
STATUTORY INSTRUMENTS

2011 No. 731

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

PART 7

Compensation for survivors

Circumstances where a surviving partner is not entitled to periodic compensation

20. A surviving partner is not entitled to periodic compensation under paragraph 5 or 7 of Schedule 5 to the Act (compensation payable to widow, widower or surviving civil partner) or under regulation 15(3)(a) (i) where there is—

- (a) a valid nomination in favour of a relevant partner made by the transferee in accordance with either—
 - (i) the admissible rules of the scheme; or
 - (ii) regulation 22(3)(a); or
- (b) no provision to pay a survivor's pension under the admissible rules of the scheme.

Compensation payable on discharge of liability under regulation 15 in the case of surviving partners

21. Where a surviving partner is entitled to compensation under regulation 15(3)(a)(i), the annual rate and duration of the periodic compensation payable to the surviving partner is to be calculated—

- (a) where the transferee, had they not died, would have become entitled to periodic compensation under paragraph 4 of Schedule 5 to the Act commencing on the transfer day, in accordance with paragraph 5(2) and (3) of Schedule 5 to the Act (compensation payable to widow, widower or surviving civil partner);
- (b) where the transferee, had they not died, would have become entitled to periodic compensation under paragraph 6 of Schedule 5 to the Act commencing at pension compensation age, in accordance with paragraph 7(2) and (3) of Schedule 5 to the Act (compensation payable to widow, widower or surviving civil partner).

Compensation payable in the case of relevant partners and surviving dependants

22.—(1) This regulation applies where the transferee—

- (a) was before death entitled to present or future payment of periodic compensation calculated in accordance with paragraph 4 or 6 of Schedule 5 to the Act; or
- (b) would have become so entitled had they not died before the Board discharged liability for a pension compensation credit.

(2) Subject to paragraph (4), a relevant partner is entitled to periodic compensation in the circumstances prescribed in paragraph (3).

(3) The circumstances are where there is provision to pay a survivor's pension to a relevant partner under the admissible rules of the scheme (whether discretionary or otherwise); and—

- (a) the transferee—
 - (i) has supplied the Board with a valid nomination in favour of the relevant partner; and
 - (ii) the relevant partner has demonstrated to the satisfaction of the Board that they were living with the transferee at the date of the transferee's death; or
- (b) where the transferee has not supplied the Board with a valid nomination in accordance with sub-paragraph (a)(i), the relevant partner supplies evidence to the satisfaction of the Board that, at the date of the transferee's death, they were—
 - (i) financially dependent, or interdependent, on the transferee; and
 - (ii) living with the transferee.

(4) No compensation may be paid under paragraph (2) where the transferee had a civil partner or a spouse at the date of the transferee's death and there is no valid nomination in favour of the relevant partner.

(5) A surviving dependant is entitled to periodic compensation in the circumstances prescribed in paragraph (6).

(6) In the case of a surviving dependant, the circumstances are where there is supplied to the Board—

- (a) in the case of a natural child of the transferee, a birth certificate or other evidence demonstrating to the satisfaction of the Board that they are the natural child of the transferee;
- (b) in the case of an adopted child of the transferee, the adoption certificate demonstrating that they are the adopted child of the transferee; or
- (c) in the case of any other surviving dependant, evidence demonstrating to the satisfaction of the Board that they are a dependant of the transferee.

Amount and duration of periodic compensation that can be paid in the case of a relevant partner

23.—(1) Where a relevant partner is entitled to payment of periodic compensation under regulation 22, compensation is to commence on the day following the transferee's death and is payable for life.

- (2) The amount of periodic compensation payable is to be calculated—
 - (a) where the transferee was entitled to payment of periodic compensation commencing on the transfer day, or would have become so entitled had they not died, in accordance with paragraph 5(3) of Schedule 5 to the Act; or
 - (b) where the transferee was entitled to payment of periodic compensation commencing at pension compensation age, or would have become so entitled had they not died, in accordance with paragraph 7(3) of Schedule 5 to the Act.

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

24.—(1) Subject to paragraphs (2) and (3) and regulation 26, where a surviving dependant is entitled to periodic compensation under regulation 22(5) the amount is to be calculated—

- (a) where the transferee was entitled to payment of periodic compensation commencing on the transfer day, or would have become so entitled had they not died, in accordance with paragraph 4 of Schedule 5 to the Act (including any increases under paragraph 17 of

- Schedule 5 to the Act (annual increase in periodic compensation) to which the transferee would have been entitled); or
- (b) where the transferee was entitled to payment of periodic compensation commencing at pension compensation age, or would have become so entitled had they not died, in accordance with paragraph 6 of Schedule 5 to the Act (including any revaluation amount under paragraph 8 (revaluation) and any increases under paragraph 17 of Schedule 5 to the Act to which the transferee would have been entitled).
- (2) Where periodic compensation is also payable to a surviving partner or relevant partner and—
- (a) there is only one surviving dependant, the amount of periodic compensation is 25% of the amount calculated under paragraph (1); or
 - (b) there are two or more surviving dependants, the amount of periodic compensation is half of the amount calculated under paragraph (1), divided equally between the surviving dependants.
- (3) Where periodic compensation is not payable to a surviving partner or relevant partner and—
- (a) there is only one surviving dependant, the amount of periodic compensation is half of the amount calculated under paragraph (1); or
 - (b) there are two or more surviving dependants, the amount of periodic compensation is the amount calculated under paragraph (1), divided equally between the surviving dependants.

Period of payment

25.—(1) Except in the circumstances prescribed in paragraph (2), where periodic compensation is payable to a surviving dependant under regulation 22(5), it is payable from the day following the transferee's death.

- (2) Where a surviving dependant—
- (a) is a child born after the transferee's death, periodic compensation is payable from the date of the child's birth;
 - (b) has left a qualifying course, as a consequence of which payment of periodic compensation has ceased in accordance with paragraph (4)(a), but within one year begins another qualifying course before attaining the age of 23, periodic compensation is payable from the date that the later qualifying course begins; or
 - (c) becomes disabled and is incapable of engaging in full time paid employment due to a condition that falls within the definition of a disability under section 6 of the Equality Act 2010(1), after attaining the age of 18 but before attaining the age of 23, periodic compensation is payable from the date that the surviving dependant became disabled.

(3) Except where paragraph (4) or (5) applies, periodic compensation is payable until the surviving dependant attains the age of 18.

(4) Where the surviving dependant is attending a qualifying course, periodic compensation is payable either—

- (a) until they leave the course; or
- (b) until they attain the age of 23,

whichever is the earlier.

(5) Where the surviving dependant is incapable of engaging in full time paid employment due to a condition that falls within the definition of a disability under section 6 of the Equality Act 2010, periodic compensation is payable until the surviving dependant attains the age of 23.

(1) 2010 c.15.

Change of circumstances and backdating

26.—(1) The amount of periodic compensation payable to a surviving dependant under these Regulations may be varied where—

- (a) there is a change in the circumstances of a person 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 date,and such a variation must take effect from the date that the change in circumstances occurred.

(2) The amount of periodic compensation calculated under paragraph (1) must include any increases under paragraphs 17 (annual increase in periodic compensation) and 20 (Board's power to alter rates of revaluation and indexation) of Schedule 5 to the Act.

(3) Where a person makes a claim for periodic compensation, the claim must be backdated to the date that the person became eligible to claim periodic compensation, or where that date is more than five years before the date of the claim, to a date five years before the date of the claim.