
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the provisions of Chapter 1 and (in part) Chapter 2 of Part 3 of the Pensions Act 2008 (c. 30) ('the Act'), which permit the courts to make pension compensation sharing orders and attachment orders in relation to Pension Protection Fund compensation in proceedings related to divorce, dissolution of a civil partnership, or in cases of annulment. In Scotland, it will also be possible for pension compensation to be shared by means of a provision in a qualifying agreement. Pension compensation sharing and attachment orders may be made in relation to the shareable rights to pension compensation of a Pension Protection Fund member ('member') by the Board of the Pension Protection Fund ('the Board') in accordance with Chapter 1 of Part 3 of the Act (pension compensation on divorce etc.), Chapter 3 of Part 2 of the Pensions Act 2004 (c. 35) (pension protection) ('the 2004 Act') and, in Northern Ireland, any corresponding provision.

Part 1 of these Regulations provides for citation, commencement and interpretation, and Part 2 specifies rights to pension compensation which may not be shared.

Part 3 specifies the information which the Board must supply, on request or pursuant to an order of the court, before the court makes a pension compensation sharing or attachment order (or, in Scotland, before a qualifying agreement containing provision about pension compensation sharing or attachment) is made. Regulation 6 and the Schedule set out information which must be supplied to a person entitled to pension compensation by virtue of a pension credit ('a pension compensation credit member').

Part 4 applies only to Scotland, and prescribes the form of a provision in a qualifying agreement corresponding to provision which may be made by a pension compensation sharing order, and the circumstances in which an agreement containing such a provision may be made.

Part 5 prescribes the information which must be supplied to the Board before the implementation period can begin, and the circumstances in which the implementation period (see section 115 of the Act) is extended, postponed or ceases to operate. Regulations 13 and 14 make provision, respectively, for calculation of the cash equivalent of the member's entitlement to pension compensation and the pension compensation credit member's entitlement by virtue of a pension compensation credit. Regulation 15 provides for discharge of the Board's liability for a pension compensation credit where the transferee has died before the Board has discharged its liability.

Part 6 specifies the costs in respect of which the Board may charge the parties to proceedings in relation to divorce or dissolution of a civil partnership, and specifies the circumstances in which, and the methods by which, the Board may recover the charges from the parties. This Part also allows a party to pension compensation sharing who has paid charges which were owed by the other party to recover the money from the party who owed the charges.

Part 7 deals with pension compensation for survivors of a deceased transferee. Regulation 20 provides that a widow, widower or civil partner of a deceased transferee ('a surviving partner') is not entitled to pension compensation when the deceased transferee has nominated a relevant partner (see regulation 2(1)) as beneficiary in the event of their death, or where the rules of the scheme from which the pension compensation credit was derived did not make provision for a survivor's pension. Regulation 21 sets out the annual rate and duration of pension compensation payable to a surviving partner. Regulations 22 to 25 specify the circumstances in which a relevant partner and a surviving dependant of a deceased transferee may be entitled to pension compensation, the duration of payment and the method by which the amount payable to a surviving dependant is to be calculated. Regulation 26 deals with payment of pension compensation where there are changes in the circumstances of a surviving dependant.

Changes to legislation: *There are currently no known outstanding effects for the The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations 2011. (See end of Document for details)*

Part 8 sets out the mechanism by which the percentage increase in the general level of prices is to be determined, for the purposes of determining the revaluation percentage to be applied to the pension compensation payable to the transferee in a case where the transferee attains pension compensation age on or after the transfer day.

Part 9 sets out the circumstances in which periodic compensation may be commuted for a lump sum, the circumstances in which the portion commuted may exceed 25% of the value of the pension compensation and the manner in which an option to commute may be exercised.

Part 10 specifies the conditions under which a transferee may become entitled to early payment of pension compensation.

Part 11 provides that, for the purpose of determining the annual increase in periodic compensation, the Board may determine (in cases where this is unclear) how much of the service or notional service of the transferor should be treated as having occurred before 6th April 1997 and how much on or after that date.

Part 12 sets out the circumstances in which the compensation payable to the transferee may be subject to the compensation cap (see regulation 1(2)) and the method by which the amount payable is to be determined.

Part 13 inserts new paragraphs 16C to 16F into Schedule 9 to the 2004 Act (reviewable matters) so as to enable review and reconsideration of determinations about entitlement to pension compensation under Chapter 1 of Part 3 of the Act (pension compensation on divorce etc) and certain other determinations made by the Board in relation to pension compensation sharing.

This Part also amends the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005 so as to provide that a person who is directly affected by a reviewable decision of the Board is an “interested person” for the purposes of an application for a review of a decision made by the Board.

Before making these Regulations the Secretary of State consulted such persons as the Secretary of State considered appropriate.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector and civil society organisations. An assessment of the impact of the legislative changes made by Part 3 of the Act was included as part of the Impact Assessment that accompanied the Pensions Act 2008, published on 5 December 2007. This is available from the DWP website: <http://www.dwp.gov.uk/resourcescentre/ria.asp>.

Changes to legislation:

There are currently no known outstanding effects for the The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations 2011.