STATUTORY INSTRUMENTS

2018 No. 95

PENSIONS

The Pension Protection Fund (Compensation) (Amendment) Regulations 2018

Made - - - -	*25th January 2018*
Laid before Parliament	*29th January 2018*
Coming into force - -	*24th February 2018*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 315(2), (4) and (5) and 318(1) of, and paragraphs 23, 25(1), 25A(1) and 33(1) and (2) of Schedule 7 to, the Pensions Act 2004(**1**).

The Secretary of State for Work and Pensions has, in accordance with section 317(1) of the Pensions Act 2004, consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Compensation) (Amendment) Regulations 2018 and come into force on 24th February 2018.

Amendments to the Pension Protection Fund (Compensation) Regulations 2005

2.—(1) The Pension Protection Fund (Compensation) Regulations 2005(**2**) are amended as follows.

(2) In regulation 1(2) (interpretation)(**3**), after the definition of "the assessment date" insert—

> ""the basic element" and "the bridging element", in relation to a pension which falls within regulation 28(1)(b) (variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act), have the meanings given in regulation 28(2);".

(3) In regulation 2(2) (circumstances where a person shall be entitled to early payment of compensation)(**4**)—

(**1**) 2004 c. 35. Section 318(1) is cited for the meaning it gives to "prescribed" and "regulations". Paragraph 25(1) of Schedule 7 was amended by paragraph 19(3)(a) of Schedule 4 to the Pensions Act 2011 (c. 19). Paragraph 25A of Schedule 7 was inserted by paragraph 13 of Schedule 8 to the Pensions Act 2008 (c. 30) and substituted by paragraph 22 of Schedule 4 to the Pensions Act 2011. Paragraph 33 of Schedule 7 was amended by paragraph 15 of Schedule 8 to the Pensions Act 2008.

(**2**) S.I. 2005/670; relevant amending instruments are S.I.s 2005/2113, 2010/560, 2013/627 and 2016/294.

(**3**) The definition of "the assessment date" was inserted into regulation 1(2) by S.I. 2005/2113. There are other amendments to regulation 1(2) but none is relevant.

(**4**) Regulation 2(2) was amended by S.I. 2016/294.

(a) at the end of sub-paragraph (a) omit "and"; and

(b) at the end of sub-paragraph (b) insert—

"; and

(c) where regulation 29 (variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act) applies to the scheme and the notice referred to in sub-paragraph (a) relates, in whole or in part, to compensation in respect of a pension which falls within regulation 28(1)(b), that the notice—

(i) relates to both the compensation in respect of the basic element and that in respect of the bridging element; and

(ii) specifies the same date in relation to both for the purposes of paragraph (3)(a)(iii).".

(4) In regulation 2C (conditions subject to which periodic and lump sum compensation can be postponed)(**5**), after paragraph (4) insert—

"(4A) The fourth condition is that where regulation 29 (variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act) applies to the scheme and the person elects to postpone any periodic compensation in respect of a pension which falls within regulation 28(1)(b), the person must—

(a) elect to postpone both the compensation in respect of the basic element and that in respect of the bridging element; and

(b) specify the same date in relation to both for the purposes of paragraph (5)(c).".

(5) In regulation 4 (compensation for surviving dependants)(**6**)—

(a) in paragraph (3), at the beginning insert "Subject to paragraph (4),"; and

(b) after paragraph (3) insert—

"(4) Where regulation 29 (variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act) applies to the scheme, no compensation may be paid under paragraph (3) in respect of the bridging element of a pension which falls within regulation 28(1)(b).".

(6) After Part 11 (career average revalued earnings schemes)(**7**) insert—

"Part 12

Variable-rate schemes

Variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act

28.—(1) Regulation 29 applies to a scheme if—

(a) an assessment period(**8**) in relation to the scheme begins on or after 24th February 2018; and

(b) under the admissible rules(**9**) of the scheme, immediately before the assessment date(**10**) a person ("the member") is entitled, or has accrued rights or pension credit

(**5**) Regulation 2C was inserted by S.I. 2013/627.
(**6**) Regulation 4(3) was amended by S.I. 2013/627; there are other amendments to regulation 4 but none is relevant.
(**7**) Part 11 was inserted by S.I. 2010/560.
(**8**) *See* section 132 of the Pensions Act 2004 for the meaning of "assessment period".
(**9**) *See* paragraph 35(2) of Schedule 7 to the Pensions Act 2004 for the meaning of "admissible rules".

rights, to a pension ("the step-down pension"), the annual rate of which would (had no assessment period begun in relation to the scheme and the rules remained unchanged) have decreased on a date ("the scheme decrease date") that falls on or after that assessment date.

(2) In this regulation and in regulation 29, in relation to the step-down pension—

(a) subject to paragraph (3)—

"the basic element" means the portion of the annual rate of the step-down pension to which the member was, or would have been, entitled for life under the admissible rules of the scheme; and

"the bridging element" means the portion of the annual rate of the step-down pension to which the member was, or would have been, entitled only until the scheme decrease date under the admissible rules of the scheme; and

(b) "the PPF bridging end date" means—

(i) in a case to which paragraph (4) applies, the date determined in accordance with that paragraph;

(ii) in a case to which paragraph (5) applies, the date determined by the Board in accordance with that paragraph; and

(iii) in any other case, the day before the scheme decrease date.

(3) In any case where the Board is satisfied that it is not possible to identify the portions of the annual rate of the step-down pension which constitute the basic element and the bridging element, the Board may, having regard to the admissible rules of the scheme, treat the basic element and the bridging element as meaning such respective portions of the annual rate of the step-down pension as it considers appropriate.

(4) In any case where—

(a) the scheme decrease date would, under the admissible rules of the scheme, have been determined by reference to an enactment as in force at a particular time; and

(b) that time falls after the assessment date,

the PPF bridging end date is the day before what would have been the scheme decrease date, if it were determined by reference to the enactment as in force on the assessment date.

(5) In any case where the Board is satisfied that it is not possible to identify the scheme decrease date, the Board may, having regard to the admissible rules of the scheme, determine the PPF bridging end date in such manner as it considers appropriate.

29.—(1) In this regulation—

(a) "the member" and "the step-down pension" have the same meanings as in regulation 28; and

(b) references to "Schedule 7" are to Schedule 7 to the Act.

(2) Schedule 7 has effect with the following modifications in relation to a scheme to which this regulation applies.

(3) Schedule 7 (apart from paragraph 33) and any regulations made under it (apart from regulation 28 and this regulation) have effect as if the basic element and the bridging element of the step-down pension were separate pensions.

(4) Where compensation is payable under paragraph 3 of Schedule 7 (pensions in payment at assessment date) in respect of the step-down pension, sub-paragraph (2) of that paragraph

(**10**) *See* regulation 1(2) of S.I. 2005/670 for the meaning of "the assessment date".

has effect in its application to the bridging element as if for the words from "for life" to the end there were substituted—

"until the earliest of—

(a) the date of the pensioner's death;

(b) the PPF bridging end date; and

(c) in a case to which sub-paragraph (8) applies, the date on which entitlement to the pension would have ceased under the admissible rules".

(5) Where compensation is payable under paragraph 5 of Schedule 7 (pension benefits postponed at assessment date) in respect of the step-down pension, that paragraph has effect in its application to the bridging element as if—

(a) in sub-paragraph (2)—

(i) at the beginning there were inserted "Subject to sub-paragraph (2A),"; and

(ii) for the words from "for life" to the end there were substituted—

"until the earliest of—

(a) the date of the postponed pensioner's death;

(b) the PPF bridging end date; and

(c) in a case to which sub-paragraph (7) applies, the date on which entitlement to the pension would have ceased under the admissible rules";

(b) after sub-paragraph (2) there were inserted—

"(2A) No compensation is payable under this paragraph in respect of the pension if, on the PPF bridging end date—

(a) the commencement of periodic compensation in respect of the pension has been postponed by virtue of paragraph 25A; and

(b) that postponement has not ceased."; and

(c) in sub-paragraph (3)—

(i) at the end of paragraph (a) there were inserted "and"; and

(ii) paragraph (aa) were omitted.

(6) Where compensation is payable under paragraph 8 (active members over normal pension age at assessment date), 11 (active members who have not attained normal pension age at assessment date) or 15 (deferred members who have not attained normal pension age at assessment date) of Schedule 7 in respect of the step-down pension, that paragraph has effect in its application to the bridging element as if—

(a) in sub-paragraph (2)—

(i) at the beginning there were inserted "Subject to sub-paragraph (2A),"; and

(ii) for "for life" there were substituted "until the earlier of the date of his death and the PPF bridging end date";

(b) after sub-paragraph (2) there were inserted—

"(2A) No compensation is payable under this paragraph in respect of the pension if, on the PPF bridging end date—

(a) the commencement of periodic compensation in respect of the pension has been postponed by virtue of paragraph 25A; and

(b) that postponement has not ceased."; and