
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Board of the Pension Protection Fund (“the Board”) is established by section 107 of the Pensions Act 2004 (c. 35) (“the Act”) to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer and where the pension scheme is under-funded at a certain level.

Regulation 2 sets out the conditions under which a person can receive early payment of compensation from the Board, pursuant to paragraphs 11 or 15 (periodic compensation) or 14 or 19 (lump sum compensation) of Schedule 7 to the Act, before he attains normal pension age.

Regulation 3 prescribes the circumstances in which a widow or widower will not be entitled to receive periodic compensation following the death of his spouse.

Regulation 4 prescribes the circumstances in which a relevant partner or a surviving dependant will be entitled to receive periodic compensation following the death of his partner (in the case of a relevant partner) or his parent (in the case of a surviving dependant) as appropriate under paragraph 23 of Schedule 7 to the Act.

Regulation 5 prescribes the amount and duration of periodic compensation that can be paid to relevant partners who qualify for periodic compensation under regulation 4 by reference to the compensation payable to a surviving spouse in Schedule 7 to the Act.

Regulation 6 prescribes the amount of periodic compensation that can be paid to surviving dependants who qualify for periodic compensation under regulation 4.

Regulation 7 prescribes the period during which periodic compensation can be paid to surviving dependants who qualify for periodic compensation under regulation 4.

Regulation 8 prescribes the effect of a change of circumstances in a case where periodic compensation is paid, and also provides for backdating of payments of periodic compensation in specific circumstances.

Regulation 9 provides that where immediately prior to the assessment date a survivor is entitled to a present payment of a pension he shall be treated as entitled to compensation under paragraph 3 of Schedule 7 if he would not otherwise be entitled to compensation under that paragraph.

Regulation 10 provides that where immediately prior to the assessment date a person is entitled to a pension on grounds of early retirement but is not entitled to compensation under paragraph 3 of Schedule 7 he shall be treated as entitled to compensation under that paragraph in certain circumstances

Regulation 11 provides that where immediately prior to the assessment date a person is entitled to present payment of an ill health pension but is not entitled to compensation under paragraph 3 of Schedule 7 he shall be treated as entitled to compensation under that paragraph in certain circumstances.

Regulation 12 modifies Schedule 7 in relation to certain pensions in payment before the assessment date.

Regulation 13 prescribes the method of calculating the revaluation percentage in relation to pension credit members for the purposes of paragraph 12(4)(a) of Schedule 7 to the Act.

Status: This is the original version (as it was originally made).

Regulation 14 prescribes the method of calculating the revaluation amount in relation to deferred members who have not attained normal pension age at the assessment date, for the purposes of paragraph 16(3)(b) of Schedule 7 to the Act.

Regulation 15 prescribes the manner of determining the revaluation percentage in relation to deferred members who have not attained normal pension age at the assessment date for the purposes of paragraph 17(4)(a) of Schedule 7 to the Act.

Regulation 16 prescribes the method of calculating the protected transfer payment or protected contribution repayment, where the Board is satisfied that it is not possible to use the admissible rules to make this calculation for the purposes of paragraph 20(4) of Schedule 7 to the Act.

Regulation 17 provides that a person shall not be entitled to two sets of compensation for the same service. The regulation disappplies paragraphs 8, 10, 11 or 14 in relation to a person to whom paragraph 20 of Schedule 7 to the Act applies.

Regulation 18 provides that for the purposes of paragraph 20(1)(c) and (d) of Schedule 7 to the Act, the new Chapter 5 of the Pension Schemes Act 1993 (c. 48) shall be treated as if it were in force. Section 264 of the Act inserts a new Chapter 5 into the Pension Schemes Act 1993 (c. 48).

Regulation 19 provides that a person may opt to commute for a lump sum, a portion of his periodic compensation in certain circumstances.

Regulation 20 provides that a person may opt to commute more than 25 percent of his periodic compensation where the aggregate value of compensation or benefits payable to him in respect of the scheme or a connected scheme is less than £260 per annum.

Regulation 21 sets out the procedure for exercising an option to commute and in particular requires notice to be given to the Board in writing, Paragraph 3 and 4 require that the notice to include specified information. Paragraph 5 provides that the Board may require a person to provide specified documents or information.

Regulations 22 and 23 modify paragraph 26 of Schedule 7 to the Act (which makes provision about the compensation cap) and provide that certain sums are to be disregarded for the purposes of that paragraph.

The compensation cap is the maximum amount of pension compensation payable by the Board in certain cases. They are where a person who is under normal pension age at the time immediately before the assessment date (“the relevant time”) is then entitled to present payment of a pension, other than an ill health or a survivor’s pension; where a person who is an active member of the scheme and under normal pension age at the relevant time survives to attain normal pension age and so would have become entitled to a pension or a lump sum under the scheme; and where a deferred member of the scheme who is under pension age at the relevant time and not then entitled to a pension, survives to normal pension age and so would have become entitled to a pension or a lump sum under the scheme.

Paragraph 26 of Schedule 7 provides that the compensation in these cases is restricted if the annual value of the benefit in respect of which the compensation is payable exceeds the amount of compensation cap, or if it does so when aggregated with the annual value of other benefits from the scheme or schemes in respect of which compensation is payable at the same time.

Regulation 22 amends paragraph 26 so that where compensation is paid by the Board in successive tranches, or the person entitled to the compensation has on a previous occasion become entitled to one or more lump sums from the scheme in question or from connected schemes, the restriction applies by aggregating the annual values of the former benefits or lump sums with the benefits payable in the latest tranche.

Regulation 23 makes provision about trivial commutation lump sums and winding up lump sums. These are lump sums that schemes pay to people who are entitled to benefits of a relatively small value in order to discharge liability to them in one payment. Under paragraph 3 these sums are to be disregarded for the purposes of paragraph 26, as it applies as amended by regulation 22, if they

were paid on a previous occasion and their payment is not in contravention of certain statutory rules. So these lump sums will not be aggregated with other benefits in determining if the cap applies to a second or subsequent tranche of compensation and, if so, what the amount of the cap is.

Trivial commutation lump sums and winding up lump sums are defined by reference to provisions in the Finance Act 2004 (c. 12) about the requirements for registered pension schemes that come into force on 6th April 2006. Until that date regulation 23 is modified to refer instead to sums extinguishing the member's rights and permitted to be paid under the rules applied by the Inland Revenue in determining whether tax advantages apply to schemes and their benefits.

Regulation 24 defines "pre 1997 service" and "post 1997 service" for the purposes of paragraph 28 of Schedule 7 to the Act.

Regulation 25 provides for modifications to Schedule 7 to the Act in relation to cash balance schemes.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Act by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.