
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 141

**The Local Government Pension
Scheme (Scotland) Regulations 2018**

PART 1

Membership, contributions and benefits

Survivor benefits

Survivor benefits: partners of active members

39.—(1) If an active member dies leaving a surviving spouse, civil partner or cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The appropriate administering authority shall close the active member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
 - (i) the member had been entitled to draw a pension on the date of the member's death;
 - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment either relating to the age at which it was drawn or following a Scheme pays election;
 - (iii) the pension excluded additional pension purchased under regulation 16 (additional pension contributions) and any additional pension awarded under regulation 30 (award of additional pension);
 - (iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay;
 - (v) the amount of any earned pension credited under regulation 96(1) (effect of acceptance of transfer value) had been multiplied by 49/160; and
 - (vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160;
- (b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 21(4) or, as appropriate, regulation 21(9), as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.

(5) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraph (4)(a)(iii) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.

(6) The balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with guidance issued by the Scottish Ministers.

(7) The revalued balance calculated under paragraph (6) is the opening balance of the survivor member's pension account for the following Scheme year and, thereafter, the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the Pensions (Increase) Act 1971⁽¹⁾ applied.

(8) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

(1) 1971 c.56.