



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Ill health pensions

140 Reviewable ill health pensions

- (1) This section applies where there is an assessment period in relation to an eligible scheme.
- (2) The Board may review a reviewable ill health pension in respect of a member if—
 - (a) disregarding section 141, the member would be entitled to compensation under paragraph 3 of Schedule 7 in respect of the pension if the Board assumed responsibility for the scheme,
 - (b) the member did not attain normal pension age in respect of the pension before the assessment date, and
 - (c) the pension is attributable to the member's pensionable service.
- (3) An ill health pension in respect of a member is reviewable for the purposes of subsection (2) if the member is entitled to the pension by reason of an award under the scheme rules ("the award") which was made—
 - (a) in the period of three years ending immediately before the assessment date, or
 - (b) before the end of the prescribed period beginning with the assessment date, in response to an application made before that date.
- (4) Where—

Status: Point in time view as at 06/04/2005.

Changes to legislation: Pensions Act 2004, Cross Heading: Ill health pensions is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) before the assessment date, an application was made under the scheme for the award of a pension before normal pension age by virtue of any provision of the scheme rules making special provision as to early payment of pension on grounds of ill health, and
- (b) the trustees or managers of the scheme failed to decide the application before the end of the period mentioned in subsection (3)(b),

section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure that the application was decided before the end of that period.

(5) Where—

- (a) the award was made in response to an application which—
 - (i) was made on or after the assessment date, or
 - (ii) was made before that date but not decided by the trustees or managers of the scheme before the end of the period mentioned in subsection (3)(b), and
- (b) in the absence of this subsection, the award would take effect before the assessment date,

the award is, for the purposes of determining the compensation payable under this Chapter in a case where the Board assumes responsibility for the scheme, to be treated as taking effect after the date on which the decision to make the award was made.

(6) Regulations must prescribe the procedure to be followed in relation to the review of a pension under this section and any subsequent decision under section 141.

Modifications etc. (not altering text)

- C1** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/277\)](#), regs. 1(1), **2-11**
- C2** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1, **2-60, 71, 72**

Commencement Information

- I1** S. 140(1)(2)(3)(a)(4)(5) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I2** S. 140(3)(b)(6) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

141 Effect of a review

- (1) This section applies where, during an assessment period in relation to an eligible scheme, the Board reviews an ill health pension by virtue of section 140.
- (2) Where the conditions of subsection (3) are satisfied, the Board may determine that the compensation payable in respect of the pension, in a case where the Board assumes responsibility for the scheme, is to be determined in the prescribed manner on and after the relevant date.
- (3) The conditions are—

Status: Point in time view as at 06/04/2005.

Changes to legislation: Pensions Act 2004, Cross Heading: Ill health pensions is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) that the annual rate of compensation which would be payable under this Part in respect of the pension at the assessment date, if the Board assumed responsibility for the scheme, exceeds the notional reviewed rate of compensation in respect of the pension,
 - (b) that the Board is satisfied—
 - (i) that the decision to make the award was made in ignorance of, or was based upon a mistake as to, a material fact relevant to the decision,
 - (ii) that, at the time that decision was made, the member knew or could reasonably have been expected to know of that fact and that it was relevant to the decision, and
 - (iii) that, had the trustees or managers known about, or not been mistaken as to, that fact, they could not reasonably have decided to make the award, and
 - (c) that the Board is not satisfied that the criteria in the admissible rules governing entitlement to early payment of pension on grounds of ill health were satisfied in respect of the member at any time after that decision but before the assessment date.
- (4) For the purposes of subsection (2) “the relevant date” means the date during the assessment period on which a scheme valuation in relation to the scheme becomes binding.
- (5) The power to make a decision in respect of the pension under subsection (2) may only be exercised at a time which falls—
- (a) during the assessment period but before the time the Board first approves a scheme valuation under section 144 in relation to the scheme, and
 - (b) within a reasonable period beginning with the assessment date or, where the decision to make the award was made at a later date, that date.
- (6) Regulations made for the purposes of subsection (2) may, in particular, include provision applying any provision of Schedule 7 with such modifications as may be prescribed.

Commencement Information

- I3** S. 141(1)(3)-(5) in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\)](#), [Sch. Pt. 7](#)
- I4** S. 141(2)(6) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275, art. 2\(3\)](#), [Sch. Pt. 3](#)

142 Sections 140 and 141: interpretation

- (1) For the purposes of sections 140 and 141—
- “admissible rules” is to be construed in accordance with Schedule 7;
 - “assessment date” means the date on which the assessment period begins;
 - “ill health pension”, in relation to a scheme, means a pension which, immediately before the assessment date, is a pension to which a person is entitled under the admissible rules in circumstances where that entitlement arose before normal pension age by virtue of any provision of the admissible rules making special provision as to early payment of pension on grounds of ill health;

Status: Point in time view as at 06/04/2005.

Changes to legislation: Pensions Act 2004, Cross Heading: Ill health pensions is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“normal pension age”, in relation to a scheme and any pension under it, means the age specified in the admissible rules as the earliest age at which the pension becomes payable without actuarial adjustment (disregarding any admissible rule making special provision as to early payment on the grounds of ill health) and sub-paragraphs (2) and (3) of paragraph 34 of Schedule 7 apply in relation to this section as they apply in relation to that Schedule;

“notional reviewed rate of compensation”, in respect of an ill health pension, means—

- (a) the annual rate of compensation which would be payable in respect of the pension at the assessment date, if the Board assumed responsibility for the scheme and the compensation so payable at that date was determined in accordance with regulations under section 141(2), or
- (b) if no such compensation would have been so payable at that date, nil;

“pensionable service” is to be construed in accordance with Schedule 7;

“scheme valuation”, in relation to a scheme, means a valuation under section 143 of the assets and protected liabilities of the scheme as at the time immediately before the assessment period begins.

(2) For the purposes of section 140(4)—

- (a) the definition of “normal pension age” in subsection (1), and
- (b) sub-paragraphs (2) and (3) of paragraph 34 of Schedule 7 as they apply by virtue of that definition,

have effect as if the references in those provisions to the admissible rules were references to the scheme rules.

(3) Paragraph 37(4) of Schedule 7 (references to “ill health” to be construed in accordance with regulations) applies in relation to sections 140 and 141 and this section as if, in that provision, the reference to that Schedule included a reference to those sections and this section.

(4) In those sections references to the Board assuming responsibility for the scheme are to the Board assuming responsibility for the scheme in accordance with this Chapter at the time the assessment period in question comes to an end.

Commencement Information

I5 S. 142 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Status:

Point in time view as at 06/04/2005.

Changes to legislation:

Pensions Act 2004, Cross Heading: Ill health pensions is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.