

SCHEDULE 1

Regulation 3

AMENDMENT OF THE PENSION SCHEME REGULATIONS

Amendment of regulation A2

1. In regulation A2 (interpretation) there shall be inserted in the appropriate places in alphabetical order the following definitions—

- “the 1993 Act” means the Pension Schemes Act 1993(1);
- “the 1999 Act” means the Welfare Reform and Pensions Act 1999;
- “normal benefit age”, in relation to the scheme, means the age of 60;
- “pension credit” means a credit under section 29(1)(b) of the 1999 Act and includes a credit under corresponding Northern Ireland legislation;
- “pension credit benefit” has the meaning given by section 101B of the 1993 Act(2);
- “pension credit member” has the meaning given by section 124(1) of the Pensions Act 1995(3);
- “pension credit rights” has the meaning given by section 101B of the 1993 Act;
- “pension sharing order or provision” means an order or provision which is mentioned in section 28(1) of the 1999 Act;
- “safeguarded percentage” has the meaning given by section 68A(3) of the 1993 Act(4);
- “safeguarded rights” has the meaning given by section 68A(1) of the 1993 Act;
- “valuation day” means the day referred to in section 29(7) of the 1999 Act.”.

Insertion of new regulation in Part R

2. In Part R (special provision for certain members), after regulation R11(5) there shall be inserted the following regulation—

“Pension sharing on divorce or nullity of marriage

R12.—(1) Schedule 2A shall have effect in relation to—

- (a) pension credit rights; and
- (b) pension credit benefit payable,

under the scheme.

(2) Except as provided for in this regulation and in Schedule 2A, Parts B to V of these Regulations shall not apply to a person entitled to a pension credit or to a pension credit member.”.

Insertion of new Schedule

3. After Schedule 2 there shall be inserted the following Schedule—

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- (1) 1993 c. 48.
 - (2) Section 101B is inserted by section 37 of the Welfare Reform and Pensions Act 1999.
 - (3) 1995 c. 26. The definition of “pension credit member” is inserted by paragraph 61(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999.
 - (4) Section 68A was inserted by section 36 of the Welfare Reform and Pensions Act 1999.
 - (5) Regulation R11 was inserted by S.I.1998/666.

“SCHEDULE 2A

Regulation R12

PENSION SHARING ON DIVORCE OR NULLITY OF MARRIAGE

Discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit

1.—(1) The Secretary of State shall, following the death of the person entitled to a pension credit before liability in respect of that credit has been discharged, discharge his liability in respect of that credit by way of the payment of a lump sum in accordance with paragraph (2)(a)(i) of regulation 6 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000⁽⁶⁾ (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit).

(2) The amount of a lump sum payable under this paragraph shall be—

- (a) payable in accordance with regulation F5⁽⁷⁾ as modified by paragraph 11 below; and
- (b) equal to 3 times the annual rate of the pension credit benefit to which the person entitled to the pension credit would have been entitled had he reached normal benefit age on or before the date of death.

Safeguarded rights

2.—(1) Sub-paragraph (a) of section 68A(2) of the 1993 Act (safeguarded rights) applies in relation to the safeguarded rights of a pension credit member.

(2) Safeguarded rights shall be identified in the scheme as being the safeguarded percentage of the pension credit rights.

Pension credit benefit

3.—(1) A pension credit member shall be entitled under the scheme to pension credit benefit which shall consist of—

- (a) a pension; and
- (b) where the member, from whose rights the pension credit member’s pension credit rights are derived, has not received a lump sum on or before the day on which the pension sharing order or provision takes effect, a lump sum.

(2) Subject to paragraph 4, a pension credit member shall be entitled to the payment of the pension credit benefit when he reaches normal benefit age.

(3) Payment of the pension credit benefit to which a pension credit member is entitled shall not be deferred beyond normal benefit age.

(4) A pension payable in accordance with this paragraph shall be payable to the pension credit member for life.

(5) The value of the pension referred to in this paragraph shall be equal to the value of the pension credit rights which have accrued to or in respect of the pension credit member.

(6) The lump sum referred to in this paragraph shall be equal to 3 times the annual rate of the pension.

⁽⁶⁾ S.I. 2000/1053. Regulation 6 was substituted by S.I. 2000/2691.

⁽⁷⁾ Regulation F5 was amended by S.I. 2000/605.

Commutation of the whole of pension credit benefit before normal benefit age

4.—(1) A pension credit member shall be entitled to the commutation of the whole of his pension credit benefit before reaching normal benefit age in the circumstances described in regulation 3(2) of the Pension Sharing (Pension Credit Benefit) Regulations 2000⁽⁸⁾ (commutation of pension credit benefit).

(2) The pension credit benefit payable in the circumstances described in paragraph 2(a) of regulation 3 of those Regulations shall consist of—

- (a) a lump sum equal to 5 times the annual rate of the pension otherwise payable under paragraph 3 of this Schedule had the pension credit member reached normal benefit age on the date when commutation in accordance with this paragraph is applied for; and
- (b) where paragraph 3(1)(b) applies, a lump sum equal to 3 times the annual rate of the pension referred to in sub-paragraph (2)(a) above.

Commutation of the whole of pension credit benefit at normal benefit age

5.—(1) Where—

- (a) the pension credit member is suffering from serious ill health at normal benefit age; or
- (b) the total benefits payable to the pension credit member, including any pension credit benefit, does not exceed £260 per annum at normal benefit age,

the Secretary of State may discharge his liability in respect of the payment of pension credit benefit by the payment of a lump sum to the pension credit member at normal benefit age.

(2) The pension credit benefit payable in the circumstances described in sub-paragraph (1) (a) shall consist of—

- (a) a lump sum equal to 5 times the annual rate of the pension otherwise payable under paragraph 3 of this Schedule; and
- (b) where paragraph 3(1)(b) applies, a lump sum equal to 3 times the annual rate of the pension.

(3) In this paragraph “serious ill health” means ill health which is such as to give rise to a life expectancy of less than one year from the date on which the payment of the pension credit benefit of the pension credit member is applied for.

Pension credit member dies before pension credit benefit becomes payable

6.—(1) If a pension credit member dies before his pension under the scheme becomes payable under paragraph 3, a lump sum on death shall be payable in accordance with regulation F5 as modified by paragraph 9 below.

(2) The lump sum shall be equal to 3 times the annual rate of the pension credit member’s pension, to which he would have been entitled had he reached normal benefit age on or before the date of death, calculated in accordance with paragraph 3(5).

Pension credit member dies after pension credit benefit becomes payable

7.—(1) If a pension credit member dies within 5 years after his pension under the scheme became payable under paragraph 3 of this Schedule, a lump sum on death shall be payable in accordance with regulation F5 as modified by paragraph 9 below.

(2) Subject to sub-paragraph (3), the lump sum on death shall be equal to 5 times the annual rate of the pension credit member’s pension less the amount of pension already paid.

⁽⁸⁾ S.I. 2000/1054, as amended by S.I. 2000/2691.

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(3) The maximum payment under this regulation shall not exceed the amount calculated in accordance with sub-paragraph (4), less the amount of any lump sum paid to the pension credit member in accordance with paragraph 3(6).

(4) An amount calculated in accordance with this sub-paragraph is an amount equal to twice the amount on the valuation day of the final year's pensionable pay of the member from whose rights the pension credit is derived.

Excluded membership

8. Where a pension credit member is also a member of the scheme, any period which may count for any purpose in connection with his pension credit benefit shall not be taken into account for the purpose of ascertaining his entitlement to, or, as the case may be, the calculation of, benefits other than pension credit benefits under the scheme.

Payment of lump sum on death

9. Regulation F5 (payment of lump sum) shall apply in respect of a person entitled to a pension credit or a pension credit member, as the case may be, with the following modifications—

- (a) the reference in that regulation to “any of regulations F1 to F4” shall be a reference to “paragraph 1, 6 or 7 of Schedule 2A”;
- (b) the reference in paragraph (2) of that regulation to “member's personal representative” shall be a reference to “personal representative of the person entitled to a pension credit or, as the case may be, the pension credit member”;
- (c) the reference in paragraphs (3), (3A) and (3B) of that regulation to “member” shall be references to “person entitled to a pension credit or, as the case may be, pension credit member”;
- (d) in paragraph (3B) for sub-paragraph (a) substitute the following sub-paragraph—
 - “(a) shall be given only by a person entitled to a pension credit or, as the case may be, a pension credit member under the scheme;”.

Transfers

10. The Secretary of State shall not pay or accept a transfer value in respect of any pension credit rights or pension credit benefits.

General rules about benefits

11. Regulations T1 (claims for benefits), T2 (deduction of tax), T3 (benefits not assignable) and T4 (beneficiary who is incapable) of these Regulations shall apply to a pension credit member.

Offset for crime, negligence or fraud

12. Regulation T5 (offset for crime, negligence or fraud) shall apply to a pension credit member with the following modifications wherever the words to be modified appear—

- (a) the reference to “member's” or “member” shall be a reference to “pension credit member's” or “pension credit member”, as the case may be; and
- (b) the reference to “(other than guaranteed minimum pensions and benefits arising out of a transfer payment)” shall be a reference to “(other than safeguarded rights which are derived from rights to a guaranteed minimum pension)”.

Loss of rights to benefits

13. Regulation T6 (loss of rights to benefits) shall apply to a pension credit member with the following modifications wherever the words to be modified appear—

- (a) the reference to “member” shall be a reference to “pension credit member”; and
- (b) the reference in paragraph (2) to “A guaranteed minimum pension” shall be a reference to “Safeguarded rights which are derived from rights to a guaranteed minimum pension”.

Interest on late payment of benefits

14. Regulation T8(9) (interest on late payment of benefits) shall apply in respect of a pension credit member with the following modifications—

- (a) in paragraph (2) of that regulation references to “member” or “member's” shall be references to “pension credit member”;
- (b) in the definition of “due date”—
 - (i) in sub-paragraph (a) the reference to “a lump sum under Part F above” shall be a reference to “a lump sum under paragraph 1, 6 or 7 of Schedule 2A”;
 - (ii) in sub-paragraph (a) the reference to “the member’s death” shall be a reference to “the death of the person entitled to the pension credit or the pension credit member”;
 - (iii) sub-paragraphs (b), (c) and (d) shall be omitted;
 - (iv) in sub-paragraph (e) the reference to “of the member’s retirement from pensionable employment” shall be a reference to “when the pension credit member becomes entitled to the payment of pension credit benefit”;
- (c) in the definition of “qualifying payment” the reference to “, or by way of a refund of contributions,” shall be omitted.

Administrative matters

15. Regulation U2 (determination of questions) shall apply to a person who is entitled to a pension credit or, as the case may be, a pension credit member.”.

(9) Regulation T8 was inserted by S.I. 2000/605.