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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 189**

**The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014**

**[<sup>F1</sup>Survivor pension]**

17.—(1) [<sup>F2</sup>Except where regulation 9A(4) (aggregation adjustments etc.) applies, survivor pension], in the case of a survivor of a person who became an active member of the Scheme member by virtue of regulation 5(1) (membership of the Scheme) [<sup>F3</sup>is] calculated by adding together the 2009 Scheme survivor pension and the Scheme survivor pension.

(2) Subject to paragraphs (5) to (9), 2009 Scheme survivor pensions for the purposes of paragraph (1) are calculated under the 2009 Scheme, notwithstanding the revocations effected by regulation 2 (revocation of regulations), taking account of the deceased member's membership up to 31st March 2015 but—

- (a) in the case of a death in service where a survivor [<sup>F4</sup>pension] is payable under regulations 41 (survivor benefits: partners of active members) or 43 (survivor benefits: children of active members) of the 2014 Regulations, excluding any augmentation under regulation 20(2) (early leavers: ill-health) of the Benefits Regulations; and
- (b) using the final pay calculated in accordance with regulations 8 to 11 (calculation of final pay) of the Benefits Regulations as if those Regulations are still in operation.

(3) The Scheme survivor pensions for the purposes of paragraph (1) are calculated in accordance with the 2014 Regulations.

(4) Subject to paragraphs (5) to (9), where—

- (a) a member did not accrue any membership in the Scheme but had pension rights under the earlier Schemes; or
- (b) a member did accrue membership in the Scheme and has pension rights under the earlier Schemes that have not been aggregated with the rights in the Scheme,

the survivor pension in respect of rights under the earlier Schemes are calculated under the earlier Schemes notwithstanding the revocations effected by regulation 2 (revocation of regulations).

[<sup>F5</sup>(5) For the purposes of calculating eligibility of a person to survivor pension under the 2009 Scheme and the other earlier Schemes—

- (a) the definition of “eligible child” contained in Schedule 1 (interpretation) to the 2014 Regulations is substituted for the definition contained in regulation 26 (meaning of “eligible child”) of the Benefits Regulations and the corresponding provisions in the former regulations;
- (b) any calculation of the survivor pension payable under the former regulations to a person who is the surviving civil partner of a member is on the basis that the survivor is a surviving spouse; and
- (c) in the calculation of any survivor pension under the former regulations any reference to contracted out membership is to be read as including contracted in membership.

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*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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(6) Any calculation of any survivor pension payable under the former regulations in respect of a surviving cohabiting partner, is only to take account of membership accrued by that member after 5th April 1988.

(7) Any calculation of any survivor pension payable under the former regulations in respect of surviving civil partner or spouse of a member who enters into a civil partnership or marriage after leaving active membership and dies is only to take account of membership accrued by that member after 5th April 1978, except where regulation F11 (cessation of membership before the commencement date) of the 2000 Regulations applies.

(8) Despite paragraph (5)(b), for the purposes of paragraphs (6), (7), (9) membership includes—

- (a) relevant additional membership that would have counted as membership for the purposes of regulations 44 and 44A of the 2002 Regulations (reduction of some surviving spouses' and civil partners' pensions);
- (b) membership that would have counted under regulation F3, F4 or F5 (spouse pensions in certain cases) of the 2000 Regulations by virtue of regulation F6 (post-retirement marriages) of those Regulations; and
- (c) any membership purchased under regulation 14A of the Benefits Regulations (elections to pay additional contributions: survivor benefits).]

[<sup>F6</sup>(9) Any calculation of any survivor pension payable under the former regulations in respect of surviving civil partner or spouse of a member who enters into a civil partnership or marriage after leaving active membership and dies where that member has made an inward transfer to the Scheme after 5th April 1988 in relation to which the member is entitled to reckon a period of service or, as the case may be, count a period of membership under the former regulations, that period of service or membership shall be regarded as a period of service or membership after 5th April 1978, (except where regulation F11 (cessation of membership before the commencement date) of the 2000 Regulations applies, that period of service or membership shall be regarded as a period of service or membership after 5th April 1988) notwithstanding the following provisions and without limiting the effect of those provisions in relation to any other matter—

- (a) regulations K14 (inward transfers) and K15 (right to count service) of the 2000 Regulations;
- (b) regulations 124 (inward transfers of pension rights) and 125 (right to count credited period) of the 2002 Regulations;
- (c) regulations 79 (inward transfer of pension rights) and 80 (right to count credited period) of the Administration Regulations; and
- (d) regulation 9 (transfers).]

#### Textual Amendments

- F1** Words in [reg. 17](#) heading substituted (with effect in accordance with [reg. 1\(2\)\(a\)](#) of the amending Rule) by [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/163\)](#), [regs. 1\(1\)](#), **18(a)**
- F2** Words in [reg. 17\(1\)](#) substituted (with effect in accordance with [reg. 1\(2\)\(a\)](#) of the amending Rule) by [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/163\)](#), [regs. 1\(1\)](#), **18(b)(i)**, 24
- F3** Word in [reg. 17\(1\)](#) substituted (with effect in accordance with [reg. 1\(2\)\(a\)](#) of the amending Rule) by [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/163\)](#), [regs. 1\(1\)](#), **18(b)(ii)**
- F4** Word in [reg. 17\(2\)\(a\)](#) substituted (with effect in accordance with [reg. 1\(2\)\(a\)](#) of the amending Rule) by [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/163\)](#), [regs. 1\(1\)](#), **18(c)**

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- F5** Reg. 17(5)-(8) substituted for reg. 17(5)-(9) (with effect in accordance with reg. 1(2)(b) of the amending Rule) by [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/163\)](#), regs. 1(1), **18(d)**
- F6** Reg. 17(9) substituted for reg. 17(10) (with effect in accordance with reg. 1(1) of the amending Rule) by [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/163\)](#), regs. 1(1), **18(e)**

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**Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:**

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- Sch. 1(d) word omitted by [S.R. 2023/157 reg. 20\(2\)\(a\)](#)
- Sch. 1(e) word inserted by [S.R. 2023/157 reg. 20\(2\)\(b\)](#)
- Sch. 1(f) inserted by [S.R. 2023/157 reg. 20\(2\)\(c\)](#)