

2018 No.

PENSIONS

**The Pension Protection Fund (Compensation) (Amendment)
(No. 2) Regulations 2018**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

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) of, and paragraph 33(1) of Schedule 7 to, the Pensions Act 2004^(a).

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) (No. 2) Regulations 2018 and come into force on [date] 2018.

Amendments to the Pension Protection Fund (Compensation) Regulations 2005

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

- (2) In regulation 1(2) (interpretation)^(c), omit the definition of “pensionable service”.
- (3) After Part 12 (variable-rate schemes)^(d) insert—

(a) 2004 c. 35. Paragraph 33 of Schedule 7 was amended by paragraph 15 of Schedule 8 to the Pensions Act 2008. Section 318(1) defines “prescribed” and “regulations”.
(b) S.I. 2005/670; relevant amending instruments are S.I.s 2005/2113, 2010/560, 2013/627 and 2016/294.
(c) There are amendments to regulation 1(2) but none are relevant.
(d) Part 12 was inserted by S.I. 2018/95.

“Part 13

Schemes which provide fixed pensions in respect of transfer payments

Schemes which provide fixed pensions in respect of transfer payments: modification of Schedule 7 to the Act

30.—(1) Schedule 7 to the Act has effect with the modifications set out in paragraphs (3) and (4) in relation to a scheme if, immediately before the assessment date, under the admissible rules of the scheme a person is entitled or has rights to a relevant fixed pension.

(2) A pension to which a person is entitled or has rights under a scheme is a “relevant fixed pension” for the purposes of this regulation if—

- (a) that entitlement or those rights (as the case may be) arose by virtue of a transfer payment to the scheme in respect of the person’s rights under another occupational or personal pension scheme;
- (b) the initial annual amount of the pension was specified at the time the transfer payment was received (whether or not that amount was subject to revaluation in respect of the period until the pension was to come into payment); and
- (c) the pension is neither—
 - (i) attributable (directly or indirectly) to a pension credit, nor
 - (ii) payable as a result of a person’s death.

(3) Paragraph 36 has effect as if after sub-paragraph (5) there were inserted—

“(6) For the purposes of this Schedule and any regulations made under it, where a person is entitled or has rights under a scheme to a pension and—

- (a) that entitlement or those rights (as the case may be) arose by virtue of a transfer payment to the scheme in respect of the person’s rights under another occupational or personal pension scheme;
- (b) the initial annual amount of the pension was specified at the time the transfer payment was received (whether or not that amount was subject to revaluation in respect of the period until the pension was to come into payment); and
- (c) the pension is neither—
 - (i) attributable (directly or indirectly) to a pension credit, nor
 - (ii) payable as a result of a person’s death,

the person is to be treated as having pensionable service within sub-paragraph (4)(b) to which that pension is attributable.”.

(4) Where compensation is payable under paragraph 15 of Schedule 7 to the Act (deferred members who have not attained normal pension age at assessment date) in respect of a relevant fixed pension—

- (a) paragraph 15 has effect in its application to that pension as if—
 - (i) in sub-paragraph (5) for “when the pensionable service relating to the pension ended” there were substituted “immediately after the relevant transfer payment was received”; and
 - (ii) after sub-paragraph (5) there were inserted—

“(5A) In sub-paragraph (5), “relevant transfer payment” means the transfer payment by virtue of which the deferred member’s rights to the pension were conferred under the scheme.”; and

- (b) except in a case to which regulation 15A(4) (modification of Schedule 7 for schemes with no revaluation) applies, paragraph 16 has effect in its application to that pension as if—

(i) in sub-paragraph (2)(a) for “deferred member’s pensionable service in respect of the pension ended” there were substituted “relevant transfer payment was received”; and

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

“(2A) In sub-paragraph (2)(a), “relevant transfer payment” means the transfer payment by virtue of which the deferred member’s rights to the pension were conferred under the scheme.”.

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

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Board of the Pension Protection Fund (“the Board”) is established by section 107 of the Pensions Act 2004 (c. 35) (“the 2004 Act”) to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer, where the pension scheme is underfunded below a certain level. The compensation payable to individual members is determined in accordance with Schedule 7 to the 2004 Act and regulations made under it, including the Pension Protection Fund (Compensation) Regulations 2005 (S.I. 2005/670) (“the Compensation Regulations”).

These Regulations make amendments to the Compensation Regulations to insert provisions modifying the effect of Schedule 7 to the 2004 Act in relation to certain schemes. Regulation 2(3) inserts a new regulation 30 into the Compensation Regulations. Paragraph (1) of new regulation 30 provides that the modifications apply to a scheme if, immediately before the assessment date, a person is entitled or has rights to a “relevant fixed pension” as defined in paragraph (2) of new regulation 30. A relevant fixed pension is defined as a pension which arose by virtue of a transfer payment to the scheme, where the initial amount of the pension was determined at the time the transfer payment was received. In addition, the pension must not be attributable to a pension credit, or payable as a result of a person’s death.

Paragraph (3) of new regulation 30 provides that, in cases to which the modifications apply, paragraph 36 of Schedule 7 to the 2004 Act has effect as if it included a new sub-paragraph (6). New sub-paragraph (6) provides that a person with a right or entitlement to a relevant fixed pension (defined in the same terms as in new regulation 30(2) of the Compensation Regulations) is to be treated, for the purposes of Schedule 7, as having pensionable service within paragraph 36(4)(b) (notional pensionable service), to which the relevant fixed pension is attributable.

In addition, paragraph (4) of new regulation 30 provides that, in relevant cases, paragraphs 15 and 16 of Schedule 7 to the 2004 Act have effect as if references to the time at which the member’s pensionable service in respect of the pension ended, were instead to the time at which the transfer payment which gave rise to the relevant fixed pension was received by the scheme.

These Regulations also delete the definition of “pensionable service” from regulation 1(2) of the Compensation Regulations, so that the definition of that term in paragraph 36 of Schedule 7 to the 2004 Act applies for the purposes of the Compensation Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.