

STATUTORY INSTRUMENTS

2005 No. 670

The Pension Protection Fund (Compensation) Regulations 2005

PART 8 E+W+S

Compensation cap modifications

Application of compensation cap where compensation becomes payable on different dates E+W+S

22.—(1) Paragraph 26 of Schedule 7 to the Act (compensation cap) applies with the modification specified in [^{F1}paragraph (3)] where a person becomes entitled to relevant compensation in respect of a benefit (“benefit A”) and he has previously—

- (a) become entitled to relevant compensation in respect of a benefit or benefits under the scheme or a connected occupational pension scheme; or
- (b) become entitled to one or more lump sums under the scheme or a relevant connected occupational pension scheme.

(2) For the purposes of paragraph (1)(b), a scheme is a relevant connected occupational pension scheme if it is an eligible scheme for the purposes of Part 2 of the Act when the person becomes entitled to the relevant compensation in respect of benefit A.

(3) After paragraph 26(6) insert—

[^{F2}“(6A) Where sub-paragraph (6B) or sub-paragraph (6BA) applies to a person, sub-paragraphs (6C) and (6D) apply (instead of sub-paragraph (1)) in relation to the entitlements referred to in the sub-paragraph which applies to him.]

[^{F3}(6B) This sub-paragraph applies if—

- (a) a person becomes entitled to relevant compensation in respect of a benefit (“benefit A”) that is attributable to a pension credit from a transferor; and
- (b) before the person becomes entitled to relevant compensation in respect of benefit A, he has become entitled to—
 - (i) relevant compensation in respect of one or more other benefits under the scheme or a connected occupational pension scheme that are also attributable to a pension credit from the same transferor (“benefit or benefits C”); or
 - (ii) one or more lump sums under the scheme or a relevant connected occupational pension scheme (“sum or sums L”) that are also attributable to a pension credit from the same transferor.]

[^{F4}(6BA) This paragraph applies if—

- (a) a person becomes entitled to relevant compensation in respect of a benefit (“benefit A”) that is attributable to the person’s pensionable service; and
- (b) before the person becomes entitled to relevant compensation in respect of benefit A, he has become entitled to—

- (i) relevant compensation in respect of one or more other benefits under the scheme or a connected occupational pension scheme that are also attributable to his pensionable service (“benefit or benefits C”); or
- (ii) one or more lump sums under the scheme or a relevant connected occupational pension scheme (“sum or sums L”) that are also attributable to his pensionable service.

(6BB) For the purposes of sub-paragraphs (6B)(b)(ii) and (6BA)(b)(ii), a scheme is a relevant connected compensation pension scheme if it is an eligible scheme when the person becomes entitled to the relevant compensation in respect of benefit A.]

(6C) If the previous aggregate cap percentage is or exceeds 100, no relevant compensation is payable in respect of benefit A.

(6D) If the previous aggregate cap percentage is less than 100—

- (a) the amount of the compensation in respect of benefit A, and
- (b) the amount of any payments by way of periodic compensation for benefit or benefits C that are payable on or after the assessment date for the relevant compensation in respect of benefit A,

must be restricted in accordance with sub-paragraph (6H).

(6E) For the purposes of this paragraph, “the previous aggregate cap percentage” means the aggregate of—

- (a) the cap percentage for the relevant compensation in the case of each of benefit or benefits C, and
- (b) the cap percentage in the case of each of sum or sums L.

(6F) For the purposes of this paragraph, “the cap percentage”, in the case of any relevant compensation or lump sum, means—

$$(AAV \times 100) / ACC$$

where—

AAV is the appropriate annual value, and
ACC is the appropriate compensation cap.

(6G) In sub-paragraph (6F)—

“the appropriate annual value” means—

- (a) in the case of each of benefit A, benefit or benefits B and benefit or benefits C, the annual value of that benefit at the time when the relevant compensation becomes or, in the case of periodic compensation, first becomes payable, and
- (b) in the case of each of sum or sums L—
 - (i) if the person became entitled to that sum on or after 6th April 2005, the annualised value of that sum at the time that sum became payable, and
 - (ii) otherwise, the annualised value of that sum on 6th April 2005, (calculated on the assumption that on that date the person was the same age as when he became entitled to that sum);

“the appropriate compensation cap” means—

- (a) in the case of each of benefit A, benefit or benefits B and benefit or benefits C, the compensation cap at the time when the person becomes entitled to relevant compensation in respect of the benefit, and

- (b) in the case of each of sum or sums L—
- (i) if the person became entitled to that sum on or after 6th April 2005, the compensation cap at the time when he became so entitled, and
 - (ii) otherwise, the compensation cap on 6th April 2005.
- [^{F5}(6GA) Where sub-paragraph (6B) or (6BA) applies, “the compensation cap” has the meaning given by paragraph 26A, except that the reference in sub-paragraph (2) of that paragraph to the length of the person’s pensionable service is to be treated as if it were a reference to the total length of the person’s pensionable service at the time when he becomes entitled to the relevant compensation in respect of benefit A.]
- (6H) Where sub-paragraph (6D) applies—
- (a) the relevant compensation in respect of benefit A is required to be restricted in accordance with sub-paragraph (3), but taking references in that sub-paragraph to the cap fraction as references to the revised cap fraction, and
 - (b) the amount of any payments by way of periodic compensation for benefit or benefits C payable on or after the assessment date for the relevant compensation in respect of benefit A is required to be restricted to the revised cap fraction of the amount that would be payable apart from this sub-paragraph.
- (6I) For the purposes of this paragraph, “the revised cap fraction” means—
100 / the aggregate cap percentage
- (6J) For the purposes of this paragraph, “the aggregate cap percentage” means the aggregate of—
- (a) the previous aggregate cap percentage,
 - (b) the cap percentage for the relevant compensation in the case of benefit A, and
 - (c) in a case within sub-paragraph (2)(b)(i), the cap percentage for the relevant compensation in the case of each of benefit or benefits B.”.

Textual Amendments

- F1** Words in reg. 22(1) 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(10)**
- F2** Words in reg. 22(3) substituted (retrospective to 6.4.2005) by [The Pension Protection Fund \(Modification\) \(Amendment\) Regulations 2017 \(S.I. 2017/324\)](#), regs. 1(2), **2(2)**
- F3** Words in reg. 22(3) substituted (retrospective to 6.4.2005) by [The Pension Protection Fund \(Modification\) \(Amendment\) Regulations 2017 \(S.I. 2017/324\)](#), regs. 1(2), **2(3)**
- F4** Words in reg. 22(3) inserted (retrospective to 6.4.2005) by [The Pension Protection Fund \(Modification\) \(Amendment\) Regulations 2017 \(S.I. 2017/324\)](#), regs. 1(2), **2(4)**
- F5** Words in reg. 22(3) inserted (6.4.2017) by [The Pension Protection Fund \(Modification\) \(Amendment\) Regulations 2017 \(S.I. 2017/324\)](#), regs. 1(1), **2(5)**

Disregard of certain small payments in determining PPF compensation cap **E+W+S**

23.—(1) For the purposes of paragraph 26 of Schedule 7 to the Act(compensation cap), in determining the restriction under that paragraph on the compensation to which a person is entitled in respect of a benefit under a scheme, a lump sum within sub-paragraph (6B)(b) of that paragraph (lump sums to which the person has previously become entitled) is to be disregarded if—

- (a) it is a trivial commutation lump sum or a winding up lump sum for the purposes of Part 1 of Schedule 29 to the [^{F6}2004 Act]^{M1} (see paragraphs 7 and 10 of that Schedule); and

- (b) its payment does not contravene any trivial commutation restriction that applies in the circumstances in question.
- (2) In this regulation “trivial commutation restriction” means a restriction imposed by—
- (a) regulation 19, 20 or 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 ^{M2};
- (b) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 ^{M3}; or
- (c) regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 ^{M4}.
- (3) Before 6th April 2006 this regulation applies with the modifications in paragraphs (4) and (5).
- (4) For paragraph (1)(a) substitute—
- “(a) it extinguishes the person's entitlement to benefits under the scheme;
- (aa) its payment does not contravene Revenue restrictions; and;”.
- (5) After paragraph (2) insert—
- “(3) For the purposes of this regulation a payment does not contravene Revenue restrictions if—
- (a) in the case of a scheme that is an approved scheme for the purposes of Chapter 1 of Part 14 of the Income and Corporation Taxes Act 1988 ^{M5} (see section 612(1) of that Act), it is permitted under the scheme rules in accordance with its approval for those purposes; and
- (b) in the case of scheme that is a relevant statutory scheme for those purposes (see section 611A of that Act ^{M6}), it is permitted under the regulations or rules governing the scheme as such a scheme.”.

Textual Amendments

- F6** Words in reg. 23(1)(a) substituted (6.4.2006) by [The Pension Protection Fund \(General and Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/580\)](#), regs. 1(1)(b), **22(6)**
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Marginal Citations

- M1** [2004 c. 12](#).
- M2** [S.I. 1996/1172](#). Regulation 20 was amended by regulation 2(3) of [S.I. 2000/2975](#). Regulation 60 was amended by regulation 4(12) of [S.I. 1997/786](#).
- M3** [S.I. 1997/785](#).
- M4** [S.I. 2000/1054](#).
- M5** [1988 c. 1](#).
- M6** Section 611A was inserted by section 75 of, and paragraphs 15 and 18(1) of Schedule 6 to, the [Finance Act 1989 \(c. 26\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Pension Protection Fund (Compensation) Regulations 2005, PART 8.