
STATUTORY INSTRUMENTS

2011 No. 731

The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc) Regulations 2011

PART 5

Implementation and discharge of liability

Information to be supplied in order for the implementation period to begin

9.—(1) Subject to paragraph (2), the information prescribed for the purposes of section 115(1)(b)(ii) of the Act (“implementation period”) is—

- (a) in relation to the transferor—
 - (i) all names by which the transferor is or has been known;
 - (ii) date of birth;
 - (iii) address;
 - (iv) National Insurance number; and
 - (v) the name of the pension scheme for which the Board has assumed responsibility and to which the pension compensation sharing order or provision relates, or such other information as the Board may require to identify the pension scheme concerned;
- (b) in relation to the transferee—
 - (i) the name of the transferee and, if the transferee is or will be entitled to PPF compensation other than by reason of the pension compensation credit, all other names by which the transferee is or has been known;
 - (ii) date of birth;
 - (iii) address;
 - (iv) National Insurance number; and
 - (v) if the transferee is or will be entitled to PPF compensation other than by reason of the pension compensation credit, the name of the pension scheme or such other information as the Board may require to identify the pension scheme concerned.

(2) Where—

- (a) the Board has not received all the information specified in paragraph (1)(a); but
- (b) considers that it has sufficient information relating to the transferor to enable it to begin implementation of the pension compensation credit,

the prescribed information for the purposes of section 115(1)(b)(ii) of the Act is such information relating to the transferor as the Board considers sufficient.

(3) Where the Board is subject to a liability in respect of a pension compensation credit and the transferee dies before the implementation period has begun, the start of the implementation period is to be postponed until the Board has received notification of—

- (a) the date of the transferee's death; and
- (b) the name and address of the executor or personal representative of the deceased transferee.

Extension of implementation period

10. The circumstances in which the implementation period for a pension compensation credit is extended for the purposes of section 114 of the Act (time for discharge of liability) are that—

- (a) the transferor or the transferee has not taken such steps as the Board can reasonably expect in order to satisfy it of any matter which falls to be established before it can discharge its liability for the pension compensation credit within the implementation period;
- (b) the Board has not been supplied with such information as it reasonably requires to discharge its liability for the pension compensation credit within the implementation period; or
- (c) the transferor or the transferee has disputed the amount of the cash equivalent calculated and verified for the purposes of section 111 of the Act (creation of pension compensation debits and credits).

Postponement or cessation of implementation period when an application for leave to appeal out of time is made

11.—(1) Where a pension compensation credit depends on a pension compensation sharing order which is the subject of an application for leave to appeal out of time, the modifications to the effect of section 115 of the Act are—

- (a) where the implementation period has not commenced, its commencement is postponed; or
 - (b) where the implementation period has commenced, its operation ceases.
- (2) The postponement or cessation referred to in paragraph (1)(a) or (b) is to continue until the Board receives—
- (a) confirmation from the court that the order which was the subject of the application for leave to appeal out of time has not been varied, discharged or recalled; or
 - (b) a copy of the varied pension compensation sharing order.
- (3) If the Board—
- (a) has already discharged its liability in respect of the pension compensation credit which depends on a pension compensation sharing order; and
 - (b) subsequently receives notification of an application for leave to appeal out of time in respect of that order,

it must inform the court, within 21 days from the date on which the notification was received, that the Board's liability in respect of that pension compensation credit has been discharged.

Notification about the implementation period by the Board

12.—(1) Within a period of 21 days beginning on the day on which the implementation period begins in accordance with section 115(1) of the Act (“implementation period”), the Board must notify the transferor and transferee of the date that the implementation period began.

(2) Where the implementation period cannot begin because the Board has not received all of the documents or information specified in section 115(1)(b)(i) and regulation 9(1) or (3) (information to be supplied in order for the implementation period to begin), the Board must, as soon as practicable after becoming aware that it has not received all such documents and information—

- (a) notify the transferor and the transferee, or (in cases where the transferee has died before the implementation period has begun) the executor or personal representative of the transferee, that the start of the implementation period is delayed because the Board has not been supplied with relevant information; and
 - (b) specify the information required and (if applicable) the date on which it was requested.
- (3) Where the implementation period—
- (a) is extended in accordance with regulation 10; or
 - (b) is postponed or ceases to operate in accordance with regulation 11,

the Board must, within 21 days of the date of the extension, postponement or cessation of the implementation period, notify the transferor and transferee of the reasons for that extension, postponement or cessation, including details of any information which the Board requires in order to complete implementation.

(4) If any charges imposed by the Board in accordance with regulation 18 (charges in respect of pension compensation sharing costs etc recoverable by the Board) are due or will become due to be paid, the Board must notify the transferor and transferee of—

- (a) the amount of the charges;
- (b) the party who, in accordance with section 117(3) of the Act (charges in respect of pension compensation sharing costs), is responsible for paying the charges;
- (c) the date on which the charges were due or will become due to be paid;
- (d) the method, in accordance with regulation 18(4), by which the charges may be recovered if not paid by the date specified in sub-paragraph (c); and
- (e) the date, calculated in accordance with regulation 18(6)(e), on or after which the Board may recover the charges if not paid by the date specified in sub-paragraph (c).

Calculation and verification of cash equivalent

13.—(1) For the purposes of calculating the appropriate amount in accordance with section 111 of the Act, the cash equivalent of the relevant compensation is the amount that immediately before the transfer day would be required to make provision for the member's entitlement to relevant compensation under the pension compensation provisions.

(2) The cash equivalent must be calculated and verified in accordance with actuarial assumptions approved by the Board.

Determination of cash equivalent value of pension compensation credit

14. The Board must calculate the cash equivalent value of the compensation to which the transferee becomes entitled on the sending of a notice under section 116(3) (discharge of liability) using actuarial assumptions which are consistent with the actuarial assumptions used to calculate and verify the cash equivalent of the member's entitlement to relevant compensation under the pension compensation provisions.

Discharge of liability where the transferee dies before the Board has discharged liability for a pension compensation credit

- 15.**—(1) This regulation applies where—
- (a) the Board is subject to a liability in respect of a pension compensation credit; and
 - (b) the transferee dies before liability in respect of that pension compensation credit has been discharged.

(2) The Board must discharge the liability by sending a notice to the personal representative or executor of the deceased.

(3) On the sending of the notice—

(a) either—

(i) where regulation 20 does not apply, a surviving partner is entitled to compensation calculated in accordance with regulation 21; or

(ii) a relevant partner is entitled to compensation in the circumstances prescribed in regulation 22(2); and

(b) a surviving dependant is entitled to compensation in the circumstances prescribed in regulation 22(5).

Notification of discharge of liability

16.—(1) Where the Board discharges liability in respect of a pension compensation credit in accordance with section 116 of the Act, it must also supply—

(a) to the transferor—

(i) in a case where the transferor has not attained pension compensation age before or on the transfer day, the information specified in paragraphs (2) and (3); or

(ii) in a case where the transferor has attained pension compensation age before or on the transfer day, the information specified in paragraphs (2) and (4);

(b) to the transferee—

(i) in a case where the transferee has not attained pension compensation age before or on the transfer day, the information specified in paragraphs (5) and (6); or

(ii) in a case where the transferee has attained pension compensation age before or on the transfer day, the information specified in paragraphs (5) and (7); or

(c) in a case where the transferee has died prior to discharge of liability by the Board, to the personal representative or executor of the transferee, the information specified in paragraph (5) (with the exception of the information specified in paragraphs (5)(e)) and (8).

(2) The information specified in this paragraph is—

(a) the cash equivalent value as at the valuation day of the transferor's entitlement to relevant compensation;

(b) the cash equivalent value of the pension compensation debit;

(c) the transfer day;

(d) any charges which may be deducted in accordance with regulation 18 from the transferor's remaining rights to relevant compensation (if any); and

(e) the cash equivalent value of the transferor's rights to relevant compensation (if any) immediately after the relevant compensation is reduced in accordance with section 113 of the Act (reduction of compensation) and after any deduction in respect of charges owed.

(3) The information specified in this paragraph is the annual rate of PPF compensation which would be payable if the transferor had reached pension compensation age immediately after the relevant compensation is reduced in accordance with section 113 of the Act and after the deduction of any charges owed.

(4) The information specified in this paragraph is the annual rate of the PPF compensation which is payable to the transferor—

(a) immediately before; and

(b) immediately after,
the relevant compensation is reduced in accordance with section 113 and any charges owed are deducted.

(5) The information specified in this paragraph is—

- (a) the cash equivalent value of the pension compensation credit;
- (b) the transfer day;
- (c) any charges which may be deducted in accordance with regulation 18 from the transferee's entitlement to compensation;
- (d) the cash equivalent value of the pension compensation credit following the deduction of any charges owed; and
- (e) the date at which payment of PPF compensation will commence.

(6) The information specified in this paragraph is an estimate of the annual rate of PPF compensation which is likely to be payable to the transferee on reaching pension compensation age.

(7) The information specified in this paragraph is the annual rate of compensation which is payable to the transferee from the transfer day.

(8) The information specified in this paragraph is the fact that compensation may be payable to a surviving partner, relevant partner or surviving dependant in accordance with Part 7.

Provision of information after receipt of a pension compensation attachment order or provision

17.—(1) The Board must, within 21 days beginning with the day it receives—

- (a) an order under section 23 of the Matrimonial Causes Act 1973^{M1}, which includes provision made by virtue of section 25F (attachment of pension compensation) of that Act^{M2};
- (b) an order under Part 1 of Schedule 5 to the Civil Partnership Act 2004^{M3}, which includes provision made by virtue of paragraph 34A (attachment of PPF compensation) of Part 7 of that Schedule^{M4};
- (c) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978, which includes provision made by virtue of Article 27F (attachment of pension compensation) of that Order^{M5};
- (d) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004, which includes provision made by virtue of paragraph 29A (attachment of PPF compensation) of Part 6 of that Schedule^{M6};
- (e) an order under section 8 (orders for financial provision) of the Family Law (Scotland) Act 1985 containing provision made by virtue of section 12B(2) of that Act^{M7}; or
- (f) a qualifying agreement containing provision equivalent to such an order,

issue to the member and to the person entitled to payments by virtue of the pension compensation attachment order or provision ('the other party') a notice which includes the information specified in paragraphs (2) and (4), or (2), (3) and (4), as the case may be.

(2) Where an order or provision specified in paragraph (1) is made in relation to relevant compensation that is not in payment, the notice issued by the Board to the member and to the other party must include—

- (a) the cash equivalent value of the relevant compensation;
- (b) the first date when a payment pursuant to the order or provision is to be made; and

- (c) a list of any changes in circumstances which, under the terms of the order or provision, the member or the other party must notify to the Board.
- (3) Where an order or provision specified in paragraph (1) is made in relation to relevant compensation that is in payment, the notice issued by the Board to the member must, in addition to the items specified in paragraph (2), include—
- (a) the annual rate of the relevant compensation payable to the member immediately before implementation of the order or provision; and
 - (b) the annual rate of the relevant compensation which will be payable to the member and to the other party immediately after implementation of the order or provision.
- (4) Where an order or provision specified in paragraph (1) is made (whether or not in relation to relevant compensation that is in payment), the notice issued by the Board to the member and to the other party must include—
- (a) the amount of any charges made in accordance with regulation 18(2)(d) which remain unpaid;
 - (b) the date by which payment in whole or in part is required;
 - (c) the amount of the charges which are attributable to the member and to the other party; and
 - (d) whether the charges may be set off, in accordance with regulation 18(4)(c), against payments made to the member or the other party.

Marginal Citations

- M1** 1973 c. 18. Section 23 was amended by section 16 of the [Administration of Justice Act 1982 \(c. 53\)](#).
- M2** Section 25F was inserted by paragraph 7 of Part 1 of Schedule 6 to the [Pensions Act 2008 \(c. 30\)](#).
- M3** 2004 c. 33.
- M4** Paragraph 34A of Part 7 of Schedule 5 was inserted by paragraph 17(3) of Part 3 of Schedule 6 to the [Pensions Act 2008 \(c.30\)](#).
- M5** Article 27F was inserted by paragraph 7 of Part 1 of Schedule 5 to the Pensions (No. 2) Act (Northern Ireland) 2008 ([c. 13 \(N.I.\)](#)).
- M6** Paragraph 29A of Part 6 of Schedule 15 was inserted by paragraph 17(3) of Part 3 of Schedule 5 to the Pensions (No. 2) Act (Northern Ireland) 2008.
- M7** 1985 c. 37. Section 12B was inserted by paragraph 6 of Schedule 7 to the [Pensions Act 2008 \(c.30\)](#).

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, PART 5.