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STATUTORY RULES OF NORTHERN IRELAND

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**2008 No. 256**

**The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008**

**PART 2**

**BENEFITS FOR OFFICERS**

**CHAPTER 5**

**DEATH BENEFITS**

*Pensions for dependent children*

**Amount of children's pension under regulation 74: deceased pensioner members**

77.—(1) This regulation applies for determining the annual amount of the pension payable under regulation 74(1) (surviving children's pensions) if at the date of death the deceased was a pensioner member of [<sup>F1</sup>this Section of] the Scheme who was not also an active member [<sup>F2</sup>or a non-contributing member] .

(2) Subject to paragraphs (5), (6) and (7) that amount is the appropriate fraction of the basic death pension.

(3) In this regulation “the basic death pension” means the greater of—

- (a) 75% of the deceased's annual pension (disregarding any additional pension), and
- (b) 75% of the annual pension to which the deceased would have been entitled if the deceased had been entitled to count 10 years' pensionable service (disregarding any additional pension).

[<sup>F3</sup>In the case of a 2008 Section Optant, this is subject to regulation 136X [<sup>F4</sup>and in the case of a Waiting Period Joiner, this is subject to regulation 136ZC].]

(4) In this regulation “the appropriate fraction” means—

- (a) if there is a surviving parent of the dependent child or children or a surviving spouse or civil partner of a parent of the dependent child or children and a surviving adult dependant's pension is payable under regulation 67—
  - (i) one-quarter if there is only one dependent child, and
  - (ii) one-half if there are two or more dependent children,
- (b) if there is such a parent or spouse or partner of a parent, but no surviving adult dependant's pension is payable under regulation 67—
  - (i) one-third if there is only one dependent child, and
  - (ii) two-thirds if there are two or more dependent children,
- (c) if there is no such parent or spouse or partner of a parent—

- (i) one-third if there is only one dependent child, and
- (ii) two-thirds if there are two or more dependent children.

(5) If—

- (a) a surviving adult dependant's pension is payable under regulation 67, and
- (b) there is a dependent child who is not dependent on the person entitled to that pension,

the rate of the pension in respect of that child for the first 3 months after the deceased's death is equal to the rate of the member's pension at the date of death (disregarding any additional pension).

[<sup>F5</sup>(6) In a case within paragraph (4)(b) or (c), the rate of the pension in respect of the dependent child or children for the period of 6 months beginning 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 made under Chapter 8 (Abatement) and any additional pension, and
- (b) the amount of children's pension that would otherwise be payable under these Regulations.]

(7) If the deceased member's pension was payable under regulation 48 (early payment of pensions with actuarial reduction), the reference in paragraph (3) (a) and (b) to the member's pension is a reference to the amount that the member's pension would have been if it had been calculated without the reduction mentioned in paragraph (2)(b) of that regulation.

[<sup>F6</sup>(8) For the purposes of paragraphs (1) and (2), any reduction in the member's pension under regulation 58 and regulation 136L will be ignored.]

#### Textual Amendments

- F1** Words in [reg. 77\(1\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [reg. 1\(2\)](#), **Sch. 2 Pt. 1**
- F2** Words in [reg. 77\(1\)](#) added (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), [regs. 1\(2\)](#), **39**
- F3** Words in [reg. 77\(3\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [regs. 1\(2\)](#), **43(2)**
- F4** Words in [reg. 77\(3\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/286\)](#), **Pt. 3 reg. 27**, [reg. 1\(2\)](#)
- F5** [Reg. 77\(6\)](#) substituted (retrospective and with effect in accordance with [reg. 1\(4\)\(c\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Additional Voluntary Contributions\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/259\)](#), [regs. 1\(2\)](#), **26**
- F6** [Reg. 77\(8\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [regs. 1\(2\)](#), **43(3)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008, Section 77.