</sup> Subject to sub-paragraph (6), “recent rule changes” means—

- (a) changes to the scheme rules which took effect in the period of three years ending with the assessment date, or were made in that period and took effect by reference to an earlier time, and
- (b) any scheme rules which come into operation on, or operate by reference to—
  - (i) an insolvency event in relation to the employer or any associated event, or
  - (ii) any prescribed event relating to the future of the employer as a going concern.

(6) “Recent rule changes” does not include—

- (a) any scheme rules or changes attributable to paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989 (NI 13), section 125 of the Pension Schemes Act, Article 114 of the 1995 Order, Article 28(4) of the 1999 Order or Article 279 of this Order (overriding requirements),



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- (b) any statutory provision, or any scheme rules or changes which are required or reasonably necessary to comply with a statutory provision,
- (c) any scheme rules or changes that come into operation on, or operate by reference to, the winding up of the scheme, or any associated event, and
- (d) any scheme rules or changes of a prescribed description.

(7) “Recent discretionary increase” means an increase in the rate of any pension in payment or postponed pension under the scheme rules which took effect in the period mentioned in sub-paragraph (5)(a).

(8) For the purposes of sub-paragraph (7) an increase (“the relevant increase”) in the rate of a pension in payment or postponed pension is to be disregarded to the extent that it does not exceed—

- (a) the amount by which the pension in question is required to be increased by virtue of—
  - (i) the admissible rules, or
  - (ii) sections 9(1) and 105 of the Pension Schemes Act (requirement to index and pay guaranteed minimum pensions), or
- (b) if greater, the appropriate percentage of the rate of that pension.

(9) For the purposes of sub-paragraph (8)(a), no increase in the rate of a pension which is made at the discretion of the trustees or managers of the scheme, the employer or any other person is to be regarded as an increase required by virtue of the admissible rules.

(10) For the purposes of sub-paragraph (8)(b), “the appropriate percentage” is the percentage increase referred to in paragraph 35(10) of Schedule 7 to the Pensions Act 2004.

- F96** Sch. 6 para. 35(2)(a) substituted (1.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 100, 118(1), **Sch. 6 para. 17**; S.R. 2009/147, **art. 2(a)(iv)(b)**
- F97** Sch. 6 para. 35(3)(3A) substituted for Sch. 6 para. 35(3) (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 37(4)(a)**; S.R. 2012/233, art. 2(2)(k)(v)
- F98** mod. by SR 2005/171
- F99** Words in Sch. 6 para. 35(4) substituted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 37(4)(b)**; S.R. 2012/233, art. 2(2)(k)(v)

### *Accrual rate, pensionable service and pensionable earnings*

**36.—**(1) In this Schedule, in relation to a member's entitlement to benefits under the scheme, each of the following expressions has the meaning given by this paragraph—

- “accrual rate”,
- “pensionable earnings”, and
- “pensionable service”.

(2) “Accrual rate” means the rate at which under the admissible rules rights to the benefits accrue over time by reference to periods of pensionable service.

(3) “Pensionable earnings” means the earnings by reference to which the benefits are calculated under the admissible rules.

(4) Subject to sub-paragraph (5), “pensionable service” means—

- (a) actual service in any description of employment to which the scheme applies which qualifies the member for benefits under the scheme, and
- (b) any notional service allowed in respect of the member under the admissible rules which qualifies the member for such benefits.

(5) The service within sub-paragraph (4)(b) does not include—

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- (a) service attributable (directly or indirectly) to a pension credit [<sup>F100</sup>(except for the purposes of paragraphs 21 and 21A)], or
- (b) service of a prescribed description.

**F100** Words in Sch. 6 para. 36(5)(a) inserted (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), s. 34(3), [Sch. 4 para. 19\(4\)](#); S.R. 2012/233, art. 2(2)(k)(iv)

### *Other definitions*

**37.**—(1 <sup>F101</sup> In this Schedule—

“deferred member”, in relation to the scheme, means a person who, under the admissible rules, has accrued rights other than—

- (a) an active member, or
- (b) a person who in respect of his pensionable service is entitled to the present payment of pension or other benefits;

“normal benefit age”, in relation to the scheme and a person with rights to a pension or lump sum under it attributable (directly or indirectly) to a pension credit, means the age specified in the admissible rules as the earliest age at which that pension or lump sum becomes payable without actuarial adjustment (disregarding any scheme rule making special provision as to early payment on grounds of ill health or otherwise);

“pension credit member”, in relation to the scheme, means a person who has rights under the scheme which are attributable (directly or indirectly) to a pension credit;

“pension credit rights”, in relation to the scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“the scheme” is to be construed in accordance with paragraph 1.

(2) For the purposes of this Schedule the accrued rights of a member of the scheme at any time are the rights (other than rights attributable (directly or indirectly) to a pension credit) which, in accordance with the admissible rules, have accrued to or in respect of him at that time to future benefits.

(3) In this Schedule references to a pension or lump sum under the admissible rules of the scheme, or a right to such a pension or lump sum, do not include a pension or lump sum, or right to a pension or lump sum, which is a money purchase benefit.

(4) In this Schedule references to “ill health” are to be construed in accordance with regulations under this sub-paragraph.

**F101** mod. by SR 2005/55

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