

STATUTORY INSTRUMENTS

2005 No. 670

The Pension Protection Fund (Compensation) Regulations 2005

PART 3

Benefits for Survivors

Circumstances where a widow or widower is not entitled to periodic compensation

3. A widow or widower shall not be entitled to periodic compensation under paragraph 4 (pensions in payment at assessment date), 6 (pension benefits postponed at assessment date), 9 (active members over normal pension age at assessment date), 13 (active members who have not attained normal pension age at assessment date) or 18 (deferred members who have not attained normal pension age at assessment date) of Schedule 7 to the Act [^{F1}where there is—

(a) a valid nomination made by the member in accordance with either—

- (i) the admissible rules of the scheme; or
- (ii) regulation 4(2)(a),

to pay a survivor's pension to a relevant partner; or

(b) no provision to a pay a survivor's pension under the admissible rules of the scheme.]

Textual Amendments

F1 Words in reg. 3 substituted (5.12.2005) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(3), **9(3)**

Modifications etc. (not altering text)

C1 Reg. 3 modified (24.7.2014) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), **59(c)** (with regs. 6, 41, 44(1), 47(1), 69(2), 72(1), 76(1)); coming into force immediately after s. 29 of 2011 c 19 - see S.I. 2014/1683, art. 2

Compensation for surviving dependants

4.—(1) A person shall be entitled to periodic compensation under paragraph 23 of Schedule 7 to the Act (compensation in form of dependants' benefits) in the circumstances prescribed in this regulation.

(2) [^{F2}Subject to paragraph (2A), in the case of a relevant partner], the circumstances are where there is provision to pay a survivor's pension to an unmarried partner of the member under the admissible rules of the scheme (whether discretionary or otherwise); and

(a) the member—

- (i) has provided the Board with a signed written notice informing the Board that the person is a relevant partner; and

- (ii) the relevant partner has demonstrated to the satisfaction of the Board that he was co-habiting with the member at the date of the member's death; or
- (b) where the member has not provided the Board with a signed notice in accordance with paragraph (2)(a)(i), the relevant partner provides evidence to the satisfaction of the Board that—
 - (i) he was financially dependent on, or interdependent on the member; and
 - (ii) he was co-habiting with the member;
 at the date of the member's death.

[^{F3}(2A) No compensation may be paid under paragraph (2) where the member had a civil partner, or a spouse, at the date of his death, and there is no valid nomination in favour of the relevant partner.

(2B) Subject to paragraph (2C), in the case of a civil partner, the circumstances are—

- (a) where there is provision to pay a survivor's pension to a civil partner or spouse of the member under the admissible rules of the scheme (whether discretionary or otherwise);
- (b) the surviving civil partner has provided the Board, or during the assessment period the trustees or managers of the eligible scheme, with a certified copy of the entry in the register relating to the civil partnership; and
- (c) the civil partnership was still in existence at the date of the member's death.

(2C) No compensation may be paid under paragraph (2B) where there is a valid nomination made by the member in accordance with either—

- (a) the admissible rules of the scheme; or
- (b) regulation 4(2)(a),

to pay a survivor's pension to a relevant partner.]

(3) [^{F4}Subject to paragraph (4),] in the case of a surviving dependant the circumstances are where the surviving dependant provides—

- (a) in the case of a natural child ^{F5}... of the member, a birth certificate [^{F6}or other evidence demonstrating to the satisfaction of the Board] that he was the natural child of the member;
- (b) in the case of an adopted child of the member, the adoption certificate demonstrating that he was the adopted child of the member; or

[^{F7}(ba) in the case of a child of the member who, at the date of the member's death, was being carried by the mother and had not been born, evidence demonstrating to the satisfaction of the Board that the child—

- (i) is the child of the member; and
- (ii) would have been a dependant of the member had the child been born before the date of the member's death; or]

- (c) in the case of any other child who is a dependant of the member at the date of the member's death, evidence demonstrating to the satisfaction of the Board that he was a dependant child of the member at the date of the member's death,

to the Board or, where evidence is provided during the assessment period, to the trustees or managers of the eligible scheme.

[^{F8}(4) Where regulation 29 (variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act) applies to the scheme, no compensation may be paid under paragraph (3) in respect of the bridging element of a pension which falls within regulation 28(1)(b).]

Textual Amendments

- F2** Words in reg. 4(2) substituted (5.12.2005) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(3), **9(4)(a)**
- F3** Reg. 4(2A)-(2C) inserted (5.12.2005) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(3), **9(4)(b)**
- F4** Words in reg. 4(3) inserted (24.2.2018) by [The Pension Protection Fund \(Compensation\) \(Amendment\) Regulations 2018 \(S.I. 2018/95\)](#), regs. 1, **2(5)(a)**
- F5** Words in reg. 4(3)(a) omitted (30.4.2013) by virtue of [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **3(5)(a)(i)**
- F6** Words in reg. 4(3)(a) substituted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **3(5)(a)(ii)**
- F7** Reg. 4(3)(ba) inserted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **3(5)(b)**
- F8** Reg. 4(4) inserted (24.2.2018) by [The Pension Protection Fund \(Compensation\) \(Amendment\) Regulations 2018 \(S.I. 2018/95\)](#), regs. 1, **2(5)(b)**

Amount and duration of periodic compensation in the case of relevant partners

5. Subject to regulation 8, where periodic compensation is payable to a relevant partner [^{F9}or civil partner,] the amount and duration of periodic compensation shall be—

- (a) where a pension was in payment to the member on the assessment date, an amount calculated in accordance with paragraph 4(2) and (3) of Schedule 7 to the Act (pensions in payment at assessment date);
- (b) where a pension was not in payment to the member at the assessment date because the member had postponed payment of the pension, an amount calculated in accordance with [^{F10}paragraph 6(2) and (3)] of Schedule 7 to the Act (pension benefits postponed at assessment date);
- (c) where a pension was not in payment to the member at the assessment date because the member was an active member and over the normal pension age, an amount calculated in accordance with paragraph 9(2) and (3) of Schedule 7 to the Act (active members over normal pension age at assessment date);
- (d) where a pension was not in payment to the member at the assessment date because the member was an active member and under the normal pension age, an amount calculated in accordance with paragraph 13(2) and (3)(a) or (b) of Schedule 7 to the Act (active members who have not attained normal pension age at assessment date);
- (e) where a pension was not in payment to the member at the assessment date because the member was a deferred member and under the normal pension age, an amount calculated in accordance with paragraph 18(2) and (3) of Schedule 7 to the Act (deferred members who have not attained normal pension age at assessment date).

Textual Amendments

- F9** Words in reg. 5 inserted (5.12.2005) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(3), **9(5)**
- F10** Words in reg. 5(b) substituted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **2**

Amount of periodic compensation that can be paid in the case of surviving dependants

6.—(1) Subject to Regulation 8, and to paragraphs (2) and (3), where periodic compensation is payable to a surviving dependant the amount of periodic compensation shall be—

- (a) where a pension was in payment to the member on the assessment date, an amount calculated in accordance with paragraph 3 of Schedule 7 to the Act (pensions in payment at assessment date);
- (b) where a pension was not in payment to the member at the assessment date because the member had postponed payment of the pension, an amount calculated in accordance with paragraph 5 of Schedule 7 to the Act (pension benefits postponed at assessment date);
- (c) where a pension was not in payment to the member at the assessment date because the member was an active member, and over the normal pension age, an amount calculated in accordance with paragraph 8 of Schedule 7 to the Act (active members over normal pension age at assessment date);
- (d) where a pension was not in payment to the member at the assessment date because the member was an active member and under the normal pension age, but died after attaining normal pension age, an amount calculated in accordance with paragraphs 11 and 13(3)(a) of Schedule 7 to the Act (active members who have not attained normal pension age at assessment date);
- (e) where a pension was not in payment to the member at the assessment date because the member was an active member and under the normal pension age, but died before attaining normal pension age, an amount calculated in accordance with paragraphs 11 and 13(3)(b) of Schedule 7 to the Act (active members who have not attained normal pension age at assessment date);
- (f) where a pension was not in payment to the member at the assessment date because the member was a deferred member, and under the normal pension age, an amount calculated in accordance with paragraph 15 of Schedule 7 to the Act (deferred members who have not attained normal pension age at assessment date).

and references in those paragraphs to the member (whether deferred or otherwise), relating to entitlement to periodic compensation shall be treated as if they were references to a surviving dependant for the purposes of this calculation.

(2) Where periodic compensation is also payable to a [F11surviving spouse, relevant partner or civil partner] and—

- (a) there is only one surviving dependant, the amount of periodic compensation shall be 25% of the amount calculated under paragraph (1);
- (b) there are two or more surviving dependants, the amount of periodic compensation shall be half of the amount calculated under paragraph (1), divided equally between the surviving dependants.

(3) Where periodic compensation is not payable to a [F11surviving spouse, relevant partner or civil partner], or where such a claim has not been made, and—

- (a) there is only one surviving dependant, the amount of periodic compensation shall be half of the amount calculated under paragraph (1); or
- (b) there are two or more surviving dependants, the amount of periodic compensation shall be the amount calculated under paragraph (1), divided equally between the surviving dependants.

Textual Amendments

- F11** Words in reg. 6(2)(3) substituted (5.12.2005) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(3), **9(6)**

Period of payment

7.—(1) Subject to paragraph (2), where periodic compensation is payable under regulation 6 it shall be payable from the day after the member's death.

(2) Where a surviving dependant

- (a) is an unborn child, periodic compensation shall be payable from the date of the child's birth;
- (b) has left a qualifying course, and payment of periodic compensation has ceased under regulation 7(4)(a), but he begins another qualifying course before attaining the age of ^{F12}23^{F13} ..., it shall be payable from the date the later qualifying course begins;
- (c) becomes disabled after he has attained the age of 18, periodic compensation shall be payable from the date that the surviving dependant became disabled.

(3) Except where paragraph (4) applies, periodic compensation shall be paid until the surviving dependant attains the age of 18.

(4) ^{F14}This paragraph applies where] the surviving dependant—

- (a) is attending a qualifying course—
 - (i) until the surviving dependant leaves the qualifying course; or
 - (ii) attains the age of ^{F12}23];whichever is the ^{F15}earlier]; or
- (b) is incapable of engaging in full time paid employment due to a condition that falls within the definition of a disability under the Disability Discrimination Act 1995, until the surviving dependant attains the age of ^{F12}23].

Textual Amendments

- F12** Words in [reg. 7](#) substituted (coming into force in accordance with reg. 1(4) of the amending S.I.) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), **reg. 9(7)**
- F13** Words in [reg. 7\(2\)\(b\)](#) omitted (6.4.2023) by virtue of [The Occupational Pension Schemes \(Pension Protection Fund \(Compensation\) and Fraud Compensation Payments\) \(Amendment\) Regulations 2023 \(S.I. 2023/265\)](#), regs. 1, **3**
- F14** Words in [reg. 7\(4\)](#) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(2), **3(6)(a)**
- F15** Word in [reg. 7\(4\)](#) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(2), **3(6)(b)**

Change of circumstances and backdating

8.—(1) The amount of periodic compensation payable under these Regulations may be varied where—

- (a) there is a change in the circumstances of the person or persons to whom periodic compensation is payable; and
 - (b) that change would have resulted in—
 - (i) a different rate of periodic compensation being payable (including where a rate of nil may apply); or
 - (ii) periodic compensation being payable from a different start date,and such a variation shall take effect from the date that the change in circumstances occurred.
- (2) The amount of periodic compensation calculated under paragraph (1) shall be subject to paragraphs 28 (annual increase in periodic compensation) and 29 (Board's powers to alter rates of revaluation and indexation) of Schedule 7 to the Act, and any regulations made under those paragraphs.
- (3) Where a person makes a claim for periodic compensation, his claim for periodic compensation shall be backdated to the date he became eligible to claim periodic compensation, or where that date is more than five years prior to the date of the claim, for five years from the date of the claim.

Changes to legislation:

There are currently no known outstanding effects for the The Pension Protection Fund (Compensation) Regulations 2005, PART 3.