

**2010 No.**

**PENSIONS**

**The Pension Protection Fund (Pension Compensation Sharing  
on Divorce etc) Regulations 2010**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - \*\*\*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 168A(a), 203(1), 206(4)(a), 315(2) to (5) and 318(1) of the Pensions Act 2004(b) and sections 107(2), 108, 112, 114(3), 115(1)(b) and (4), 116(6) and (8), 117, 118(1) and (2), 119 and 144(2) and (4) of, and paragraphs 5(4), 7(5), 8(4), 9(1), (2) and (6), 10(1), 11(1), 17(6), 18(1) and 19 of Schedule 5 to, the Pensions Act 2008(c).

In accordance with section 317(1) of the Pensions Act 2004 the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

**PART 1**

**General**

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Pension Protection Fund (Pension Compensation Sharing on Divorce etc) Regulations 2010 and shall come into force on [ ].

(2) In these Regulations—

“the Act” means the Pensions Act 2008;

“the 2004 Act” means the Pensions Act 2004;

“admissible rules” has the same meaning as in paragraph 35 of Schedule 7 to the 2004 Act(d);

“day” means any day other than—

(a) Christmas day or Good Friday; or

(b) a day which is, or is to be observed as, a bank holiday under Schedule 1 to the Banking and Financial Dealings Act 1971(e);

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(a) Section 168A is inserted by section 121 of the Pensions Act 2008 (c. 30).

(b) 2004 c. 35. Section 318(1) is cited for the meaning it gives to the words “prescribed” and “regulations”.

(c) 2008 c. 30. Section 108 is cited for the meaning it gives to the word “prescribed”.

(d) Sub-paragraphs 35(2) and (3) were amended by paragraphs 17 and 18 of Schedule 8 to the Pensions Act 2008.

(e) 1971 c. 80.

“member” means the party entitled to present or future payment of PPF compensation under the pension compensation provisions;

“pension compensation credit member” means a person who has rights to PPF compensation which are attributable (directly or indirectly) to a pension compensation credit.

“qualifying course” means a full time educational or vocational course at a recognised educational establishment where in pursuit of that course, the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course, exceeds 12 hours per week in normal term time, and includes any gaps between the ending of one course and the commencement of another, where the person is enrolled on and commences the latter course;

“PPF” means the Pension Protection Fund;

“relevant compensation” means the payments or future payments to which the member is entitled under the pension compensation provisions by virtue of the member’s shareable rights to PPF compensation that derive from rights under a specified scheme;

“relevant partner” means a person of either sex who was not married to, or in a civil partnership with the transferee, who was living with the transferee—

- (a) as if that person and the transferee were husband and wife; or
- (b) in the case of two adults of the same sex, as if they were civil partners;

“surviving dependant” means—

- (a) a child of the family who was financially dependent on the transferee at the time of the transferee’s death and who is aged less than 18; or
- (b) a child of the family who was financially dependent on the transferee at the time of the transferee’s death, who is aged less than 23 and who is—
  - (i) either attending a qualifying course; or
  - (ii) incapable of engaging in full time paid employment due to a condition that falls within the definition of a disability under the Disability Discrimination Act 1995(a);

“surviving partner” means the widow, widower or civil partner of the transferee.

## PART 2

### Shareable rights

#### **Rights to PPF compensation which are not shareable**

**2.** Any right of a person to PPF compensation is not shareable if—

- (a) the compensation is in payment; and
- (b) the compensation is derived directly or indirectly from the rights of a deceased person by virtue of being the widow, widower, surviving civil partner or dependant of that person.

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(a) 1995 c. 50.

## PART 3

### Supply of information about pension compensation in relation to divorce etc

#### **Basic information about pensions and divorce or dissolution of a civil partnership**

**3.**—(1) The requirements imposed on the Board for the purposes of section 118(1)(a) of the Act are that the Board must supply—

- (a) on request from a member, the information specified in paragraphs (2) and (3)(b) and (c);
- (b) on request from the spouse or civil partner of the member, the information specified in paragraph (3); or
- (c) pursuant to an order of the court, the information specified in paragraphs (2), (3), or (4)

to the member, the spouse or civil partner of the member, or, as the case may be, to the court.

(2) The information specified in this paragraph is a valuation of the member's rights to PPF compensation and (if not the same as the member's rights to PPF compensation) a valuation of the member's rights to relevant compensation.

(3) The information specified in this paragraph is—

- (a) a statement that on request from the member, or pursuant to an order of the court, a valuation of the member's rights to PPF compensation and to relevant compensation (if not the same as the member's rights to PPF compensation), will be supplied to the member, or, as the case may be, to the court;
- (b) a statement summarising the way in which the valuations referred to in paragraph (2) and sub-paragraph (a) are calculated;
- (c) a schedule of the charges that the Board will impose in accordance with regulation 16 (charges in respect of pension compensation sharing costs etc recoverable by the Board), and the method by which those charges may be recovered;
- (d) a statement that a person entitled to a pension compensation credit against the Board will be entitled to periodic compensation calculated in accordance with Schedule 5 to the Act.

(4) The information specified in this paragraph is any other information about the calculation and payment of PPF compensation relevant to any power under the provisions specified in section 118(1)(a) of the Act.

(5) Where the member's request or the court order for the provision of information includes a request or an order for provision of a valuation under paragraph (2), the Board must supply all the information requested or ordered within—

- (a) 3 months beginning with the date that the Board receives the request or order for the provision of information;
- (b) 6 weeks where the member has notified the Board on the date of the request or order that the information is needed in connection with proceedings commenced under any of the provisions specified in section 118(1)(a) of the Act; or
- (c) such shorter period specified by the court in an order requiring the Board to supply a valuation in accordance with paragraph (2).

(6) Where—

- (a) the member's request or the court order for supply of information does not include a request or an order for provision of a valuation under paragraph (2); or
- (b) the member's spouse or civil partner requests the information specified in paragraph (3),

the Board must supply that information within one month beginning with the date that the Board receives the request or the court order for the provision of the information.

### **Valuation of relevant compensation for the purposes of an application for financial relief**

4.—(1) Where an application for financial relief under any of the provisions specified in section 118(1)(a) of the Act has been made or is in contemplation, the value of the PPF compensation or relevant compensation to which the member is entitled must be calculated and verified for the purposes of regulation 3(2) in accordance with paragraphs (2) and (3).

(2) The value of the PPF compensation or relevant compensation to which the member is entitled is the cash equivalent of the amount that would be required to make provision for the member's entitlement to PPF compensation or relevant compensation under the pension compensation provisions.

(3) The cash equivalent of the PPF compensation or relevant compensation must be calculated and verified—

- (a) in accordance with actuarial assumptions approved by the Board; and
- (b) on the assumption that the date on which the valuation is carried out is the date that the Board received the request for the valuation.

### **Provision of information in response to a notification that a pension compensation sharing order or provision or an attachment order may be made**

5.—(1) On a direction from the court or a request from the member or the court, the Board must supply the information specified in paragraph (2) to the member or to the court, as the case may be—

- (a) within 21 days beginning with the day that the Board received the notification that a pension compensation sharing order or provision or an attachment order may be made; or
- (b) if the court has specified a date which is outside the 21 days specified in sub-paragraph (a), by that date.

(2) The information referred to in paragraph (1) is—

- (a) the full name and address of the person to which any order specified in section 109 of the Act (activation of pension compensation sharing) should be sent;
- (b) whether the Board is aware that the member's rights to PPF compensation are subject to any, and if so, which, of the following—
  - (i) any order or provision specified in section 109 of the Act;
  - (ii) any order or provision specified in section 28(1) of the Welfare Reform and Pensions Act 1999<sup>(a)</sup> (activation of pension sharing);
  - (iii) an order under section 23 of the Matrimonial Causes Act 1973<sup>(b)</sup> (financial provision orders in connection with divorce etc), so far as it includes provision made by virtue of section 25B or 25C of that Act<sup>(c)</sup>;
  - (iv) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985<sup>(d)</sup> (powers in relation to pensions lump sums when making a capital sum order) which relates to benefits or future benefits to which the member is entitled under the pension compensation provisions;

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(a) 1999 c. 30. Section 28 was amended by paragraph 159(1) of Schedule 27 to the Civil Partnership Act 2004 (c. 33).  
(b) 1973 c. 18. Section 23 was amended by section 16 of the Administration of Justice Act 1982 (c. 53).  
(c) Sections 25B and 25C were inserted by section 166(1) of the Pensions Act 1995 (c. 26) and amended by section 21 of and paragraphs 1 and 2 of Schedule 4 to the Welfare Reform and Pensions Act 1999 (c. 30).  
(d) 1985 c. 37. Section 12A was inserted by section 167(3) of the Pensions Act 1995. Subsection 12A(2) was amended by section 84 of and paragraphs 5, 9(1) and 9(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30), section 261(2) of and paragraph 19(1) and (3) of Schedule 28 to the Civil Partnership Act 2004 (c. 33), and section 45(1) of and paragraph 5(1) and (2) of Schedule 2 to the Family Law (Scotland) Act 2006. Subsection 12A(3) was amended by section 84 of and paragraphs 5, 9(1) and 9(4) of Schedule 12 to the Welfare Reform and Pensions Act 1999, and section 261(2) of and paragraph 19(1) and (4) of Schedule 28 to the Civil Partnership Act 2004.

- (v) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978<sup>(a)</sup>, so far as it includes provision made by virtue of Article 27B or 27C of that Order<sup>(b)</sup> (Northern Ireland powers corresponding to those specified in paragraph (2)(b)(iii));
- (vi) a forfeiture order;
- (vii) a bankruptcy order;
- (viii) an award of sequestration on a member's estate or the making of the appointment on the member's estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980 <sup>(c)</sup>(appointment of judicial factor);
- (c) whether the member's rights to PPF compensation include rights which are not shareable or cannot be subject to an attachment order;
- (d) if such information has not already been supplied, details of any charges that the Board will impose in accordance with regulation 16 (charges in respect of pension compensation sharing costs etc recoverable by the Board) and the method by which they may be recovered; and
- (e) whether the Board requires any information additional to that specified in regulation 7 (information to be supplied in order for the implementation period to begin).

**Information to be provided by the Board to pension compensation credit members**

6.—(1)The information to be provided by the Board to a pension compensation credit member is to be determined in accordance with the provisions of the Schedule.

## PART 4

### Implementation and discharge of liability

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

- 7.—(1) The information prescribed for the purposes of section 115(1)(b)(ii) of the Act 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 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 entitled to PPF compensation other than by reason of the pension compensation credit, all names by which the transferee is or has been known;
    - (ii) date of birth;

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(a) S.I. 1978/1045 (N.I. 15). Article 25 was amended by Article 5 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (S.I. 1989/677 (N.I. 4)).

(b) Articles 27B and 27C were inserted by Article 162(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraphs 1 and 2 of Schedule 4 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

(c) 1980 c.46. Section 41 was amended by sections 6(1) and (2) and 56 of, paragraph 19 of Schedule 1 to, and paragraph 13 of Schedule 2 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73).

- (iii) address;
- (iv) National Insurance number; and
- (v) if the transferee is entitled to PPF compensation other than by reason of the pension compensation credit, the name of the scheme or such information as the Board may require to identify the pension scheme concerned.

(2) 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 implementation period is not to begin 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**

**8.** The circumstances in which the implementation period for a pension compensation credit is extended for the purposes of section 114 of the Act 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 properly 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 properly 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**

**9.—(1)** The modifications to the operation of section 115 of the Act (“implementation period”), where the pension compensation credit depends on a pension compensation sharing order and the order is the subject of an application for leave to appeal out of time, 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 or discharged; 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) it 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**

**10.**—(1) Within a period of 21 days commencing with the day specified in section 115(1) of the Act (beginning of 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 7 (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 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 8; or
- (b) is postponed or ceases to operate in accordance with regulation 9,

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 relevant facts, 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 16 (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, 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 16(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 16(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**

**11.**—(1) For the purposes of section 111 of the Act, a 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 the cash equivalent value of pension compensation credit**

**12.** For the purposes of determining the amount referred to in section 116(5) of the Act, 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)—

- (a) so as to provide for the benefits to which the transferee is entitled in accordance with Schedule 5 to the Act; and
- (b) by using actuarial assumptions which are consistent with those 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**

**13.**—(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) subject to regulation 18 (circumstances in which a surviving partner is not entitled to compensation) a surviving partner is entitled to compensation calculated in accordance with regulation 19; or
- (b) a relevant partner is entitled to compensation in the circumstances prescribed in regulation 20; and
- (c) a surviving dependant is entitled to compensation in the circumstances prescribed in regulation 20.

### **Notification of discharge of liability**

**14.**—(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 paragraph (5)(e)) and (8).

(2) The information specified in this paragraph is—

- (a) the valuation as at the valuation day of the transferor's entitlement to relevant compensation;
- (b) the value of the pension compensation debit;
- (c) the date of the transfer;
- (d) any charges which may be deducted in accordance with regulation 16 from the transferor's remaining rights to relevant compensation (if any); and
- (e) the value of the transferor's rights to relevant compensation (if any) on the day after the reduction of compensation in accordance with section 113 of the Act 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 on the day after relevant compensation had been 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—
- (a) the annual rate of the PPF compensation which was payable to the transferor immediately before the transfer day; and
  - (b) the annual rate of the PPF compensation which is payable to the transferor on the day after relevant compensation is reduced in accordance with section 113 of the Act and after the deduction of any charges owed.
- (5) The information specified in this paragraph is—
- (a) the value of the pension compensation credit;
  - (b) the date of the transfer;
  - (c) any charges which may be deducted in accordance with regulation 16 from the transferee's entitlement to compensation;
  - (d) the value of the pension compensation credit following the deduction of any charges owed; and
  - (e) the date at which payment of periodic compensation will commence.
- (6) The information specified in this paragraph is an estimate of the annual rate of 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 will be payable to the transferee.
- (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 6.

#### **Provision of information after receipt of a pension compensation attachment order**

- 15.**—(1) The Board must, within 21 days beginning with the day that it receives—
- (a) an order under section 23 of the Matrimonial Causes Act 1973(**a**), so far as it includes provision made by virtue of section 25F of that Act(**b**) (attachment of pension compensation);
  - (b) an order under Part 1 of the Civil Partnership Act 2004(**c**), so far as it includes provision made by virtue of section 34A of that Act(**d**) (attachment of PPF compensation);
  - (c) an order under section 12B(2) of the Family Law (Scotland) Act 1985(**e**); or
  - (d) corresponding legislation in Northern Ireland,
- issue to the member and to the person entitled to periodical payments by virtue of the attachment order ('the other party') a notice which includes the information specified in paragraphs (2) and (4), or (3) and (4), as the case may be.
- (2) Where an order 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 payable to the member before implementation of the order;
  - (b) the cash equivalent value of the relevant compensation payable to the member and to the other party after the order has been implemented;
  - (c) the first date when a payment pursuant to the order is to be made; and
  - (d) a list of any changes in circumstances which, under the terms of the order, the member or the other party must notify to the Board.

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(a) 1973 c. 18. Section 23 was amended by section 16 of the Administration of Justice Act 1982 (c. 53).  
 (b) Section 25F was inserted by paragraph 7 of Schedule 6 to the Pensions Act 2008 (c. 30).  
 (c) 2004 c. 33.  
 (d) Section 34A was inserted by paragraph 17 (3) of Schedule 6 to the Pensions Act 2008 (c.30).  
 (e) 1985 c. 37. Section 12B was inserted by paragraph 6 of Schedule 7 to the Pensions Act 2008 (c.30).

(3) Where an order 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 (3), include—

- (a) the annual rate of the relevant compensation payable to the member before implementation of the order; and
- (b) the annual rate of relevant compensation which will be payable to the member and to the other party after implementation of the order.

(4) Where an order specified in paragraph (1) is made, 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 16(2)(d) which remain unpaid; and
- (b) information as to the manner in which the Board will recover the charges, including—
  - (i) the date by which payment in whole or in part is required;
  - (ii) the amount of the charges which are attributable to the member and to the other party; and
  - (iii) whether the charges may be set off, in accordance with regulation 16(4)(c), against periodical payments made to the member or the other party; and
- (c) a list of any changes in circumstances which, under the terms of the order, the member or the other party must notify to the Board.

## PART 5

### Charges in respect of pension compensation sharing costs etc

#### **Charges in respect of pension compensation sharing costs etc recoverable by the Board**

**16.**—(1) Subject to paragraph (3), the Board may recover from a party to the proceedings specified in section 118(1) of the Act ('a party') charges of the description specified in paragraph (2).

(2) The charges that the Board may recover are those in respect of—

- (a) provision of information or a valuation in accordance with regulation 3, 4 or 5;
- (b) the reasonable costs of implementing and discharging liability for a pension compensation credit;
- (c) any other reasonable costs associated with pension compensation sharing activity; and
- (d) those charges which represent the reasonable administrative expenses which the Board incurs by reason of an attachment order.

(3) The Board must not recover charges in relation to the costs specified in paragraph (2) if it is required to supply the same information to a member by regulations made under section 203 of the 2004 Act (provision of information to members of schemes etc) or to a pension compensation credit member by regulation 6 (information to be provided by the Board to pension compensation credit members).

(4) The Board may recover charges in relation to the costs specified in paragraph (2)(a) to (c) by—

- (a) requiring payment of charges to be made by any specified date on or after the date that the costs giving rise to the charges required were incurred;
- (b) making a deduction from a member's entitlement to relevant compensation, or from a transferee's entitlement to periodic compensation calculated in accordance with paragraph 6 of Schedule 5 to the Act ; or
- (c) where—
  - (i) relevant compensation is in payment to a member; or

- (ii) periodic compensation is in payment to a transferee in accordance with paragraph 4 of Schedule 5 to the Act, or to a person entitled to periodical payments by virtue of the attachment order,

setting off the charges owed against such compensation.

(5) The Board may recover charges in relation to the costs specified in paragraph (2)(d) by either of the methods specified in paragraph (4)(a) and (c).

(6) The Board must not recover charges specified in paragraph (2) by using either of the methods described in paragraph (4)(b) and (c) unless—

- (a) there are charges which are unpaid;
- (b) the party from whose entitlement the Board intends to make the deduction is liable to pay those charges;
- (c) the Board has notified the parties of the charges which the Board will impose in accordance with regulation 3(3)(c), 5(2)(d), 10(4) or 15(4), as the case may be;
- (d) the Board has notified the parties of the method by and the date on which the charges may be recovered; and
- (e) a period of 21 days from the date that the charges were due to be paid has elapsed.

### **Reimbursement between parties to pension compensation sharing**

17. A payment in respect of charges in accordance with regulation 16 made by one of the parties to pension compensation sharing on behalf of the other party is recoverable as a debt by the party who made the payment from that other party.

## **PART 6**

### **Benefits for survivors**

#### **Circumstances where a surviving partner is not entitled to periodic compensation**

18. A surviving partner of a transferee ('surviving partner') is not entitled to periodic compensation under paragraphs 5 or 7 of Schedule 5 to the Act (compensation payable to widow, widower or surviving partner) or under regulation 13(3)(a) 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 20(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 13 in the case of surviving partners**

19. Where a surviving partner is entitled to compensation under regulation 13(3)(a), the annual rate and duration of the periodic compensation payable to the surviving partner is to be calculated—

- (a) where the transferee was, or would have been had they not died, entitled to periodic compensation commencing on the transfer day, in accordance with paragraph 5(3) of Schedule 5 to the Act;
- (b) where the transferee was entitled to 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.

## **Compensation payable in the case of relevant partners and surviving dependants**

**20.**—(1) This regulation applies where the transferee—

- (a) was before death entitled to present or future payment of periodic compensation calculated in accordance with paragraphs 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 of the transferee 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 an unmarried partner of a member under the admissible rules of the scheme (whether discretionary or otherwise) and—

- (a) the transferee has supplied the Board with a signed written notice informing the Board that the person is a relevant partner ('a valid nomination'); and
- (b) 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
- (c) where the transferee has not supplied the Board with a valid nomination, the relevant partner supplies evidence to the satisfaction of the Board that they were—
  - (i) financially dependent on, or interdependent on the transferee; and
  - (ii) living with the transferee.

(4) No compensation may be paid under paragraph (3) 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 the surviving dependant supplies 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**

**21.**—(1) Where a relevant partner is entitled to payment of periodic compensation under regulation 20, 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 if they had 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**

**22.**—(1) Where a surviving dependant is entitled to periodic compensation under regulation 20(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 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 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);
- (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);
- (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**

**23.**—(1) Except in the circumstances prescribed in paragraph (2), where periodic compensation is payable to a surviving dependant under regulation 20(5), it is payable from the day following the transferee's death.

(2) Where a surviving dependant—

- (a) is an unborn child, 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;
- (c) becomes disabled after attaining the age of 18, 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 later.

(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 the Disability Discrimination Act 1995(a), periodic compensation is payable until the surviving dependant attains the age of 23.

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(a) 1995 c.50.

## PART 7

### Revaluation

#### **Manner in which percentage increase in general level of prices is to be determined**

24. For the purposes of paragraph 8(4)(a) of Schedule 5 to the Act, the manner in which the percentage increase in the general level of prices is to be determined is—

$$100 \times (A/B) - 100$$

where—

- (a) A is the level of the retail prices index for the month which falls two months before the month in which the transferee—
  - (i) attains pension compensation age in respect of the payment of the periodic compensation or, as the case may be, the lump sum compensation; or
  - (ii) becomes entitled to periodic compensation under paragraph 6 of Schedule 5 to the Act; and
- (b) B is the level of the retail prices index for the two months before the month during which the transfer day falls.

## PART 8

### Commutation of periodic compensation

#### **Circumstances in which periodic compensation may be commuted**

25. The circumstances prescribed for the purposes of paragraph 9(1) of Schedule 5 to the Act (commutation of periodic compensation) are that—

- (a) the transferor must not have previously exercised an option to commute for a lump sum either—
  - (i) a portion of the pension from which the pension compensation credit was derived; or
  - (ii) a portion of the relevant compensation from which the pension compensation credit was derived;
- (b) the transferee must not have previously exercised an option to commute for a lump sum a portion of the pension compensation credit in respect of which they are entitled to periodic compensation;
- (c) the transferee will exercise the option to commute within the period of 6 months from the date that they become entitled to payment of periodic compensation; and.
- (d) The transferee must have attained the age of 60 but have not attained the age of 75 on the date, nominated by the transferee (or, where no date is nominated, by the Board), that commutation of a portion of the transferee's entitlement to periodic compensation is to take place.

#### **Circumstances in which the portion of compensation to be commuted may exceed 25 per cent**

26.—(1) The prescribed circumstances for the purposes of paragraph 9(2) of Schedule 5 to the Act are that the portion to be commuted is a PPF trivial commutation lump sum.

(2) A payment is a PPF trivial commutation lump sum if—

- (a) on the date specified in regulation 25(d), the value of the transferee's pension rights and entitlement to PPF compensation does not exceed the commutation limit;
- (b) it is paid when all or part of the transferee's standard lifetime allowance is available; and

- (c) it extinguishes the transferee's entitlement to PPF compensation.
- (3) The commutation limit is 1% of the standard lifetime allowance.
- (4) For the purposes of paragraph (2)(a)—
  - (a) the value of the transferee's pension rights is the aggregate of—
    - (i) the value of the transferee's relevant crystallised pension rights on that date (calculated in accordance with paragraph 8 of Schedule 29 to the Finance Act 2004<sup>(a)</sup> ("the Finance Act")); and
    - (ii) the value of the transferee's uncrystallised rights on that date (calculated in accordance with paragraph 9 of Schedule 29 to the Finance Act); and
  - (b) the value of the transferee's entitlement to PPF compensation is the aggregate of—
    - (i) any entitlement to lump sum compensation; and
    - (ii) any entitlement to periodic compensation.
- (5) For the purposes of paragraph (7)—
  - (a) relevant crystallised pension rights are to be calculated in accordance with paragraph 8 of Schedule 29 to the Finance Act; and
  - (b) uncrystallised rights are to be calculated in accordance with paragraph 9 of Schedule 29 to the Finance Act.
- (6) The value of the transferee's entitlement to PPF compensation is the aggregate of—
  - (a) any entitlement to lump sum compensation; and
  - (b) any entitlement to periodic compensation.
- (7) For the purposes of paragraph (7)—
  - (a) the value of any entitlement to lump sum compensation is the full amount of lump sum compensation to which the transferee would be entitled on the nominated date; and
  - (b) periodic compensation is to be calculated by multiplying the annual periodic compensation to which that member would be entitled on the nominated day by 20.
- (8) In this regulation, "standard lifetime allowance" means the amount specified in an order made under section 218(3) of the Finance Act for the relevant tax year.

**Manner in which an option to commute may be exercised**

27.—(1) The manner in which an option to commute periodic compensation under paragraph 9 of Schedule 5 to the Act may be exercised is specified in paragraphs (2) to (4).

(2) A transferee must exercise an option to commute a portion of the periodic compensation to which they are entitled by giving notice to the Board in writing.

(3) A notice given under paragraph (2) must include—

- (a) the name, address, date of birth and national insurance number of the transferee; and
- (b) the percentage of the periodic compensation which the transferee opts to commute.

(4) The Board may require a transferee exercising an option to commute to produce any document or supply any other information or document relevant to the Board's functions in relation to the transferee's request for commutation.

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(a) 2004 c. 12.

## PART 9

### Early payment of compensation

#### **Circumstances where a transferee is entitled to early payment of periodic compensation**

**28.**—(1) The conditions under which a transferee may become entitled to early payment of periodic compensation under paragraph 6 of Schedule 5 to the Act are prescribed in paragraph (2).

(2) Those conditions are—

(a) that the transferee has given notice to the Board, in accordance with paragraph (3), that they wish to receive periodic compensation before attaining pension compensation age; and

(b) that the transferee has attained the age of 55 on the date on which the periodic compensation is to become payable early.

(3) The notice referred to in paragraph (2)(a)—

(a) must include—

(i) the transferee's name, address, date of birth and national insurance number; and

(ii) the date on which the transferee would like the periodic compensation to become payable; and

(b) subject to paragraph (4), must be given at least two months before that date.

(4) The Board may waive the requirement in paragraph (3)(b) if, in its opinion, compliance with that requirement would cause hardship to the transferee.

## PART 10

### Annual increase in periodic compensation

#### **Determination of indexed proportion**

**29.** In any case where it is unclear whether the pension compensation credit or any part of it is derived from rights of the transferor relating to pensionable service (whether actual or notional) occurring—

(a) before 6th April 1997; or

(b) on or after that date,

the Board may determine as best as it is able, having regard to the admissible rules of the scheme and all the circumstances of the case, how much of the service or notional service of the transferor should be treated for the purposes of paragraph 17 of Schedule 5 to the Act as having occurred before 6th April 1997 and on or after that date.

## PART 11

### Compensation cap

#### **Restriction of amount of compensation payable**

**30.**—(1) This regulation applies where, in respect of a pension compensation credit—

(a) the transferee becomes entitled to payment of compensation under paragraphs 4 or 6 of Schedule 5 to the Act; and

(b) on the transfer day the transferor was not entitled to present payment of relevant compensation.



(2) Where the annual value of the periodic compensation payable to the transferee under paragraphs 4 or 6 of Schedule 5 to the Act in respect of that pension compensation credit exceeds the compensation cap, the amount of compensation payable to the transferee is restricted in accordance with paragraph (3).

(3) Where compensation payable to the transferee is required to be restricted in accordance with this paragraph, the compensation payable is the cap fraction of the amount which would otherwise be payable to the transferee under the pension compensation provisions.

(4) The annual value of the periodic compensation payable to the transferee under paragraph 6 of Schedule 5 to the Act in respect of a pension compensation credit is to be determined in accordance with this paragraph—

- (a) where no portion of the compensation to which the transferee has become entitled under the pension compensation credit has been commuted, the annual value of the pension compensation credit is the annual value of the periodic compensation to which the transferee is entitled in respect of that credit; or
- (b) where a portion of the compensation to which the transferee is entitled under the pension compensation credit has been commuted, the annual value of the pension compensation credit is the amount which would have been the annual value of that compensation in respect of that credit had a portion not been commuted..

(5) In this regulation

- (a) “the cap fraction” means—  
 $C/V$

where C is the compensation cap, and V is—

- (i) the annual value of the compensation payable under the pension compensation credit; or
- (ii) in a case falling under paragraph (2)(b), the aggregate of the annual value of the periodic compensation payable to the transferee under the relevant order or provision and the relevant compensation payable under Schedule 7 to the 2004 Act.
- (b) “the compensation cap” has the same meaning as in paragraph 26(7) of Schedule 7 to the 2004 Act; and
- (c) a scheme is connected to the scheme from which the pension compensation credit is derived if the same person is or was the employer in relation to both schemes.

## PART 12

### Amendment of Schedule 9 to the 2004 Act

#### Amendment of Schedule 9 to the 2004 Act

**31.** In Schedule 9 to the 2004 Act(a) (reviewable matters), after paragraph 16B(b), insert—

“**16C.** Any determination by the Board of a person’s entitlement to compensation under Part 3 of, or Schedules 5, 6 or 7 to, the Pensions Act 2008 (c.30) (pension compensation on divorce etc) or the failure in any case to make such a determination”.

#### Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005

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(a) Schedule 9 was amended by S.I.2005/600 and 2113, S.I 2006/685, S.I. 2007/771 and S.I. 2010/560. It was also modified in relation to partially guaranteed schemes by S.I 2005/600, in relation to multi-employer schemes by S.I. 2005/441 and for transitional purposes by S.I. 2005 /1720.

(b) Paragraph 16B was inserted by S.I. 2006/685.

32. In the Schedule to the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005(a), in the first column, below the reference to paragraph 16B, insert—

“16C Paragraph 16C”.

In the second column (interested person), below paragraph 16B and corresponding to paragraph 16C, insert—

- “(a) a person in relation to whose rights the relevant order or provision was made;
- (b) a person for whose benefit the relevant order or provision was made (‘the transferee);
- (c) in a case where a transferee has died, a person who is or may be a relevant partner, surviving partner or surviving dependant.”

Signed by authority of the Secretary of State for Work and Pensions.

*Name*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

Date

## Schedule

### Regulation 6

#### INFORMATION TO BE PROVIDED BY THE BOARD

**Table of information to be provided by the Board**

<i>Description of person to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which the Board must provide information</i>
Any pension compensation credit member who makes a request in writing to the Board for it to provide a forecast of the pension compensation credit member’s entitlement to compensation.	A forecast, determined in accordance with the provisions of Schedule 5 to the Act, of the compensation to be paid to the pension compensation credit member.	The period of 28 days beginning on the day on which the Board receives the request.
Any pension compensation credit member who will attain pension compensation age on their next birthday.	<p>1. A forecast, determined in accordance with Schedule 5 of the Act, of the compensation to be paid to the pension compensation credit member.</p> <p>2. Details of any options to commute which may be exercised by the pension compensation credit member in accordance with paragraph 9 of Schedule 5 to the Act</p>	The period of six months beginning 12 months before the day on which the pension compensation credit member will attain pension compensation age.

(a) S.I. No. 2005/669

	<p>(commutation of periodic compensation) and regulations 25 and 26 and forecasts of—</p> <p>(a) the lump sum to be paid under any such option; and</p> <p>(b) the reduced level of annual compensation payment which the pension compensation credit member would receive if they exercised any such option.</p>	
<p>Any pension compensation credit member who makes a request in writing to the Board for it to provide—</p> <p>(i) information about any options to commute which may be exercised by the pension compensation credit member in accordance with paragraph 9 of Schedule 5 to the Act and regulations 25 and 26 or—</p> <p>(ii) a forecast of the lump sum payable to the pension compensation credit member on the exercise of any such option.</p>	<p>Details of any options to commute available to the pension compensation credit member, and forecasts of—</p> <p>(a) the lump sum to be paid to the pension compensation credit member under any such option; and</p> <p>(b) the reduced level of annual compensation payments which the pension compensation credit member would receive if they exercised such an option.</p>	<p>The period of 28 days beginning on the day on which the Board receives the request.</p>
<p>Any pension compensation credit member who makes a request in writing to the Board for it to provide information about any entitlement the pension compensation credit member may have to early payment of compensation under paragraph 10 of Schedule 5 to the Act (early payment of compensation) and regulation 28.</p>	<p>Details of any entitlement the pension compensation credit member may have to early payment of compensation and a forecast of the periodic compensation and of any lump sum payment payable to the pension compensation credit member.</p>	<p>The period of 28 days beginning on the day on which the Board receives the request.</p>
<p>All pension compensation credit members and survivors of such members.</p>	<p>Details of any variation in the amount of compensation payable where the variation will result from the operation of paragraph 27 of Schedule 7 to the 2004 Act, or paragraphs 17 (annual increase in periodic compensation) or 20 (Board's power to alter rate of revaluation and indexation) of Schedule 5 to the Act, and the date when the variation will become effective ('the operative date').</p>	<p>Not less than 28 days before the operative date.</p>

Any pension compensation credit member who is an interested person in relation to a particular reviewable matter.	A statement describing how an application may be made to the Board for the review of the reviewable matter, how it will be considered and the Board's powers on making a review decision.	The period of 28 days beginning on the day on which the Board knew or ought to have known that the reviewable matter had occurred.
Any pension compensation credit member who is a party to matrimonial or civil partnership proceedings or is contemplating such proceedings and who makes a request to the Board for information about their compensation entitlement.	A statement, determined in accordance with Schedule 5 to the Act, of the compensation to be paid to the pension compensation credit member.	The period of three months beginning on the day on which the Board receives the request, or by the date that the Board must comply with a court order to provide such information, whichever is the sooner.

- (1) In this regulation—
- (2) “interested person” has the same meaning as section 207(2) of the 2004 Act;
- (3) “pension compensation credit member” is a person entitled to compensation following the discharge of a pension compensation credit in accordance with Schedule 5 of the Act;
- (4) “reviewable matter” has the same meaning as in section 206(1) of the 2004 Act (meaning of “reviewable matters”).

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations implement the provisions of Part 3 of the Pensions Act 2008 (Pension compensation on divorce etc) (‘the Act’), which permit the courts to make pension compensation sharing orders or provisions (‘pension compensation sharing orders’) and attachment orders in proceedings related to divorce, annulment or dissolution of a marriage or civil partnership. Pension compensation sharing and attachment orders may be made in relation to pension compensation payable to a PPF member (‘member’) by the Board of the Pension Protection Fund (‘the Board’) in accordance with Part 3 of the Act, Chapter 3 of Part 2 of the Pensions Act 2004 and, in Northern Ireland, any corresponding provision.

Regulation 1 is about citation, commencement and interpretation.

Regulation 2 specifies rights to pension compensation which may not be taken into account for the purposes of making a pension compensation sharing or attachment order. Where pension compensation is in payment and is derived from the rights of a deceased member (by virtue of being the spouse, civil partner or dependant of the member), it is not shareable.

Regulation 3 sets out the information which the Board must supply to a member, the spouse or civil partner of a member or to the court and the time limits within which the information must be supplied.

Regulation 4 explains that the value of the shareable rights to which the member is entitled must be calculated and verified in accordance with actuarial assumptions approved by the Board and on the assumption that the valuation is carried out on the date that the Board received the request for a valuation.

Regulation 5 sets out the information which the Board must supply to a member or to the court where the Board has been notified that a pension compensation sharing or attachment order may be made, and the time limits which apply.

Regulation 6 and the Schedule prescribe the circumstances and the time limits in which the Board must supply specified information to a pension compensation credit member.

Regulation 7 prescribes the information about the transferor and the transferee, or in relation to a deceased transferee, which must be supplied to the Board before the implementation period can begin.

Regulation 8 sets out the circumstances in which the implementation period for a pension compensation sharing credit (normally four months from the later of the transfer day and the date that the Board receives all the documents it needs to begin implementation) is extended.

Regulation 9 provides for the postponement or cessation of the implementation period where an application for leave to appeal out of time is made. Where the Board has already discharged liability for a pension compensation credit, it must inform the court of this fact within 21 days from the date that the notification was received.

Regulation 10 requires the Board to notify the transferor and transferee of the date that the implementation period began. Where the Board has not received all the documents or information it needs to begin implementation, it must notify the transferor and transferee of this fact and specify the information it needs. The Board must also specify the charges which are due, or will become due, and the party who is responsible for paying the charges. It must also provide information about the method by which the charges may be recovered if not paid by the date that they are due.

Regulation 11 explains that, for the purpose of implementing a pension compensation sharing order, the cash equivalent of a member's shareable rights to pension compensation is to be calculated and verified in accordance with actuarial assumptions approved by the Board.

Regulation 12 requires the Board to calculate and verify the value of the cash equivalent of the pension compensation credit to which the transferee will become entitled on the Board's discharge of the credit in accordance with the entitlement of the transferee under Schedule 5 to the Act. The Board must also use actuarial assumptions which are consistent with those assumptions used to calculate and verify the cash equivalent of the relevant compensation.

Regulation 13 applies where the transferee has died before the Board has discharged liability for a pension compensation credit. In these circumstances, the Board must discharge liability for the credit by sending a notice to the personal representative or executor of the deceased transferee. On the sending of the notice, either a surviving partner or a relevant partner of the deceased transferee may be entitled to compensation. Any surviving dependants of the deceased transferee may also be entitled to compensation.

Regulation 14 sets out the information which the Board must provide to the transferor and transferee, or, in a case where the transferee has died, to the personal representative or executor of the deceased transferee, when it discharges liability for a pension compensation credit.

Regulation 15 requires the Board, within 21 days of receipt of a pension compensation attachment order, to issue a notice to the member and to the person entitled to periodical payments by virtue of the attachment order. The notice must include the information specified in this regulation.

Regulation 16 specifies the costs in respect of which the Board may charge parties to proceedings in relation to divorce, annulment or dissolution of a marriage or civil partnership. It also prevents the Board recovering charges where it is also required to provide the same information to a party to such proceedings by regulations made under section 203 of the Pensions Act 2004 (provision of information to members of schemes etc) or by regulation 6. Paragraph (4) and (5) specify the methods by which the Board may recover charges from the parties. Paragraph (6) sets out the circumstances when the charges may be deducted from a party's entitlement to compensation or set off against payments of compensation.

Regulation 17 provides that, where one party to pension compensation sharing has paid charges which were owed by the other party, the charges are recoverable as a debt by the party who made the payment.

Regulation 18 sets out the circumstances where the widow, widower or civil partner of a deceased transferee is not entitled to periodic compensation under Schedule 5 of the Act.

Regulation 19 explains that the annual rate and duration of compensation payable to a surviving partner of a deceased transferee is to be calculated in accordance with paragraphs 5(3) or 7(3) of Schedule 5 to the Act.

Regulation 20 sets out the circumstances in which any relevant partner or surviving dependant of a deceased transferee is entitled to compensation.

Regulation 21 specifies that, where a relevant partner is entitled to payment of periodic compensation, payment is to commence on the day following the transferee's death and is payable for life. Paragraph (2) explains that the amount of periodic compensation payable to a relevant partner is to be calculated in accordance with paragraphs 5(2) or 7(3) of Schedule 5 to the Act, depending on whether or not the transferee had attained pension compensation age (or would have attained pension compensation age) by the transfer day.

Regulation 22 sets out the method by which the amount of periodic compensation payable to a surviving dependant of a deceased transferee is to be calculated. This will vary depending on whether the transferee had attained pension compensation age (or would have attained pension compensation age) by the transfer day. It will also vary according to whether or not a surviving partner or relevant partner of the transferee is also entitled to periodic compensation, and according to the number of surviving dependants who are similarly entitled.

Regulation 23 specifies that where periodic compensation is payable to a surviving dependant, it is payable from the day following the transferee's death, unless the surviving dependant falls within paragraph (2), when it becomes payable at the specified time. Periodic compensation remains payable until the surviving dependant attains the age of 18, unless they are attending a qualifying course or are incapable of engaging in full time employment due to a disability, in which case payments will continue until the surviving dependant attains the age of 23.

Regulation 24 sets out the mechanism according to 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 compensation payable to the transferee in a case where the transferee attains pension compensation age on or after the transfer day.

Regulation 25 sets out the circumstances in which periodic compensation may be commuted and specifies that the transferee must have attained the age of 60, but not have attained the age of 75, by the nominated day.

Regulation 26 sets out the circumstances in which the portion of compensation to be commuted may exceed 25 per cent of the compensation.

Regulation 27 specifies the manner in which an option to commute may be exercised.

Regulation 28 specifies the conditions under which a transferee may become entitled to early payment of compensation.

Regulation 29 provides that, for the purpose of determining the annual increase in periodic compensation, the Board may determine how much of the service or notional service of the transferor should be treated as having occurred before 6<sup>th</sup> April 1997 and how much after that date.

Regulation 30 sets out the circumstances in which the compensation payable to the transferee may be subject to the compensation cap, and the method by which the amount payable is to be determined.

Regulation 31 amends Schedule 9 to the 2004 Act by inserting a new paragraph 16C in order to add a determination by the Board of a person's entitlement to compensation under Part 3 of the Act or Schedules 5, 6 or 7 of the Act to the list of "reviewable matters" for the purposes of section 206 of the 2004 Act.

Regulation 32 inserts a new paragraph into the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005. This provides that a transferee and a person who is or may be a surviving partner, relevant partner or surviving dependant, are 'interested persons' for the purposes of an application for a review of a decision of Board.

No Impact Assessment for this instrument has been produced as any impact on the private and voluntary sectors will be negligible. 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>.