
STATUTORY INSTRUMENTS

2015 No. 94

The National Health Service Pension Scheme Regulations 2015

PART 6

Survivor benefits

CHAPTER 1

Adult survivor

Lump sum on death

112. A lump sum is payable in accordance with Schedule 14 in respect of the death of—

- (a) an active member;
- (b) a deferred member;
- (c) a pensioner member;
- (d) a recent leaver (within the meaning of that Schedule);
- (e) a re-employed pensioner (within the meaning of that Schedule);
- (f) a partial retirement pensioner (within the meaning of that Schedule); or
- (g) a pension credit member.

Surviving adult dependant pension

113.—(1) If an active member, a deferred member or a pensioner member dies leaving a surviving adult dependant, the surviving adult dependant is entitled to a pension payable for life.

(2) In this Part, “surviving adult dependant” means, in relation to a deceased member or former member—

- (a) the surviving spouse;
- (b) the surviving civil partner; or
- [^{F1}(c) a surviving scheme partner.]

(3) For the rate at which the pension is payable, see regulations 115 to 119.

Textual Amendments

- F1** [Reg. 113\(2\)\(c\)](#) substituted (with effect from 1.4.2015, in accordance with reg. 1(5) of the amending S.I.) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), reg. 1(2)(5), **86**

[^{F2}**Surviving scheme partner**

114.—(1) A person (P) is the scheme partner of a member if –

- (a) the member and P are living together as if they are husband and wife or civil partners,
- (b) the member and P are not prevented from marrying or entering a civil partnership,
- (c) the member and P are financially interdependent or P is financially dependent on the member, and
- (d) neither the member or P is living with a third person as if they are husband and wife or civil partners.

(2) A person is a surviving scheme partner of a member if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member's death, the person was the scheme partner of that member.]

Textual Amendments

- F2** [Reg. 114](#) substituted (with effect from 1.4.2015 of the amending S.I.) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), reg. 1(2)(5), **87**

Amount of pension: survivor of active member

115.—(1) This regulation applies in relation to the surviving adult dependant of an active member.

(2) Paragraph (4) applies in respect of a pension payable during the initial period if the amount found under that paragraph is greater than the amount payable if this paragraph did not apply.

(3) In any other case, the rate of pension is determined by whichever paragraphs (5), (6) and (8) applies to the member.

(4) The rate of pension payable under regulation 113 is equal to—

- (a) if the member was in non-practitioner employment, the rate of the member's pensionable earnings at the time of death;
- (b) if the member was a practitioner or non-GP provider, the rate of the member's pensionable earnings during the last complete quarter before the member's death,

plus, in either case, if the member had made an additional pension election under regulation 55(3) (b) (self and survivor), 37.5% of the amount of the additional pension to which the member was entitled at the date of death.

(5) If the member dies with not less than 2 years of qualifying service, the annual amount of pension payable under regulation 113 is equal to—

- (a) if the member has not reached the prospective normal pension age, 33.75% of the notional Tier 2 IHP;
- (b) if the member has reached the prospective normal pension age, 33.75% of the notional age retirement pension.

(6) If the member dies with less than 2 years of qualifying service having reached the prospective normal pension age, the annual amount of pension payable under regulation 113 is equal to 33.75% of the notional age retirement pension.

(7) This paragraph applies if—

- (a) the member dies with less than 2 years' qualifying service before reaching the prospective normal pension age; and
- (b) the surviving adult dependant has a guaranteed minimum pension under section 17 of the 1993 Act in relation to benefits in respect of the deceased member under this scheme.

(8) If paragraph (7) applies—

- (a) the annual amount of the pension payable under regulation 113 is equal to the guaranteed minimum pension; but
- [^{F3}(b) sub-paragraph (a) does not apply if—
- (i) the Secretary of State’s liability to provide a guaranteed minimum pension in respect of the surviving adult dependent is discharged by the payment of a contributions equivalent premium under section [^{F4}55] of the 1993 Act [^{F5}or article 3 of the 2016 Order], or
 - (ii) a surviving widow, widower or surviving civil partner has been convicted of an offence specified in paragraph 12 of Schedule 3 and the Secretary of State directed, as a consequence of that conviction, that the person’s rights to a payment in respect of the member’s death is forfeit.]
- (9) In this regulation—
- “the initial period” is the period of six months starting on the day after the member's death;
- “the notional Tier 2 IHP” is the amount of pension the member would have received if, at the date of death, the member had become entitled to a pension under regulation 90(1)(b)—
- (a) disregarding the amount of any additional pension taken into account for the purposes of regulation 92(1)(c); and
 - (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), adding 37.5% of that amount;
- “the notional age retirement pension” is the amount of pension the member would have received if, at the date of death, the member had become entitled to a pension under regulation 73 (ignoring any increase under regulation 75)—
- (a) disregarding the amount of any additional pension taken into account for the purposes of paragraph 1(d) of Schedule 13; and
 - (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), adding 37.5% of that amount;
- “non-practitioner employment” is employment other than as a practitioner or a non-GP provider.

Textual Amendments

- F3** Reg. 115(8)(b) substituted (6.4.2016) by [The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions \(Amendment\) Regulations 2016 \(S.I. 2016/245\)](#), regs. 1(3), **69** (with reg. 105)
- F4** Word in reg. 115(8)(b)(i) substituted (6.4.2019) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), regs. 1(3), **88(a)**
- F5** Words in reg. 115(8)(b)(i) inserted (6.4.2019) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), regs. 1(3), **88(b)**

Amount of pension: survivor of pensioner member

116.—(1) This regulation applies in relation to the surviving adult dependant of a pensioner member.

(2) Paragraph (3) applies in respect of a pension payable during the initial period if the amount found under that paragraph is greater than the sum of—

- (a) the amount payable if this paragraph did not apply; and
 - (b) the amount of the pensions otherwise payable under Chapter 2.
- (3) The rate of pension payable under regulation 113 is equal to the rate of the member's pension in payment at the time of death.
- (4) If paragraph (3) does not apply, the rate of pension payable under regulation 113 is equal to the sum of—
- (a) 33.75% of the pension to which the member was entitled at the date of death (disregarding any additional pension); and
 - (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), 37.5% of the amount of the additional pension to which the member was entitled at the date of death.
- (5) In calculating the amount of a pension pursuant to paragraph (3) the following must be ignored—
- (a) the conversion amount (see paragraph 10 of Schedule 9);
 - (b) any reduction in the rate of the member's pension under regulation 103.
- (6) In calculating the amount of a pension pursuant to paragraph (4) the following must be ignored—
- (a) the conversion amount (see paragraph 10 of Schedule 9);
 - (b) any actuarial adjustment.
- (7) The initial period is—
- (a) if the member leaves one or more eligible children who are dependent on the surviving adult dependant, the period of six months starting with the day after the member's death;
 - (b) in any other case, the period of three months starting with that day.
- (8) For the purposes of paragraph (7), a child born after the member's death is treated as having been born before it.
- (9) Paragraph (10) applies if, pursuant to regulation 95(4), a member who was entitled to an ill health pension at Tier 2 ceases to be entitled to that pension and becomes entitled to an ill-health pension at Tier 1 and the member—
- (a) is in further NHS employment and dies before the end of the initial period for the purposes of regulation 95; or
 - (b) is in further employment that is not NHS employment and dies before the end of a period of one year starting with the day on which the further employment ceased to be an excluded employment for the purposes of that regulation.
- (10) The member's pension referred to in paragraph (3) is the original ill-health pension at Tier 2.

Amount of pension: deferred members

- 117.**—(1) Paragraph (2) applies in the case of a deferred member—
- (a) who left pensionable service less than 12 months before the date of death; and
 - (b) whose surviving adult dependant would have been the member's surviving adult dependant if the member had died on the member's last day of pensionable service.
- (2) The rate of the pension payable to the surviving adult dependant is equal to 33.75% of the member's notional Tier 2 IHP.

(3) In the case of any other deferred member, the rate of pension payable is 33.75% of the amount of pension the member would have received if, at the date of death, the member had become entitled to a pension under regulation 73—

- (a) disregarding the amount of any additional pension taken into account for the purposes of paragraph 1(d) of Schedule 13; and
- (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), adding 37.5% of that amount.

(4) In paragraph (2), the notional Tier 2 IHP is the amount of pension the member would have received if, on the date the member's pensionable service ceased, the member had become entitled to a pension under regulation 90(1)(b)—

- (a) disregarding the amount of any additional pension taken into account for the purposes regulation 92(1)(c); and
- (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), adding 37.5% of that amount.

(5) In this regulation, “the notional Tier 2 IHP” has the same meaning as in regulation 115(9).

Recent leavers

118.—(1) This regulation applies if—

- (a) a recent leaver dies leaving a surviving spouse or civil partner who has a guaranteed minimum under section 17 of the 1993 Act^{M1} in relation to benefits in respect of the recent leaver under this scheme; and
- (b) the leaver has died before reaching the normal pension age.

(2) The surviving spouse or civil partner is entitled to a pension payable for life of an amount equal to the [^{F6}surviving spouse’s or surviving civil partner’s] guaranteed minimum pension (disregarding any additional pension).

[^{F7}(3) Paragraph (2) does not apply if—

- (a) the Secretary of State’s liability to provide a guaranteed minimum pension in respect of the surviving spouse or civil partner is discharged by the payment of a contributions equivalent premium under section [^{F8}55] of the 1993 Act [^{F9}or article 3 of the 2016 Order], or
- (b) a surviving widow, widower or surviving civil partner has been convicted of an offence specified in paragraph 12 of Schedule 3 and the Secretary of State directed, as a consequence of that conviction, that the person’s rights to a payment in respect of the member’s death is forfeit.]

(4) In this Part, “recent leaver” means a person—

- (a) who left pensionable service less than 12 months before the date of death;
- (b) who is neither qualified for a retirement pension pursuant to regulation 72 nor is a pensioner member because of rights resulting from that employment; and
- (c) in respect of whom no transfer value or refund of contributions has been paid in respect of that employment.

Textual Amendments

F6 Words in reg. 118(2) substituted (1.4.2015) by [The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions \(Amendment\) Regulations 2016 \(S.I. 2016/245\)](#), regs. 1(8), **70(2)** (with reg. 105)

- F7** Reg. 118(3) substituted (6.4.2016) by The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2016 (S.I. 2016/245), regs. 1(3), **70(3)** (with reg. 105)
- F8** Word in reg. 118(3)(a) substituted (6.4.2019) by The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations 2019 (S.I. 2019/418), regs. 1(3), **89(a)**
- F9** Words in reg. 118(3)(a) inserted (6.4.2019) by The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations 2019 (S.I. 2019/418), regs. 1(3), **89(b)**

Marginal Citations

- M1** Section 17 has been amended by section 1(1) of, and paragraph 39 of Schedule 1 to, the [Social Security Contributions \(Transfer of Functions, etc\) Act 1999 \(c.2\)](#), [sections 56](#) and 85 of, and paragraph 1 of Schedule 5 and 3(4) of Schedule 9 to, the [Child Support, Pensions and Social Security Act 2000 \(c.19\)](#), [section 284\(2\)](#) of the [Pensions Act 2004 \(c.35\)](#), [section 14\(2\)](#) of the [Pensions Act 2007 \(c.22\)](#), [section 11\(4\)](#) of, and paragraphs 18 and 20(1), (2)(b), (3), (5) and (6) of Schedule 4 to, the [Marriage \(Same Sex Couples\) Act 2013 \(c.30\)](#) and S.I. 2005/2050 and 2014/560, and is prospectively amended by section 24(1) of, and paragraphs 1 and 17 of Schedule 13 to, the [Pensions Act 2014 \(c.19\)](#).

Re-employed pensioners: adult survivor pensions in initial period

119.—(1) This regulation applies if, apart from this regulation, both regulations 115(4) and 116(3) apply on the death of a member.

(2) If this regulation applies, the rate of pension payable by virtue of these regulations during the initial period (as defined in the respective regulations) is the rate provided in paragraph (3).

(3) For the relevant initial period, the rate of pension payable is equal to the sum of amounts A and B.

(4) Amount A is, in the case of a deceased active member, the rate of the deceased's pensionable earnings at the time of death.

(5) Amount B is the rate of the deceased member's pension payable at the time of death after taking account of—

- (a) the conversion amount (see paragraph 10 of Schedule 9);
- (b) any reduction in the rate of the member's pension under regulation 103.

(6) Paragraph (4) does not apply if—

- (a) the rate of the pension payable to the surviving adult in respect of later service; and
- (b) any children's pension that would otherwise be payable in respect of later service under Chapter 2,

would be greater.

Polygamous marriage

120.—(1) This regulation applies if—

- (a) a member dies without leaving a surviving adult dependant;
- (b) at the date of death, the member was married to one or more persons under a law which permits polygamy; and
- (c) had the member left a surviving adult dependant any benefit would have been payable to that dependant as such.

(2) The benefit mentioned in paragraph (1)(c) is payable—

- (a) if there is only one such person mentioned in paragraph (1)(b), to that person;
 - (b) if there are two or more such persons, to those persons in equal shares.
- (3) Such a person's share of a pension does not increase on the death of any other such person.

CHAPTER 2

Child survivor

Surviving child's pension

121.—(1) This regulation applies if—

- (a) a member or recent leaver dies leaving an eligible child; or
- (b) an eligible child of the member or recent leaver is born after the date of death.

(2) A pension is payable in respect of an eligible child.

(3) A pension ceases to be payable if the child ceases to be an eligible child.

(4) If there are two or more eligible children, the share of the pension to which each of them is entitled is determined in accordance with guidance published by the scheme manager for the purposes of this paragraph.

(5) An amount payable to an eligible child is payable—

- (a) to the eligible child; or
- (b) if the scheme manager so decides, to another person for the eligible child.

(6) Paragraph (7) applies to an eligible child if—

- (a) at the date of death, the child is dependent on an adult; and
- (b) the adult is entitled to a pension under regulation 113.

(7) For any period in which the surviving adult's pension is payable at the rate specified in regulation 116(3) or 119(5), the eligible child is entitled to payment only of so much of the pension as is attributable to an additional pension.

(8) Paragraph (9) applies if an eligible child—

- (a) is incapable for any period of earning a living because of a physical or mental infirmity; and
- (b) for a period exceeding one month, is maintained out of money provided by Parliament in a hospital or other institution.

(9) No pension is payable in respect of the child for any part of the period after the first month.

(10) If, apart from this paragraph, multiple pensions would be payable in respect of a person as an eligible child of three or more persons each of whom was a deceased member or recent leaver—

- (a) the entitlements to the pensions are treated as entitlement on the death of only two of those persons; and
- (b) the amount payable is equal to the sum of the two pensions which are the highest.

Eligible child

122.—(1) A person is an eligible child in relation to a deceased member or recent leaver (DMR) if the child—

- (a) meets the relationship condition;
- (b) meets the age or health dependency condition; and
- (c) meets the birth and dependency condition.

- (2) A person meets the relationship condition if the person is any of the following—
- (a) a natural child or grandchild of the DMR;
 - (b) an adopted child of the DMR who was adopted while the DMR was an active member;
 - (c) a step-child of the DMR whose natural or adoptive parent is the DMR's surviving spouse or civil partner from a marriage entered into or a civil partnership formed, while the DMR was an active member;
 - (d) a person whose natural or adoptive parent is the DMR's surviving [^{F10}scheme partner] if, at the time the DMR ceased to be an active member, the DMR was living with the partner as mentioned in [^{F11}regulation 114(1)(a) and (d)];
 - (e) a brother or sister, or child of a brother or sister, of—
 - (i) the DMR; or
 - (ii) the DMR's spouse, civil partner or [^{F12}surviving scheme partner];
 - (f) a half-brother or half-sister, or child of a half-brother or half-sister of—
 - (i) the DMR member; or
 - (ii) the DMR member's spouse, civil partner or [^{F13}surviving scheme partner];
 - (g) a person who the scheme manager believes the DMR intended, at the time the DMR ceased to be an active member, to adopt;
 - (h) a person who at the time the DMR ceased to be an active member had been dependent on the DMR for—
 - (i) two years; or
 - (ii) if less, half the person's life.
- (3) A person meets the age or health dependency condition if—
- (a) the person has not attained the age of 23; or
 - (b) the scheme manager believes—
 - (i) that the person was financially dependent on the DMR at the date of death because of the person was incapable of earning a living in consequence of physical or mental impairment; and
 - (ii) that the person continues to be incapable of earning a living in consequence of the impairment.
- (4) A person meets the birth and dependency condition if—
- (a) the person was born before the DMR ceased to be an active member and—
 - (i) was dependent on the DMR at the date of death; and
 - (ii) if the date of death was after the DMR ceased to be an active member, was dependent on the DMR at the time the DMR ceased to be an active member; or
 - (b) the person was born not more than one year after the DMR ceased to be an active member and—
 - (i) was dependent on the DMR both at birth and at the date of death; or
 - (ii) if the person was born after the DMR's death, would have been dependent on the DMR had the DMR not died before the person's birth.

Textual Amendments

- F10** Words in [reg. 122\(2\)\(d\)](#) substituted (with effect from 1.4.2015, in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), [reg. 1\(2\)\(5\)](#), **90(2)(a)**
- F11** Words in [reg. 122\(2\)\(d\)](#) substituted (with effect from 1.4.2015, in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), [reg. 1\(2\)\(5\)](#), **90(2)(b)**
- F12** Words in [reg. 122\(2\)\(e\)\(ii\)](#) substituted (with effect from 1.4.2015, in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), [reg. 1\(2\)\(5\)](#), **90(3)**
- F13** Words in [reg. 122\(2\)\(f\)\(ii\)](#) substituted (with effect from 1.4.2015, in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), [reg. 1\(2\)\(5\)](#), **90(4)**

Amount of child pension: deceased active member

123.—(1) This regulation determines the annual amount of pension payable under regulation 121 if, at the date of death, the deceased was—

- (a) an active member of this scheme; and
 - (b) not also a pensioner member of this scheme.
- (2) The amount, unless paragraph (6) or (7) applies, is the appropriate fraction of—
- (a) the basic death pension; plus
 - (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), 75% of the amount of the additional pension.
- (3) The basic death pension is found by applying the following formula:

$$\left(FP + \frac{A \times B}{C} - A \right) \times 67.5\%$$

where—

FP is the amount of full retirement earned pension which, if at the date of death the deceased had become entitled to an ill-health pension, would be specified in the pensioner member's account;
A is the aggregate of the amounts of all of the member's pensions from pensionable service on the day after the member's last day of pensionable service (L+1)—

- (i) disregarding any additional pension; and
 - (ii) including any increases applied by virtue of the Pensions (Increase) Act 1971 ^{M2}[^{F14}on L+1];
- B is the period counted in days which is the greater of—
- (i) the aggregate of the total period of pensionable service counted in days over which the pensions referred to in A were accrued and 50% of the length of the period starting on L+1 and ending on the day [^{F15}before] the deceased would have reached prospective normal pension age; and
 - (ii) 10 years;

C is the total period of pensionable service counted in days over which the pensions aggregated to find A were accrued,

and for the purposes of B and C, any part of a day is taken to be a whole day.

(4) The appropriate fraction is shown in column 3 of the following table against the description of circumstances in columns 1 and 2 to which it relates.

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Surviving adult: pension entitlement and relationship to eligible child</i>	<i>Number of eligible children</i>	<i>Appropriate fraction</i>
A. There is a surviving parent or a surviving spouse or civil partner of a parent and a surviving adult's pension is payable under regulation 113	One eligible child	$\frac{1}{4}$
	Two or more eligible children	$\frac{1}{2}$
B. There is a surviving parent or a surviving spouse or civil partner of a parent but no pension is payable under regulation 113	One eligible child	$\frac{1}{3}$
	Two or more eligible children	$\frac{2}{3}$
C. There is no surviving parent or spouse or civil partner of parent.	One eligible child	$\frac{1}{3}$
	Two or more eligible children	$\frac{2}{3}$

(5) Paragraph (6) applies if—

- (a) a surviving adult dependent's pension is payable under regulation 113; and
- (b) there is an eligible child who is not dependent on the person entitled to the pension.

(6) The rate of pension payable in respect of the child for the first three months after the deceased's death is equal to—

- (a) if the deceased member was in non-practitioner employment, the rate of the member's pensionable earnings at the time of death;
- (b) if the deceased member was a practitioner or non-GP provider, the average rate of the member's pensionable earnings during the last complete quarter before the member's death.

(7) Where entry B or C of column 1 of the table in paragraph (4) applies, the rate of the pension in respect of an eligible child for the period of six months starting with the deceased's death is equal to—

- (a) if the deceased member was in non-practitioner employment, the rate of the member's pensionable earnings at the time of death;
- (b) if the deceased member was a practitioner or non-GP provider, the average rate of the member's pensionable earnings during the last complete quarter before the member's death.

(8) Non-practitioner employment is employment other than as a practitioner or non-GP provider.

Textual Amendments

- F14** Words in reg. 123(3) inserted (1.4.2017) by [The National Health Service Pension Scheme and Additional Voluntary Contributions \(Amendment\) Regulations 2017 \(S.I. 2017/275\)](#), regs. 2(c), **41**
- F15** Word in reg. 123(3) inserted (1.4.2015) by [The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions \(Amendment\) Regulations 2016 \(S.I. 2016/245\)](#), regs. 1(8), **71** (with reg. 105)

Marginal Citations

M2 1971 c.56.

Amount of child pension: deceased pensioner member

124.—(1) This regulation determines the annual amount of pension payable under regulation 121 if, at the date of death, the deceased—

- (a) was a pensioner member of this scheme; and
 - (b) was not also an active member.
- (2) The amount is the appropriate fraction of—
- (a) the basic death pension; plus
 - (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), 75% of the amount of the additional pension.
- (3) The basic death pension is the greater of—
- (a) 67.5% of the deceased's annual pension (disregarding any additional pension); and
 - (b) the amount found by applying the following formula:

$$\left(\frac{A}{C} \times 3650 \right) \times 67.5\%$$

where—

[^{F16}A is the deceased's annual pension not including any Tier 2 addition determined in accordance with regulation 92(3);]

C is the total period of pensionable service counted in days over which the pensions aggregated to find A were accrued,

and for the purposes of C, any part of a day is taken to be a whole day.

- (4) The appropriate fraction is as determined by regulation 123(4).
- (5) Paragraph (6) applies if—
- (a) a surviving adult dependent's pension is payable under regulation 113; and
 - (b) there is an eligible child who is not dependent on the person entitled to the pension.
- (6) The rate of pension payable in respect of the child for the first three months after the deceased's death is equal to the rate of the member's pension at the date of death.
- (7) Where entry B or C of column 1 of the table in paragraph (4) of regulation 123 applies, the rate of the pension in respect of an eligible child for the period of six months starting with the deceased's death is equal to the greater of—
- (a) the rate of the member's pension at the date of death disregarding any reduction under Chapter 7 of Part 5 (abatement); and
 - (b) the amount of child pension that would otherwise be payable under these Regulations.
- (8) A reference to the deceased's pension for the purposes of paragraph (3)(a) and (b) is a reference to the amount the deceased's pension would have been if it was calculated—
- (a) without subtracting the conversion amount (see paragraph 10 of Schedule 9); and
 - (b) in the case of a pension which was payable to the deceased pursuant to regulation 79, 82 or 84, without the reduction under paragraph 6(1)(b) or 7(1)(b) of Schedule 13.

Textual Amendments

F16 Words in [reg. 124\(3\)\(b\)](#) substituted (1.4.2015) by [The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions \(Amendment\) Regulations 2016 \(S.I. 2016/245\)](#), regs. 1(8), **72** (with [reg. 105](#))

Amount of child pension: deceased deferred member

125.—(1) This regulation determines the annual amount of pension payable under regulation 121 if, at the date of death, the deceased—

- (a) was a deferred member of this scheme; and
- (b) was not also^{F17} ... a pensioner member.

(2) The amount is the appropriate fraction of—

- (a) the basic death pension; plus
- (b) if the member had made an additional pension election under regulation 55(3)(b) (self and survivor), 75% of the amount of the additional pension.

(3) The basic death pension is—

- (a) if the date of death is before the end of the period 12 months starting on the day after the deceased ceased to be an active member, the amount found by applying the formula in regulation 123(3);
- (b) in any other case, the greater of—
 - (i) 67.5% of the pension which would have been payable if, at the date of death, the deceased had become entitled to a pension under regulation 73, but in calculating that pension under paragraph 1 of Schedule 13 sub-paragraph (d) must be ignored; and
 - (ii) the amount found by applying the formula in regulation 124(3).

(4) The appropriate fraction is shown in column 3 of the following table against the description of circumstances in columns 1 and 2 to which it relates.

Table

<i>Column 1</i> <i>Surviving adult: pension entitlement and relationship to eligible child</i>	<i>Column 2</i> <i>Number of eligible children</i>	<i>Column 3</i> <i>Appropriate fraction</i>
A. There is a surviving parent or a surviving spouse or civil partner of a parent and a surviving adult's pension is payable under regulation 113	One dependent child	¼
	Two or more eligible children	½
B. In any other case	One eligible child	⅓
	Two or more eligible children	⅔

Textual Amendments

F17 Words in [reg. 125\(1\)\(b\)](#) omitted (1.4.2015) by virtue of [The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions \(Amendment\) Regulations 2016 \(S.I. 2016/245\)](#), regs. 1(8), **73** (with [reg. 105](#))

Amount of child pension: recent leavers

126.—(1) This regulation applies to determine the annual amount of pension payable under regulation 121 if, at the date of death, the deceased was a recent leaver (within the meaning of regulation 118(4)).

- (2) The amount is the appropriate fraction of the basic death pension.
- (3) The basic death pension is the amount found by applying the formula in regulation 123(3).
- (4) The appropriate fraction is as determined by regulation 125(4).

Power to increase pension for children not maintained by surviving parent etc.

127.—(1) This regulation applies if—

- (a) a member dies leaving an eligible child;
- (b) there is a surviving parent of the eligible child or a surviving spouse or civil partner of a parent of the eligible child; and
- (c) the eligible child is not maintained by the surviving parent, spouse or partner.

(2) The scheme manager may increase the amount of the pension that would otherwise be payable under this Chapter.

(3) The increased amount must not exceed the amount that would have been payable under this Chapter if there had been no such surviving parent or spouse or partner of a parent.

Amount of child pension: re-employed pensioners

128.—(1) This regulation applies to determine the annual amount of pension payable under regulation 121 if, at the date of death, the deceased was—

- (a) an active member of this scheme; and
- (b) a pensioner member of this scheme.

(2) If there is no surviving adult, in relation to the period of 6 months starting on the day after the date of death, the rate of pension is equal to the sum of—

- (a) the rate of the deceased's pensionable earnings at the date of death; and
- (b) the rate of the pension being received by the deceased at the date of death.

(3) In paragraph (2), rate of pensionable earnings for a member who was a practitioner or non-GP provider is the rate during the last complete quarter before the member's death.

(4) Apart from paragraph (2), the amount is the appropriate fraction of—

- (a) if, at the date of death, the deceased has not reached normal pension age, the amount found by applying the formula in regulation 123(3);
- (b) in any other case, 67.5% of the pension to which the deceased would have been entitled in accordance with regulation 74 (see paragraph 1 of Schedule 13).

(5) The appropriate fraction is as determined by regulation 123(4).

(6) Paragraph (7) applies if an eligible child was dependent both—

- (a) at the time when the pensionable service in respect of which the pension is payable ceased; and
- (b) at the date of death.

(7) The amount is the sum of—

- (a) the amount payable under regulation 123 in respect of the deceased's new employment—
 - (i) if paragraph (1)(b) of that regulation did not apply; and

- (ii) ignoring paragraph (b) of element B in the formula in paragraph (3) of that regulation; and
 - (b) the amount found under regulation 124(3)(a) in respect of the deceased's old employment if paragraph (1)(b) of that regulation did not apply.
- (8) For the purposes of paragraph (7)—
- (a) if the aggregate of the periods of pensionable service taken into account in determining the amounts under sub-paragraphs (a) and (b) is less than 10 years, the period to be taken into account for the purposes of paragraph (a) must be increased by a period equal to the length of the difference;
 - (b) “new employment” and “old employment” must be construed in accordance with Chapter 7 of Part 5.

Provisional awards of eligible child's pensions: later adjustments

129.—(1) This regulation applies where—

- (a) an active member, deferred member, recent leaver or pensioner member of this scheme has died;
- (b) a pension is paid in respect of one or more persons under this Chapter on the basis that they were eligible children as at the date of the member's death and that there were then no other eligible children; and
- (c) it later appears that—
 - (i) a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
 - (ii) on that date a further person was an eligible child; or
 - (iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters referred to in paragraph (1)(c), as applicable.

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

CHAPTER 3

General

Suspension and recovery of pensions paid under this Part

130.—(1) This regulation applies if—

- (a) on a member's death a pension has been awarded and paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension has been paid knowingly made a false declaration or deliberately suppressed a material fact in connection with the award.

(2) The scheme manager may—

- (a) cease paying the pension; and
- (b) recover any payment made under the award.

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme Regulations 2015, PART 6.