

Status: Point in time view as at 21/02/2009.

Changes to legislation: Pensions Act 2004, Paragraph 28 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 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)**
- C1 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)**
- C1 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)**
- 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**
- C1 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))
- C1 Sch. 7 modified (1.8.2006) by [The Pension Protection Fund \(Pension Sharing\) Regulations 2006 \(S.I. 2006/1690\)](#), regs. 1(1), **3**

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.
- (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 in the retail prices index for the period of 12 months ending with the 31st May last falling before the indexation date, and
 - (b) 2.5%;
- “indexation date” means—
- (a) the 1st January next falling after a person first becomes entitled to the periodic compensation, and

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- (b) each subsequent 1st January during his lifetime;
 - “underlying rate” means, in the case of periodic compensation under any of the paragraphs mentioned in sub-paragraph (1), 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.

- (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), the 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 was a reference to that amount reduced by the commutation percentage, and
 - (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.

- (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,
 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).

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Commencement Information

- I1** Sch. 7 para. 28(1)-(5)(8)(9) in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\)](#), **Sch. Pt. 7**
- I2** Sch. 7 para. 28(6)(7) 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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