

Status: Point in time view as at 03/01/2012.

Changes to legislation: Pensions Act 2004, Cross Heading: Pensions in payment at assessment date is up to date with all changes known to be in force on or before 09 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 7

PENSION COMPENSATION PROVISIONS

Modifications etc. (not altering text)

- C1 Sch. 7 amendment to earlier affecting provision S.I. 2005/652, reg. 14(2) (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **7**
- C1 Sch. 7 modified (1.8.2006) by [The Pension Protection Fund \(Pension Sharing\) Regulations 2006 \(S.I. 2006/1690\)](#), regs. 1(1), **3**
- C1 Sch. 7 modified (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **15**
- C2 Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **14(2)**
- C4 Sch. 7 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **12** (with reg. 23(3))
- C5 Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Hybrid Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/449\)](#), regs. 1(1), **3(2)-(4)**
- C6 Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **13(1)**

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) In sub-paragraph (3) “the appropriate percentage” means—
 - (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.

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- (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 [F¹35(3A)] applies [F²to 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—
- (a) to the pensioner’s pensionable service, or
 - (b) (directly or indirectly) to a pension credit to which the pensioner became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (c. 30).
- (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—
- paragraph 26 (compensation cap), and
 - paragraph 30 (power of Secretary of State to change percentage rates by order).

Textual Amendments

- F1** Word in Sch. 7 para. 3(6) substituted (3.1.2012) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), [Sch. 4 para. 37\(2\)](#); [S.I. 2011/3034](#), art. 3(i)(v)
- F2** Words in Sch. 7 para. 3(6) added (1.4.2009) by [Pensions Act 2008 \(c. 30\)](#), s. 149(1), [Sch. 8 para. 2](#); [S.I. 2009/809](#), art. 2(1)(b)(i)

Modifications etc. (not altering text)

- C3** Sch. 7 para. 3 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable III Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), [11\(1\)](#)

Commencement Information

- 11** Sch. 7 para. 3 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

- 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 section 29(1)(b) of the Welfare Reform and Pensions Act 1999.
- (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.

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- (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.

Commencement Information

- I2** Sch. 7 para. 4(1)-(3)(5) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)
- I3** Sch. 7 para. 4(4) 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](#)

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