

Status: Point in time view as at 15/06/2012.

Changes to legislation: Pensions Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 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 2

Section 101

REVALUATION OF ACCRUED BENEFITS ETC

PART 1

REVALUATION OF ACCRUED PENSION BENEFITS

Amendments to Schedule 3 to the 1993 Act

1 This Part makes amendments to Schedule 3 to the Pension Schemes Act 1993 (c. 48) (methods of revaluing accrued pension benefits).

2 In paragraph 1 (the final salary method), for sub-paragraphs (1) to (3) substitute—

“(1) The final salary method is to add to the amount that would be payable but for Chapter 2 of Part 4, or regulations made under it, the additional amount specified in sub-paragraph (1A), (1B), (1C) or (1D) (whichever applies).

(1A) Where—

- (a) the termination of pensionable service occurs before 1st January 1991, and
- (b) the whole of the member's pensionable service falls on or after 1st January 1985,

the additional amount is the appropriate higher revaluation percentage of the accrued benefit.

(1B) Where—

- (a) the termination of pensionable service occurs before 1st January 1991, and
- (b) some of the member's pensionable service falls before 1st January 1985,

the additional amount is such proportion of the appropriate higher revaluation percentage of the accrued benefit as the member's pensionable service falling on or after 1st January 1985 bears to the member's total pensionable service.

(1C) Where the termination of pensionable service occurs—

- (a) on or after 1st January 1991, but
- (b) before the day on which section 101 of the Pensions Act 2008 comes into force (“the 2008 Act commencement day”),

the additional amount is the appropriate higher revaluation percentage of the accrued benefit.

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- (1D) Where the termination of pensionable service occurs on or after the 2008 Act commencement day, the additional amount is the aggregate of—
- (a) the appropriate higher revaluation percentage of so much of the accrued benefit as is attributable to the member's pensionable service falling before the 2008 Act commencement day, and
 - (b) the appropriate lower revaluation percentage of so much of the accrued benefit as is attributable to the member's pensionable service falling on or after that day.
- (1E) In this paragraph “the accrued benefit” means the amount of the pension or other benefit which on the termination date has accrued to the member or to any other person in respect of the member (excluding any part of that amount which consists of—
- (a) the member's guaranteed minimum, or
 - (b) the guaranteed minimum of the member's widow, widower or surviving civil partner).
- (2) For the purposes of this paragraph, a member's pensionable service includes any notional pensionable service which is credited to the member by the scheme (“notional service”).
- But notional service shall not be taken into account in determining which of sub-paragraphs (1A), (1B), (1C) and (1D) applies.
- (3) For the purposes of determining the additional amount where sub-paragraph (1B) applies, any notional service shall be taken to have ended immediately before the member's actual pensionable service began.
- (3A) For the purposes of determining the additional amount where sub-paragraph (1D) applies, any notional service shall be treated as falling on or after the 2008 Act commencement day only if, or to the extent that, it is so treated for the purposes of the scheme.”

- 3 (1) Paragraph 2 (the revaluation percentage and the appropriate revaluation percentage) is amended as follows.
- (2) In sub-paragraph (1), for “specify a revaluation percentage for each period” substitute “specify (so far as it is necessary to do so)—
- (a) a higher revaluation percentage, and
 - (b) a lower revaluation percentage,
- for each period”.
- (3) For sub-paragraph (3) substitute—
- “(3) The higher revaluation percentage which the Secretary of State is to specify in relation to a revaluation period is the lesser of—
- (a) the percentage which appears to the Secretary of State to be the percentage increase in the general level of prices in Great Britain during the period which is the reference period in relation to the revaluation period (“the inflation percentage”), and
 - (b) the higher maximum rate.

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(3A) The lower revaluation percentage which the Secretary of State is to specify in relation to a revaluation period is the lesser of—

- (a) the percentage which appears to the Secretary of State to be the inflation percentage, and
- (b) the lower maximum rate.”

(4) For sub-paragraphs (6) and (7) substitute—

“(6) For the purposes of sub-paragraph (3)(b) and (3A)(b)—

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

- (a) in the case of a revaluation period of 12 months, 5 per cent; and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices increased at the rate of 5 per cent compound per annum during the reference period in question;

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

- (a) in the case of a revaluation period of 12 months, 2.5 per cent; and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices increased at the rate of 2.5 per cent compound per annum during the reference period in question.

(7) In paragraph 1—

“the appropriate higher revaluation percentage” means the higher revaluation percentage specified in the last calendar year before the date on which the member attains normal pension age as the higher revaluation percentage for the revaluation period which is of the same length as the number of complete years in the pre-pension period;

“the appropriate lower revaluation percentage” has a corresponding meaning.”

PART 2

REVALUATION OF ACCRUED AMOUNTS ETC

Amendments to Schedule 7 to the 2004 Act

4 This Part makes amendments to Schedule 7 to the Pensions Act 2004 (c. 35) (pension compensation provisions).

5 (1) Paragraph 12 (active members who have not attained normal pension age at assessment date: the revaluation amount for the revaluation period) is amended as follows.

(2) In sub-paragraph (3), for paragraph (b) substitute—

“(b) in any other case, the aggregate of—

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- (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 101 of the Pensions Act 2008 comes into force (“the 2008 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.”

(3) After sub-paragraph (3) insert—

“(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 2008 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.”

(4) For sub-paragraphs (4) and (5) substitute—

“(4) In sub-paragraph (3)(b)—

“the higher revaluation percentage” means the lesser of—

- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in the prescribed manner (“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 that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period;

“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 that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 2.5% compound per annum during that period.

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

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- 6 (1) Paragraph 17 (deferred members who have not attained normal pension age at assessment date: the revaluation amount for the second revaluation period) is amended as follows.
- (2) In sub-paragraph (3), for paragraph (b) substitute—
- “(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 101 of the Pensions Act 2008 comes into force (“the 2008 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.”
- (3) After sub-paragraph (3) insert—
- “(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 2008 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.”
- (4) For sub-paragraphs (4) and (5) substitute—
- “(4) In sub-paragraph (3)—
- “the higher revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in the prescribed manner (“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
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period;

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“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 that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 2.5% compound per annum during that period.

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

- 7 In paragraph 29 (Board's powers to alter rates of revaluation etc), for sub-paragraph (1) substitute—

“(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.”

PART 3

CONSEQUENTIAL AMENDMENTS

- 8 (1) Section 51ZA of the Pensions Act 1995 (c. 26) (meaning of “the appropriate percentage”) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “revaluation percentage” substitute “higher revaluation percentage”;
- (b) for paragraph (b) substitute—

“(b) in the case of a category Y pension, means the lower revaluation percentage for that period.”

- (3) In subsection (2), for “ “the revaluation percentage”” substitute “ “ “the higher revaluation percentage”, “the lower revaluation percentage” ”.

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