
STATUTORY INSTRUMENTS

1992 No. 172

**The Local Government Superannuation
(Amendment) Regulations 1992**

PART III

AMENDMENTS HAVING EFFECT AS FROM 6th APRIL 1988

Widow's and widower's pensions

3. The principal Regulations are amended by substituting for regulations E5, E6 and E7 the following:

“Entitlement to widow's or widower's short-term and long-term pensions

E5.—(1) If at the time of a person's death that person—

- (a) was entitled to receive payments in respect of a retirement pension, or
- (b) would have been so entitled but for the operation of regulation E15 (reduction of certain retirement pensions), or
- (c) was a pensionable employee and—
 - (i) the total of the person's reckonable service and any qualifying service was not less than two years, or
 - (ii) that person would if he or she had then ceased to be employed otherwise than by reason of death have become entitled to benefits by virtue of regulation E2(1)(d), or
 - (iii) neither (i) nor (ii) above applies, but a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the appropriate superannuation fund in relation to that person,

and that person leaves a widow, widows or widower, that widow or widower is entitled or, as the case may be, they are jointly entitled, subject to paragraphs (3) to (7), to a widow's or widower's short-term pension for three months or, if the death occurs after 5th April 1988 and the widow or widower has one or more eligible children in her or his care, for six months after that person's death and then to a widow's or widower's long-term pension.

- (2) If at the time of a person's death that person was not a pensionable employee and—
 - (a) was entitled to preserved benefits, or
 - (b) was in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time,

and leaves a widow, widows or widower, that widow or widower is entitled or, as the case may be, they are jointly entitled, subject to paragraphs (3) to (7), to a widow's or widower's long-term pension.

- (3) A widow is not entitled to any pension by virtue of paragraph (1) or (2) if—
- (a) her husband died before 6th April 1988, and
 - (b) when her husband died or became entitled to a retirement pension they were judicially separated.
- (4) A widow or widower is not entitled to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if—
- (a) in the case of a widow, she was not her husband's wife at some time while he was in local government employment after 31st March 1972 and before the date on which he became entitled to a retirement pension, or
 - (b) the widow's or widower's spouse became entitled to a retirement pension by virtue of regulation E2(2).
- (5) Where but for paragraph (4)(a) a widow would have been entitled—
- (a) under paragraph (1) to a widow's short-term pension and a widow's long-term pension, or
 - (b) under paragraph (2) to a widow's long-term pension,
- she is entitled where sub-paragraph (a) applies to a short-term pension and a long-term pension and where sub-paragraph (b) applies to a long-term pension only, calculated in each case in accordance with regulation E6(5).
- (6) Except where paragraph (7) applies, where a widower or widow is entitled to a pension by virtue of this regulation—
- (a) he or she is not entitled to that pension during any subsequent marriage or any period of cohabitation outside marriage, and
 - (b) he or she is entitled to that pension from the end of any such marriage or period only if the appropriate administering authority in their discretion so decide.
- (7) Where a widower and a widow who are each entitled to a pension under this regulation marry each other or cohabit with each other outside marriage, only such one of them as the widower and widow may determine shall be entitled to his or her pension and the other shall cease to be entitled to his or her pension until the dissolution of the marriage, the ending of the cohabitation, or the death of the widower or widow.
- (8) In paragraphs (1) and (2), for the purpose of entitlement to a widower's pension—
- “retirement pension” means a retirement pension of which at least part is attributable to a period of reckonable service after 5th April 1988;
- “local government employment” means local government employment of which at least part was employment after 5th April 1988; and
- “preserved benefits” means preserved benefits of which at least part are attributable to a period of reckonable service after 5th April 1988.

Annual rates of widow's and widower's short-term and long-term pensions

E6.—(1) Subject to paragraphs (5) and (6), the annual rate of a widow's or widower's short-term pension is—

- (a) where regulation E5(1)(a) or (b) applies and any new employment for the purposes of regulation E15 (re-employed pensioners) was not a local government

- employment, the annual rate of the spouse's retirement pension immediately before the date of death, disregarding any reduction under regulation E15;
- (b) where regulation E5(1)(c) applies and the local government employment was not a new employment for the purposes of regulation E15, a rate equal to the spouse's pensionable remuneration; and
 - (c) where regulation E5(1)(c) applies and the local government employment was such a new employment, a rate equal to—
 - (i) if the retirement pension was not reduced under regulation E15, the total of the spouse's pensionable remuneration in the new employment and the annual rate of the retirement pension, or
 - (ii) if the retirement pension was so reduced, the total of the spouse's pensionable remuneration in the new employment and the annual rate, if any, at which the retirement pension was payable.
- (2) Subject to paragraphs (5) and (6), the annual rate of a widow's or widower's long-term pension is—
- (a) where paragraph (1)(a) applies, half the annual rate of the spouse's retirement pension immediately before the date of death;
 - (b) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(i), half the annual rate of the retirement pension to which the spouse would have been entitled if on the date of death the spouse had become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.);
 - (c) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(iii), one one hundred and sixtieth of the spouse's pensionable remuneration multiplied by the length in years of the spouse's reckonable service;
 - (d) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(ii), half the annual rate of the retirement pension to which the spouse would have been entitled if on the date of death the spouse had become entitled under regulation E2(1)(d);
 - (e) where paragraph (1)(c) applies, the greater of—
 - (i) the total of half the annual rate of the spouse's retirement pension and half the annual rate of the retirement pension to which the spouse would have been entitled in respect of the new employment if on the date of death the spouse had become entitled under regulation E2(1)(b)(i), and
 - (ii) half the annual rate of the retirement pension to which the spouse would have been entitled if on the date of death the spouse had become entitled under regulation E2(1)(b)(i) and notice had been given under regulation E16; and
 - (f) where regulation E5(2) applies, half the annual rate of the retirement pension to which the spouse would have been entitled if on the date of death the spouse had become entitled under regulation E2(1)(b)(ii).
- (3) In paragraphs (1)(a) and (2)—
- (a) "retirement pension", for the purpose of calculating a widower's short-term or long-term pension, means a retirement pension calculated by reference to the length in years of the wife's period of reckonable service after 5th April 1988 and, if the widower was his wife's husband at some time while she was in a local government employment after 31st March 1972, by reference also to the length in years of any period treated for the purposes of paragraph (4) as a period of reckonable service after 5th April 1988;

- (b) the retirement pension mentioned in paragraph (2)(a) is to be taken to be the pension that would have been payable but for—
 - (i) any increase under regulation E3(2) (certain cases where additional service is reckonable),
 - (ii) any reduction under regulation E3(14) (early payments) or E15 or E31 (National Insurance), and
 - (iii) any surrender under regulation E20;
 - (c) any retirement pension mentioned in paragraph (2)(b) or (e) is to be taken to be the pension that would have been payable but for any surrender under regulation E20, and if the pension would have been increased under regulation E3(2) or reduced under regulation E31 no account is to be taken of that increase or reduction.
- (4) For the purposes of this paragraph any of the following periods shall be treated as being a period of reckonable service after 5th April 1988:
- (a) any additional period of service awarded after that date by virtue of regulation E3(12),
 - (b) any additional period of service which the person was entitled to reckon under regulation D4, D5 or D9 where the necessary payment was made or commenced after that date,
 - (c) any additional period of service which the person is entitled to reckon by virtue of a resolution passed under regulation D7 after that date,
 - (d) any additional period of service which is treated as reckonable service after that date by virtue of regulation D13(3), and
 - (e) any period of service which the person was entitled to reckon under regulation J9 where the relevant transfer value—
 - (i) was not a transfer value to which, by virtue of regulation 25(1)(b) of the Local Government Superannuation (Interchange) Regulations 1991(1), regulations 10 to 15 and 19 and 20 of those Regulations do not apply, and
 - (ii) was accepted after that date.
- (5) Where regulation E5(5) (post-retirement marriages) applies—
- (a) the references in paragraphs (1)(a), (2)(a), (c), (e) and (f), and the second reference in paragraph (1)(c)(i), to the retirement pension are to be construed as references to, and
 - (b) for the purposes of paragraph (1)(c)(ii), any annual rate at which the retirement pension was payable is to be taken not to have exceeded the rate of,

the part of the pension which is attributable to service in contracted-out employment.
- (6) If greater than the annual rate calculated in accordance with paragraphs (1) to (5), the annual rate of a widow's pension is the rate obtained by multiplying one hundred and sixtieth of her husband's pensionable remuneration by the length in years of the whole period of his service which was in contracted-out employment.

Widow's and widower's special short-term pension

E7.—(1) Subject to paragraph (4), if at the time of his or her death a person was a pensionable employee and he or she leaves a widow or widower but none of the conditions in regulation E5(1)(c) is satisfied, then unless when the person died that widow or widower

was cohabiting with another person as man and wife, that widow or widower is entitled to a widow's or widower's special short-term pension at an annual rate equal to the person's pensionable remuneration.

(2) Where the deceased leaves no eligible child or there is no eligible child in the widow's or widower's care, the pension is payable for 3 months after the death.

(3) While there are any eligible children in the widow's or widower's care, the pension is payable for 6 months after the death.

(4) Where the person who dies is a woman (other than one to whom paragraph (1)(a) of regulation E12 applies or in respect of whom an election under paragraph (1)(b) or (2) (b) of that regulation has effect), this regulation shall only apply if her death occurs on or after 6th April 1988."

Entitlement to children's short term and long-term pensions

4. The principal Regulations are amended by substituting for regulation E8 the following:

"**E8.**—(1) Subject to paragraph (4A), if at the time of a person's death that person—

- (a) was entitled to receive payments in respect of a retirement pension, or
- (b) would have been so entitled but for the operation of regulation E15 (re-employed pensioners), or
- (c) was a pensionable employee,

and leaves one or more eligible children, they are, subject to paragraphs (3) and (4), entitled to or to the benefit of a children's short-term pension for 6 months after the death and then a children's long-term pension until they cease to be children.

(2) Subject to paragraph (4A), if at the time of a person's death that person was not a pensionable employee and—

- (a) was entitled to preserved benefits, or
- (b) was in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time,

and leaves one or more eligible children, they are, subject to paragraph (4), entitled to or to the benefit of a children's long-term pension until they cease to be children.

(3) No children's short-term pension is payable while—

- (a) a widow's short-term pension is payable under regulation E5(1);
- (b) a widower's short-term pension is payable under regulation E5(1), unless the rate of the children's short-term pension would be greater than that of the widower's short-term pension; or
- (c) a widow's or widower's special short-term pension is payable under regulation E7(1),

unless the child is not in the care of the widow or widower, in which case the children's short-term pension is payable for 3 months after the death and then a children's long-term pension is payable.

(4) There is no entitlement to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if the deceased became entitled to a retirement pension by virtue of regulation E2(2).

(4A) Where the person who dies is a woman (other than one to whom paragraph (1)(a) of regulation E12 applies or in respect of whom an election under paragraph (1)(b) or (2)

(b) of that regulation has effect), this regulation shall only apply if her death occurs on or after 6th April 1988.”.

Amounts of children’s short-term and long-term pensions

5. Regulation E9 of the principal Regulations is amended—

(a) by substituting for paragraphs (1) and (2) the following:

“(1) Subject to paragraph (2), the annual rate of a children’s short-term pension is the rate at which a widow’s short-term pension would have been payable by virtue of regulation E5(1) or, as the case may be, the rate at which a widower’s short-term pension would have been payable under that regulation if regulation E6(3)(a) were disregarded.

(2) Where a widow’s short-term pension is payable by virtue of regulation E5(5) or a widower’s short-term pension is payable by virtue of regulation E5(1), and the child is in the care of the widow or widower, the children’s short-term pension rate specified in paragraph (1) is reduced by the rate of that pension.”;

(b) in paragraph (3), by substituting for the words “widow” and “widow's” in each place where they occur the words “widow or widower” and “widow’s or widower's” respectively;

(c) in paragraph (4)—

(i) by inserting at the beginning the words “Subject to paragraph (4A)”;

(ii) in sub-paragraph (a), by substituting for the words “in a local government employment” the words “a pensionable employee”;

(iii) in sub-paragraph (b), by inserting after the words “preserved benefits” the words “, or was at that time in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time,”;

(d) by inserting after paragraph (4) the following:

“(4A) Unless the retirement pension determined under paragraph (4) would be greater, the retirement pension of a deceased person shall be taken to be that to which he would have been entitled if he were entitled to reckon the lesser of—

(a) 10 years' reckonable service;

(b) the reckonable service which he would have been entitled to reckon if he had continued to be employed until his 65th birthday.”.

Payment of long-term pensions instead of short-term pensions

6. The principal Regulations are amended by inserting after regulation E9 the following:

“Payment of long-term pensions instead of short-term pensions E9A.

(1) Where, but for this regulation, a children’s short-term pension would be payable to or for the benefit of a child in the care of a parent to whom a widow’s or widower’s short-term pension would be payable (and for this purpose regulation E8(3) shall be disregarded), a children’s long-term pension and a widow’s or widower’s long-term pension shall be payable instead of those pensions if (having regard to regulation E8(3)) that would result in a greater aggregate pension.

(2) Where, but for this regulation, a children’s short-term pension would be payable to or for the benefit of a child who is not in the care of a parent to whom a widow’s or widower’s short-term pension is payable, a children’s long-term pension shall be payable instead if it would be greater.”.

Children’s special short-term pension

7. The principal Regulations are amended by deleting regulation E10.

Death grant

8. Regulation E11 of the principal Regulations(2) is amended—
 - (a) in paragraph (9), by inserting after the word “widow's” the words “or widower's”;
 - (b) by deleting paragraph (14)(3).

Adjustment of superannuation rights on death of certain re-employed pensioners

9. Regulation E18 of the principal Regulations is amended in paragraphs (2) and (3) by substituting for the word “widow's” the words “widow’s or widower's”.

Power to compound certain small pensions

10. Regulation E21 of the principal Regulations is amended—
 - (a) by substituting for paragraph (2)(b) the following:
 - “(b) any widow’s or widower’s long-term pension which, in the event of the pensionable employee dying and leaving a widow or widower, would be payable to that widow or widower in respect of all or part of the pensionable employee’s reckonable service, and
 - (c) any children’s long-term pension which, in the event of the pensionable employee dying and leaving an eligible child or eligible children, would be payable to or for the benefit of that child or those children in respect of the pensionable employee’s reckonable service,”; and
 - (b) in paragraphs (4) and (5) by substituting, in each place where they occur, for the word “widow” the words “widow or widower”, for the word “widow's” the words “widow’s or widower's”, and for the words “to her” the words “to the widow or widower”.

Pensionable remuneration

11. Regulation E22 of the principal Regulations is amended in paragraph (8) by substituting for the word “widow's” the words “widow’s and widower's”.

Gratuities

12. Regulation K1(3)(d) of the principal Regulations(4) is amended by inserting at the beginning the words “unless he was employed by a scheduled body on 1st April 1987 and had attained the age of 55 before that date,”.

Injury allowances etc: death benefits

13. Regulation L6 of the principal Regulations is amended—
 - (a) by substituting for paragraphs (1) and (2) the following:
 - “(1) If a person to whom this Part applies dies as a result of the injury or disease—

(2) Regulation E11 was amended by [S.I. 1991/2471](#), regulation 9.

(3) Regulation E11(14) was inserted by [S.I. 1988/466](#), regulation 8.

(4) A new Part K was substituted by [S.I. 1987/293](#), regulation 16, and regulation K1(3)(d) was inserted by [S.I. 1988/466](#), regulation 9.

- (a) if that person leaves a widower or widow who qualifies under paragraph (2), he or she shall be entitled to an annual allowance or lump sum, and
 - (b) if that person leaves a dependant, the dependant shall be eligible for an annual allowance or lump sum.
- (2) A widower or widow qualifies for an annual allowance or lump sum unless—
- (a) his or her marriage to the person in question took place after that person ceased to be employed in relevant employment and that person was not subsequently employed in such employment, or
 - (b) at the date of death he or she was cohabiting with another person as man and wife.”;
- (b) by substituting for paragraph (5) the following:
- “(5) Except where paragraph (5A) applies, an allowance to a widower or widow shall cease if he or she remarries or cohabits with another person as man and wife, but if he or she again becomes a widower or widow or the marriage is dissolved or the cohabitation ceases the relevant body may restore the allowance for such period as they may determine.
- (5A) Where a widower and a widow who are each entitled to an allowance under this regulation marry each other or cohabit with each other outside marriage, only such one of them as the widower and widow may determine shall be entitled to his or her allowance and the other shall cease to be entitled to his or her allowance until the dissolution of the marriage, the ending of the cohabitation, or the death of the widower or widow.”;
- (c) by deleting paragraph (7).

Glossary of expressions

14. Schedule 1 to the principal Regulations is amended, in the definition of “Eligible child”, by substituting for the words “an employment in which he was a pensionable employee” the words “a local government employment”.

Calculation of transfer values

15. Paragraph 1 of Part I of Schedule 16 to the principal Regulations⁽⁵⁾ is amended by substituting for the definition of “accrued rights” the following:

““accrued rights” means the rights which have accrued in respect of a person under these Regulations at the material date (or, in the case of a person as is described in regulation J2(11), those rights in respect of which the person’s application under regulation J2(2)(c) was made), or, if the person’s service is less than that specified in regulation E2(1)(c)(i), the rights which would have so accrued if that regulation had contained no requirement as to service; and for the purpose of determining the accrued rights in respect of a widow’s or widower’s pension of a person who was single on ceasing to be a pensionable employee all the person’s reckonable service shall be taken into account—

- (a) in the case of a man, if any part of that reckonable service is reckonable by virtue of regulation J9(1)(a) of these Regulations or regulation N8(1)(a) of the 1974 Regulations;
- (b) in the case of a woman, if any part of that reckonable service is treated as reckonable service after 5th April 1988 by virtue of regulation J9(1)(a) and (2)(b) of these Regulations;”

(5) Schedule 16 was amended by [S.I. 1991/2471](#), regulation 19.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
