DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No.

The Judicial Pensions Regulations (Northern Ireland) 2015

PART 8

Death benefits

CHAPTER 4

Payment of lump sum death benefits

Payment of lump sum death benefit

111.—(1) A lump sum death benefit is payable in respect of—

(a) an active, deferred or pensioner member of this scheme who dies; or

(b) a pension credit member of this scheme who dies before any benefits attributable (directly or indirectly) to a pension credit become payable.

(2) But a lump sum death benefit is not payable in respect of—

(a) a pensioner member who is not also an active member who dies more than 5 years after the member's full retirement pension or ill-health pension becomes payable; or

(b) a member who has reached the age of 75.

(3) Payment of a lump sum death benefit must be made within the period of 2 years beginning with the earlier of—

(a) the day on which the scheme manager first knew of the member's death; and

(b) the day on which the scheme manager could reasonably be expected to have known of the member's death.

(4) The scheme manager may decide not to pay a lump sum death benefit if it is impracticable to pay it.

Nominations for lump sum death benefits

112.—(1) A member of this scheme may nominate a person or persons to receive a lump sum death benefit.

(2) The member may nominate—

(a) one or more individuals;

(b) one incorporated or unincorporated body; or

(c) one or more individuals and one incorporated or unincorporated body.

(3) A nomination may specify how payments are to be apportioned between—

(a) 2 or more individuals; or

(b) one or more individuals and one incorporated or unincorporated body.

(4) A nomination may only be made by notice to the scheme manager in a form required by the scheme manager.

(5) A member may revoke or alter a nomination by notice to the scheme manager in a form required by the scheme manager.

Invalid nominations of individuals

113.—(1) If the nomination of an individual is invalid, any lump sum death benefit that would have been payable to the individual is payable to the member's personal representatives.

(2) A nomination of an individual is invalid if—

(a) the individual nominated is the member's spouse or civil partner and the individual is not the member's spouse or civil partner when the member dies;

(b) the individual predeceases the member; or

(c) the individual is convicted of the offence of murder of the member.

(3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of manslaughter of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

Payment of lump sum death benefit to nominees or personal representatives

114.—(1) The scheme manager may pay a lump sum death benefit to—

(a) the person or persons nominated by the member under regulation 112 ("the nominees");

(b) the member's personal representatives; or

(c) both the nominees and the member's personal representatives.

(2) If the scheme manager decides to pay all or part of the lump sum death benefit to the nominees and more than one individual has been nominated, the payment is to be made to them—

(a) in the proportions specified by the member in the nomination; or

(b) if the member has not specified proportions, in the proportions the scheme manager considers appropriate.

(3) If the scheme manager decides to pay the lump sum death benefit to both the nominees and the personal representatives, the payment is to be made to them in the proportions the scheme manager considers appropriate.

Members affected by court orders to former spouses and civil partners on death

115.—(1) This regulation applies if on a member's death the scheme manager is required under a court order to pay any part of a lump sum death benefit to the member's former spouse or civil partner.

(2) The amount of lump sum death benefit payable under regulation 114 is first determined as if no such order had been made, and then this Part applies as if the amount payable under regulation 114 were reduced by the amount payable under the court order.

Pension protection lump sum death benefit

116.—(1) A lump sum death benefit is treated for the purposes of the 2004 Act as a pension protection lump sum death benefit if and to the extent that—

(a) the member has given written notice to the scheme manager that the lump sum death benefit is to be so treated; and

(b) any other conditions that are required to be met for the lump sum death benefit to be so treated are met (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to the 2004 Act(**1**)).

(2) Tax may be deducted from the lump sum death benefit if the scheme manager is liable for tax under section 206 (special lump sum death benefits charge) of the 2004 Act(**2**) in respect of a pension protection lump sum death benefit.

Recovery of payments

117. The scheme manager may recover a lump sum death benefit paid to any person if the person's nomination is subsequently found to be invalid.

Payment of pension instead of lump sum for members who have reached the age of 75

118.—(1) This regulation applies if a member dies–

(a) after reaching the age of 75, and

(b) before the fifth anniversary of the date on which a pension became payable to the member.

(2) The scheme manager may pay the pension to—

(a) the person or persons nominated by the member under regulation 112 ("the nominees");

(b) the member's personal representatives; or

(c) both the nominees and the member's personal representatives.

(3) The scheme manager is to pay the pension in the proportions the scheme manager considers appropriate if—

(a) the scheme manager decides to pay all or part of the pension to the nominees and more than one individual has been nominated; or

(b) the scheme manager decides to pay the pension to both the nominees and the personal representatives.

(4) A pension payable under this regulation—

(a) is payable for the pension protection period; and

(b) must be equal to the sum of—

(i) the pension that would have been payable to the member had the member lived until the end of the pension protection period; and

(ii) any increases in the annual rate of that pension under the 1971 Act during that period.

(5) In this rule "the pension protection period" means the period from the date of the member's death until the fifth anniversary of the date on which the member's pension became payable.

(**1**) Paragraph 14 was amended by the Finance Act 2011 (c. 11) Schedule 16 paragraphs 32 and 34.

(**2**) Section 206 was amended by the Finance Act 2011 (c. 11) Schedule 16 paragraph 41 and the Finance Act 2013 (c. 29) Schedule 46 paragraphs 119 and 123.