

2017 No.

PENSIONS

**The Pension Protection Fund (Compensation) (Amendment)
Regulations 2017**

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - [15th January] 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 paragraph 33(1) and (2) 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) Regulations 2017 and come into force on [15th January] 2018.

Amendment to the Pension Protection Fund (Compensation) Regulations 2005

2. In the Pension Protection Fund (Compensation) Regulations 2005(b), after Part 11 (career average revalued earnings schemes) insert—

“Part 12

Variable-rate schemes: modification of Schedule 7 to the Act

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

- 28.—(1) This regulation applies to a scheme if—
- (a) an assessment period in relation to the scheme begins on or after [15th January] 2018;
 - (b) under the admissible rules of the scheme, immediately before the assessment date a person is entitled, or has accrued rights, to a pension (“the bridging pension”), the

(a) 2004 c. 35. Paragraph 33 of Schedule 7 to the Pensions Act 2004 was amended by paragraph 15 of Schedule 8 to the Pensions Act 2008 (c. 30). Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”.
(b) S.I. 2005/670. Part 11 was inserted by S.I. 2010/560.

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 decrease date”) that falls on or after the assessment date; and

- (c) compensation under paragraph 3 (pensions in payment at assessment date), 5 (pension benefits postponed at assessment date) or 15 (deferred members who have not attained normal pension age at assessment date) of Schedule 7 to the Act is payable to the person in respect of the bridging pension.

(2) The following modifications apply for the purpose of determining the compensation payable to the person in accordance with Schedule 7 to the Act as from the relevant date.

(3) In this regulation “the relevant date” means—

- (a) where compensation is payable in respect of the bridging pension under paragraph 3 or 5 of Schedule 7 to the Act, the assessment date; and
- (b) where compensation is payable in respect of the bridging pension under paragraph 15 of that Schedule, the earlier of—
 - (i) the date on which the member attains normal pension age in respect of the bridging pension; and
 - (ii) the date on which the member becomes entitled to compensation in respect of the bridging pension.

(4) Whichever of paragraphs 3(5), 5(4) and 15(5) of Schedule 7 to the Act applies in relation to the bridging pension has effect as if at the end there were inserted “, actuarially reduced in accordance with paragraph 32A (actuarial reduction in respect of bridging pensions)”.

(5) Schedule 7 to the Act applies as if after paragraph 32 (short periods of service which terminate on commencement of assessment period) there were inserted—

“Actuarial reduction in respect of bridging pensions

32A.—(1) The Board must determine the amount of the actuarial reduction to be applied under paragraph 3(5), 5(4) or 15(5).

(2) In determining the amount of the actuarial reduction the Board must have regard to—

- (a) the length of time between—
 - (i) the date on which entitlement to compensation in respect of the pension commences; and
 - (ii) the decrease date; and
- (b) the amount by which the annual rate of the pension would have decreased under the admissible rules of the scheme on the decrease date.

(3) For the purposes of sub-paragraph (2)(b), any increase in the annual rate of the pension to which the member would have been entitled on or after the assessment date is to be disregarded.

(4) In this paragraph “the decrease date” has the meaning given by regulation 28(1)(b) of the Pension Protection Fund (Compensation) Regulations 2005 (variable-rate schemes which provide for a decrease in annual rate of pension: modification of Schedule 7 to the Act).”.

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 insert a new regulation 28 into the Compensation Regulations to modify the effect of Schedule 7 to the 2004 Act in relation to certain schemes, where an assessment period begins in relation to the scheme on or after the date on which these Regulations come into force. Paragraph (1) of new regulation 28 provides that the modifications apply where periodic compensation is payable in respect of a pension to which a member is entitled, or has accrued rights, under the admissible rules of the scheme immediately before the assessment date, and the annual rate of the pension would have decreased on or after the assessment date.

Under Schedule 7 periodic compensation is usually calculated by reference to the annual rate of the pension immediately before the assessment date, or, where the pension is not yet payable, what would have been the initial annual rate. Paragraph (4) of new regulation 28 modifies Schedule 7 so that, where the pension would have decreased under the scheme rules on or after the assessment date, the annual rate used to calculate the compensation payable is actuarially reduced. Paragraph (5) modifies Schedule 7 to insert a new paragraph 32A in relevant cases, requiring the Board to determine the actuarial reduction having regard to specified matters.