

STATUTORY RULES OF NORTHERN IRELAND

**2015 No. 122**

The Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015

PART 2

Transitional provisions

CHAPTER 8

Death benefits

**Death in service**

**38.**—(1) As regards a [<sup>F1</sup>transition] member, or a person who derives a benefit from the old scheme or new scheme in respect of a [<sup>F1</sup>transition] member, the entitlement listed in column 1 of the table is disapplied and the corresponding entitlement in column 2 applies instead.

**Table**

<i>Column 1</i>	<i>Column 2</i>
<i>Original entitlement</i>	<i>Revised entitlement</i>
PART 1	
Entitlements derived from the 1995 Section	
a lump sum on death under regulation 18.	a lump sum on death under regulation 111(a) of the 2015 Regulations.
an initial adult survivor pension under regulation 24(3B) at the rate of the member's superannuable pay for the first six months after the member's death.	an pension payable during the initial period at the rate of the member's pensionable earnings under regulation 114(4) of the 2015 Regulations (and references in regulation 24(3C), (4) and (5) and 34(4B) and (4C) of the 1995 Section to paragraph (3B) are to be taken to be a reference to a pension payable under regulation 114(4) of the 2015 Regulations).
an ongoing pension under regulation 24(3C) based on one half of the member's notional ill-health pension had the member become entitled to a tier 2 pension under regulation 13A on the date of death.	(a) payable from the 1995 Section in respect of service in that Section, an ongoing adult survivor pension equal to the pension that would have been payable to the adult survivor under Part III of the 1995 Section if the member had retired with a pension under

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<i>Column 1</i>	<i>Column 2</i>
<i>Original entitlement</i>	<i>Revised entitlement</i>
	<p>regulation 12 of the 1995 Section on the date of death; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing survivor pension based on a Tier 2 IHP under regulation 114(5) of the 2015 Regulations.</p>
<p>a pension under regulation 26(2A) equal to one half of the pension that would have been payable to the member had the member become entitled to a tier 2 pension under regulation 13A on the day the member left superannuable employment.</p>	<p>(a) payable from the 1995 Section in respect of service in that Section, an ongoing adult survivor pension equal to the adult survivor under Part III of the 1995 Section if the member had retired with a pension under regulation 12 of the 1995 Section on the date of death; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing survivor pension based on a Tier 2 IHP under regulation 116(2) of the 2015 Regulations.</p>
<p>a dependant child's pension under regulation 34 equal to the rate of the member's superannuable pay when the member died, payable for the first—</p> <p>(a) three months under paragraph (4C);</p> <p>(b) six months under paragraph (4D);</p> <p>(c) six months under paragraph (4E).</p>	<p>an initial pension of the same amount and for the same duration under paragraph (6) or (7) of regulation 122 of the 2015 Regulations.</p>
<p>an ongoing pension under regulation 34(2A) based on a proportion of the member's notional ill-health pension had the member become entitled to a tier 2 pension under regulation 13A on the date of death or, if greater, the amount that pension would have been had it been based on 10 years superannuable service.</p>	<p>(a) payable from the 1995 Section in respect of service in that Section, an ongoing pension equal to the relevant proportion of the pension that would have been payable to the member if the member had retired with a pension under regulation 12 of the 1995 Section on the date of death; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing pension based on the appropriate fraction of the basic death pension specified under regulation 122(3) and (4) of the 2015 Regulations.</p>
<p>a pension under regulation 36(2) equal to the relevant proportion of the pension described in regulation 34(2A).</p>	<p>(a) payable from the 1995 Section in respect of service in that Section, a child's pension equal the relevant proportion of the pension that would have been payable to the member if the member had retired with a pension under</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Original entitlement</i>	<i>Revised entitlement</i>
	<p>regulation 12 of the 1995 Section on the date of death; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing pension based on the appropriate fraction of the basic death pension specified under regulation 124(3) (a) and (4) of the 2015 Regulations.</p>
<p><b>PART 2</b></p> <p>Entitlements derived from the 2008 Section</p>	
a lump sum on death under regulation 83 or 210.	a lump sum on death under regulation 111(a) of the 2015 Regulations.
<p>a surviving adult dependent’s pension during the initial period of six months—</p> <p>(a) under regulation 69(1)(a) equal to the rate of the member’s pensionable pay at the time of death; or</p> <p>(b) under regulation 69(2)(a) equal to the rate of the member’s pensionable earnings during the last complete quarter before the member’s death.</p>	<p>a pension payable during the initial period at the rate of the member’s pensionable earnings under regulation 114(4) of the 2015 Regulations (and references in regulations 69(2), (3) and (4) and 196(2), (3) and (4) of the 2008 Section to “after the initial period” are to be taken to be a reference to the period for which the initial pension payable under regulation 114(4) of the 2015 Regulations is payable).</p>
<p>an ongoing pension after the initial period—</p> <p>(a) under regulation 69(2)(a) equal to 37.5% of the tier 2 ill health pension under regulation 52 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service; or</p> <p>(b) under regulation 196(2)(a) equal to the appropriate proportion of the tier 2 ill health pension under regulation 182 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension.</p>	<p>(a) payable from the 2008 Section in respect of service in that Section, an ongoing adult survivor pension after the initial period equal to—</p> <p>(i) 37.5% of the pension under regulation 45 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service that the member is entitled to count; or</p> <p>(ii) equal to the appropriate proportion of the pension under regulation 176 to which the member would have been entitled if, on the date of death, the member had become entitled to such a pension in respect of any period of pensionable service that the member is entitled to count; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing</p>

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<i>Column 1</i> <i>Original entitlement</i>	<i>Column 2</i> <i>Revised entitlement</i>
	survivor pension based on a Tier 2 IHP under regulation 114(5) of the 2015 Regulations.
<p>a pension under—</p> <p>(a) regulation 71(1)(a) equal to 37.5% of the tier 2 ill health pension under regulation 52 to which the member would have been entitled if on the date the member’s pensionable service ceased the member had become entitled to such a pension; or</p> <p>(b) regulation 198(1)(a) equal to the appropriate proportion of the tier 2 ill health pension under regulation 182 to which the member would have been entitled if on the date the member’s pensionable service ceased the member had become entitled to such a pension.</p>	<p>(a) payable from the 2008 Section in respect of service in that Section, an ongoing adult survivor pension equal to—</p> <p>(i) 37.5% of the pension under regulation 45 to which the member would have been entitled if, on the date the member’s pensionable service ceased, the member had become entitled to such a pension; or</p> <p>(ii) the appropriate proportion of the pension under regulation 176 to which the member would have been entitled if, on the date the member’s pensionable service ceased, the member had become entitled to such a pension; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing survivor pension based on a Tier 2 IHP under regulation 116(2) of the 2015 Regulations.</p>
<p>a dependant child’s pension under—</p> <p>(a) regulation 76 equal to the rate of the deceased’s pensionable pay at the date of death, payable for the first—</p> <p>(i) three months under paragraph (6)(i);</p> <p>(ii) six months under paragraph (7)(i); or</p> <p>(b) regulation 203 equal to the average rate of the deceased’s pensionable earnings during the last complete quarter before the member died, payable for the first—</p> <p>(i) three months under paragraph (5)(i);</p> <p>(ii) six months under paragraph (6)(a).</p>	<p>an initial pension of the same amount and for the same duration under paragraph (6) or (7) of regulation 122 of the 2015 Regulations.</p>
<p>an ongoing pension under regulation 76(3) or 203(3) equal to the appropriate fraction of the basic death pension.</p>	<p>(a) payable from the 2008 Section in respect of service in that Section, an ongoing pension equal to the appropriate fraction of the basic death pension payable under—</p> <p>(i) regulation 76(3) of the 2008 Section; or</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Original entitlement</i>	<i>Revised entitlement</i>
	<p>(ii) regulation 203(3) of the 2008 Section, where that pension is based on the pensionable service that the deceased was entitled to count at the date of death; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing pension based on the appropriate fraction of the basic death pension specified under regulation 122(3) and (4) of the 2015 Regulations.</p>
<p>a pension under regulation 78(3)(a) or 205(3) (a) equal to the appropriate fraction of the basic death pension for the purposes of regulation 76 or 210 if the deceased had died on the date the deceased ceased to be an active member.</p>	<p>(a) payable from the 2008 Section in respect of service in that Section, a pension equal to—</p> <p>(i) 37.5% of the pension under regulation 45 to which the member would have been entitled if, on the date the member’s pensionable service ceased, the member had become entitled to such a pension; or</p> <p>(ii) the appropriate proportion of the pension under regulation 176 to which the member would have been entitled if, on the date the member’s pensionable service ceased, the member had become entitled to such a pension; and</p> <p>(b) payable from the 2015 Scheme in respect of service in that scheme, an ongoing pension based on the appropriate fraction of the basic death pension specified under regulation 124(3) and (4) of the 2015 Regulations.</p>

(2) Save where expressly provided in the table, no entitlement in respect of the matters listed in column 1 is payable from both the 2015 Regulations and—

- (a) the 1995 Section; or
- (b) the 2008 Section,

and no entitlement in respect of the matters listed in column 1 of the table is payable twice (under the 2015 Regulations or these Regulations and either the 1995 Section or 2008 Section) in respect of the same period of service.

**Textual Amendments**

- F1** Word in reg. 38(1) substituted (1.4.2022) by [The Health and Social Care Pension Schemes \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/156\)](#), regs. 1(2), **5(9)**

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**Commencement Information**

**II** Reg. 38 in operation at 1.4.2015, see [reg. 1\(1\)](#)

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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):

- reg. 10A(1)(a) words inserted by [S.R. 2024/50 reg. 32](#)
- reg. 17A and cross heading inserted by [S.R. 2024/50 reg. 36](#)
- reg. 35A and cross heading inserted by [S.R. 2024/50 reg. 39\(1\)](#)
- reg. 35A(2)(a) words inserted by [S.R. 2024/117 reg. 30\(2\)\(a\)](#)
- reg. 35A(2)(aa) inserted by [S.R. 2024/117 reg. 30\(2\)\(b\)](#)
- reg. 35A(3A) inserted by [S.R. 2024/117 reg. 30\(3\)](#)
- reg. 38(1A) inserted by [S.R. 2024/50 reg. 40\(3\)](#)