
STATUTORY INSTRUMENTS

2014 No. 1964

**The Public Service (Civil Servants and
Others) Pensions Regulations 2014**

PART 12

Supplementary

CHAPTER 3

Forfeiture and set-off

Forfeiture: offences committed by members

165.—(1) If a member is convicted of a relevant offence, the scheme manager may to the extent the scheme manager considers appropriate withhold benefits payable under this scheme to or in respect of the member.

(2) Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of “relevant offence”.

(3) The scheme manager may only withhold that part of a person’s pension that exceeds any guaranteed minimum to which the person is entitled under—

- (a) section 14 of PSA 1993 (earner’s guaranteed minimum); or
- (b) section 17(1) of that Act (minimum pension for surviving spouses and civil partners).

(4) In this regulation—

“forfeiture certificate” means a certificate stating that the Minister of the Crown issuing the certificate considers that the offence—

- (a) has been gravely injurious to the interests of the State; or
- (b) is liable to lead to serious loss of confidence in the public service; and

“relevant offence” means—

- (a) one or more offences under the Official Secrets Acts 1911 to 1989(2) for which the member has been sentenced on the same occasion to—
 - (i) a term of imprisonment of at least 10 years; or
 - (ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years;
- (b) an offence committed in connection with service as a public servant and in respect of which a Minister of the Crown has issued a forfeiture certificate.

(1) Section 17 was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) Schedule 1 paragraph 39; the Child Support, Pensions and Social Security Act 2000 (c. 19) Schedule 5 paragraph 1 and Schedule 9 Part 3; the Pensions Act 2004 (c. 35) section 284(2); the Pensions Act 2007 (c. 22) section 14(2); the Marriage (Same Sex Couples) Act 2013 (c. 30) Schedule 4 paragraphs 18 and 20; and S.I. 2005/2050 and 2014/560.

(2) 1989 c. 6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

Forfeiture: offences committed by a member’s beneficiary

166.—(1) If the beneficiary of a deceased member of this scheme (D) is convicted of a relevant criminal offence, the scheme manager may withhold benefits payable to the beneficiary in respect of D.

(2) The scheme manager may withhold benefits to the extent the scheme manager considers appropriate but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 17 of PSA 1993.

(3) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 8 (death benefits) applies as if the beneficiary had died before D.

(4) In this regulation, “relevant criminal offence” means—

- (a) the murder of D;
- (b) the manslaughter of D; or
- (c) any other offence of which the unlawful killing of D is an element.

Forfeiture: relevant monetary obligations and relevant monetary losses

167.—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the scheme manager may withhold benefits payable to P under this scheme.

(2) The scheme manager may withhold benefits to the extent the scheme manager considers appropriate but may only withhold that part of P’s pension that exceeds any guaranteed minimum to which P is entitled under section 14 of PSA 1993.

(3) The scheme manager may not withhold more than the lesser of—

- (a) the amount of the relevant monetary obligation or relevant monetary loss; and
- (b) the value of P’s entitlement to benefits.

(4) The scheme manager may only withhold benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or
- (b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—
 - (i) under an order of a competent court;
 - (ii) in consequence of an award of an arbitrator; or
 - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

(5) In this regulation—

“relevant monetary obligation” means a monetary obligation which—

- (a) was incurred to the Crown or P’s employer (if different);
- (b) was incurred after P became an active member of this scheme;
- (c) arose out of P’s criminal, negligent or fraudulent act or omission; and
- (d) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme; and

“relevant monetary loss” means a monetary loss which—

- (a) was caused to this scheme; and
- (b) arose as a result of P’s criminal, negligent or fraudulent act or omission.

Set-off

168.—(1) The scheme manager may set off a relevant monetary obligation against a member’s entitlement to benefits under this scheme.

(2) In this regulation, a “relevant monetary obligation” is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

(3) The conditions are that the monetary obligation—

- (a) was incurred to the Crown or P’s employer (if different);
- (b) was incurred after P became an active member of this scheme; and
- (c) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme.

(4) The conditions are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of P’s criminal, negligent or fraudulent act or omission.

(5) The conditions are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of a payment made to P in error by the scheme manager.

(6) Paragraph (7) applies if a set-off is to be applied as a result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

(7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P’s entitlement to benefits that represents transfer credits within the meaning of section 124(1) (interpretation of Part 1) of PA 1995(3) (other than prescribed transfer credits for the purposes of section 91(5)(d) (exceptions from the inalienability of occupational pensions) of PA 1995(4)).

(8) The scheme manager may only apply a set-off against that part of a member’s pension that exceeds any guaranteed minimum to which the member is entitled under section 14 of PSA 1993.

(9) The value of the set-off applied must not exceed the lesser of—

- (a) the amount of the relevant monetary obligation; and
- (b) the value of P’s entitlement to benefits.

(10) The scheme manager may only set off a relevant monetary obligation against P’s entitlement to benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation; or
- (b) the relevant monetary obligation is enforceable—
 - (i) under an order of a competent court;
 - (ii) in consequence of an award of an arbitrator; or
 - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

(3) Section 124(1) was amended by the Welfare Reform and Pensions Act 1999 (c. 30) Schedule 12 paragraphs 43 and 61, the Child Support, Pensions and Social Security Act 2000 (c. 19) Schedule 5 paragraph 8, the Pensions Act 2004 section 7(2), Schedule 12 paragraphs 34, 43 and 69 and Schedule 13 Part 1 and S.I. 2005/2053, 2006/745 and 2014/560.

(4) Section 91(5)(d) was amended by the Welfare Reform and Pensions Act 1999 (c. 30) Schedule 12 paragraphs 43 and 57. See S.I. 1997/785 which prescribes the transfer credits.

Forfeiture and set-off: procedure and appeals

169.—(1) If the scheme manager proposes to withhold benefits or apply a set-off against a person's entitlement to benefits, the scheme manager must notify the person of the proposal in writing.

(2) If the scheme manager withholds benefits under regulation 167 or applies a set-off against an entitlement to benefits under regulation 168, the scheme manager must give the member a certificate showing—

- (a) the amount withheld or set off; and
- (b) the effect of the withholding or set-off on the member's benefits under this scheme.

(3) If the scheme manager proposes to withhold a person's benefits under regulation 165 to 167, the person may appeal against the scheme manager's proposal to the Civil Service Appeal Board.

(4) On an appeal made under paragraph (3) the Civil Service Appeal Board may—

- (a) confirm or reject the scheme manager's proposal; or
- (b) amend it so as to reduce the extent to which the benefits are withheld.

(5) The scheme manager must comply with the Civil Service Appeal Board's decision.