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STATUTORY INSTRUMENTS

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**1993 No. 3253**

**The Parliamentary Pensions (Consolidation  
and Amendment) Regulations 1993**

**PART K**

**Widows, Widowers and Children**

**Equal Treatment**

**K1.** Regulations K2, 3, 4 and 5 shall apply in relation to a woman who was a participant on or after 31st July 1984 who has died and her widower as they apply in relation to a man who has so died and his widow, except in so far as they relate to the guaranteed minimum pension and to pensions payable to widows under section 36(6) of the Pensions Act 1975 (Regulation K2(5)(6)(7) and (8)).

**Pensions for Widows and Widowers**

**K2.**—(1) Subject to the provisions of this regulation, the widow of a man who—

- (a) was a participant at any time on or after 31st July 1984; and
- (b) was at the time of his death either:
  - (i) a participant; or
  - (ii) a pensioner; or
  - (iii) a deferred pensioner;

shall be entitled to receive a pension under this regulation.

(2) The annual amount of a pension payable under this regulation to a widow whose husband died on or after 6th April 1988 shall be five-eighths of the basic or prospective pension or pensions of her late husband.

(3) Subject to paragraphs (4) and (6), a pension payable under this regulation to a widow shall continue for her life or until her remarriage; but in the case of remarriage the Trustees may, if they think fit, at any time direct that the pension shall be restored if satisfied that the subsequent marriage has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding the subsistence of that marriage.

(4) Subject to paragraph (6), no pension shall be payable under this regulation to a widow who, at her husband's death, was cohabiting with another person; and if a widow entitled to such a pension cohabits with another person, the pension shall cease to be payable:

Provided that the Trustees may, if they think fit, direct that the pension shall be paid or restored, as the case may be, if satisfied that the cohabitation has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding that the cohabitation continues.

(5) Notwithstanding anything in these Regulations and in particular notwithstanding the provisions of paragraphs (3) and (4) above—

- (a) the widow of a man who had a guaranteed minimum pension under these Regulations or under Part I of the 1972 Act shall, upon his death, be entitled to a pension for the remainder of her life at a rate equivalent to a weekly rate of not less than half the guaranteed minimum of that man; and
- (b) the widower of a woman who had such a guaranteed minimum pension, shall, upon her death, be entitled to a pension for the remainder of his life at a rate equivalent to not less than half of that part of the woman's guaranteed minimum pension which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

(6) During any period specified in section 36(6) of the Pensions Act 1975 (1) as being a period during which a Category B retirement pension, widowed mother's allowance or widow's pension is payable to her under that sub-section, the widow of a person shall, notwithstanding the provisions of paragraphs (3) and (4) above, be entitled to a pension under paragraphs (1) and (2) above, but if after she has attained the age of sixty years she remarries or cohabits with another person the Trustees may direct that the pension be restricted to the guaranteed minimum pension to which she is entitled.

(7) Where a man dies in circumstances in which, apart from this paragraph, a widow's pension calculated in accordance with paragraph (2) would be payable to a woman married by him within the period of six months ending with his death and it appears to the Trustees that his death within six months was to be foreseen by him at the date of the marriage, then if—

- (a) there are no children of that marriage; and
- (b) the man was married to the woman after the termination of his service in contracted-out employment in respect of which the widow's pension is payable; and
- (c) the rate of the widow's pension payable to her would be in excess of the widow's guaranteed minimum pension,

the Trustees may direct that any part of the widow's pension which is in excess of the widow's guaranteed minimum pension shall not be payable.

(8) Paragraph (7) shall apply in relation to a woman who has died on or after 6th April 1988 and her widower as it applies in relation to a man who has so died and his widow, save that the widower's guaranteed minimum pension payable shall be the amount specified in paragraph (5)(b) above.

### **Pensions for Children**

**K3.**—(1) Subject to the provisions of this regulation, a children's pension shall be payable for the benefit of any relevant child or children of a person who has died on or after 6th April 1988 and who is or has been married, if at the time of his death the conditions specified in regulation K2(1) (b) are fulfilled in his case.

(2) The annual amount of a children's pension payable under this regulation for the benefit of any relevant child or children of a person who has died in the circumstances mentioned in the previous paragraph shall be:

- (a) a sum equal to one-quarter of the basic or prospective pension or pensions of the deceased if there is one child or, if there is more than one, a sum equal to three-sixteenths of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding two; or
- (b) if the widow or widower is dead and subject to paragraph (4) below, a sum equal to five-sixteenths of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding two.

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(1) Section 36(6) was amended by the Social Security Act 1986 (c. 50), Schedule 11 and by the Social Security (Consequential Provisions) Act 1992 (c. 6) Schedule 2, paragraph 28.

(3) Where the deceased left a widow or widower who was (or, apart from the provision as to cohabitation, would have been) entitled to a pension under regulation K2 and that pension—

- (a) has ceased to be payable in consequence of the remarriage of the widow or widower, or
- (b) was not payable, or has ceased to be payable, by reason of the provision as to cohabitation, any children's pension under this regulation shall cease to be payable or, as the case may be, shall not be payable, unless and until the Trustees for exceptional reasons direct that the children's pension shall be payable.

(4) A children's pension under this regulation shall be paid to or distributed between such person or persons as the Trustees may from time to time direct, and shall be applied by that person or those persons, without distinction, for the benefit of the relevant child or relevant children of the deceased or such of them as the Trustees may from time to time direct.

(5) In this regulation "child" in relation to any person includes an illegitimate child, a stepchild or an adopted child and "relevant child" (subject to the provisions of Schedule 6) means any child of the deceased, or of any wife or husband of the deceased, who—

- (a) is under seventeen years of age; or
- (b) is under twenty-two years of age and is within his period of full-time education as defined by Schedule 5; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within subparagraph (a) or (b) of this paragraph or incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by Parliament in a hospital or similar institution so maintained,

and "the provision as to cohabitation" means regulation K2(4).

#### **Death in service of participating Member**

**K4.**—(1) Where a man has died and, at the time of his death, he was a participating Member, paragraph (2) below and regulation K5 (so far as applicable) shall apply if his widow is entitled to receive a pension under regulation K2, or if a children's pension is payable under regulation K3 for the benefit of any relevant child or children of his.

(2) If the deceased died before attaining the age of sixty-five years, the annual amount of any pension payable to his widow under regulation K2, or for the benefit of any relevant child or children of his under regulation K3, shall be calculated as if he had immediately before his death ceased because of ill-health to be a Member of the House of Commons and had by virtue of regulation J1 been entitled to receive a pension under regulation F1 as from the time when he so ceased.

#### **Enhancement of initial widows' and widowers' pensions**

**K5.**—(1) In this regulation "the three month period", in relation to a person who has died, means the period of three months beginning with the day following the date of his death.

(2) Where the widow of a man who—

- (a) has been a participating Member at any time on or after 2nd August 1978; and
- (b) was at the time of his death a pensioner Member,

is entitled to receive a pension under regulation K2, paragraphs (3) and (4) of this regulation shall apply.

(3) If, for any part of the three month period, the aggregate of the following amounts, namely—

- (a) the amount payable to her by way of pension under regulation K2 apart from this paragraph; and
- (b) any amount which (by direction of the Trustees under regulation K3(4)) is payable to her by way of pension under regulation K3 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (4) below, then for that part of that period the amount payable to her by way of pension under regulation K2 shall be increased by the difference.

(4) The said amount is the amount which, if the deceased had lived, would have been payable to him for the part of the three month period in question by way of pension under one or both of regulation F1 and regulation F3 or under section 7 or section 9 of the 1972 Act.

(5) Where a man has died and, at the time of his death, he was a participating Member, paragraphs (6) and (7) of this regulation (so far as applicable) shall apply if his widow is entitled to receive a pension under regulation K2 or if a children's pension under regulation K3 is payable for the benefit of any relevant child or children of his.

- (6) If, for any part of the three month period, the aggregate of the following amounts, namely—
  - (a) the amount payable to the deceased's widow by way of pension under regulation K2 apart from this paragraph; and
  - (b) any amount which (by direction of the Trustees under regulation K3(4)) is payable to her by way of pension under regulation K3 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (7) below, then for that part of that period the amount payable to her by way of pension under regulation K2 shall be increased by the difference.

(7) The said amount is the amount which would have been payable to the deceased for the part of the three month period in question if—

- (a) the deceased had lived and had at the material time become entitled to a pension under regulation F1; and
- (b) the annual amount of that pension had been—
  - (i) in the case of a person who held or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons, a sum equal to his salary as a Member of the House of Commons pursuant to an effective resolution at the rate in force at the material time; or
  - (ii) in the case of any other person, a sum equal to the Member's ordinary salary at the rate in force at the material time.

In this paragraph "the material time" means the time when the deceased in fact died.

(8) The preceding provisions of this regulation are without prejudice to paragraphs (3), (4), (7) and (8) of regulation K2 (duration of widow's pension, and restrictions on payment).

### **Meaning of "basic or prospective pension or pensions"**

**K6.**—(1) The definition in paragraph (2) below applies in respect of a person whose actual period of reckonable service as a participant includes service at any time on or after 31st July 1984.

- (2) In these Regulations "basic or prospective pension or pensions"
  - (a) in relation to a person who has died and who at the time of his death was a participant, means the annual amount of the pension or pensions specified in whichever of the following paragraphs apply to him:
    - (i) where the deceased was or had been a participating Member, the annual amount of the pension calculated in respect of him in accordance with regulation F2 or, if he

died while a participating Member before attaining the age of sixty five years, the annual amount of the pension calculated in respect of him by virtue of regulation K4; and

- (ii) where the deceased was or had been a participating office holder, the annual amount of the pension, calculated in accordance with regulation F4, which he would have been entitled to receive under regulation F3, if immediately before his death he had fulfilled the conditions specified in sub-paragraphs (a) to (c) of regulation F1(1); and
- (b) in relation to a person who has died and who at the time of his death was a pensioner, means the annual amount of the pension or pensions of which he was in receipt or which he was entitled to receive calculated in accordance with Part F, including an ill health pension calculated in accordance with Part J; provided that where the annual amount of which he was in receipt resulted from one or more reductions or abatements made under regulations G1 (commutation) or H1 or H2 (early retirement), no such reduction or abatement shall be made in calculating the annual amount of that pension or pensions for the purposes of this regulation;
- (c) in relation to a person who has died and who at the time of his death was a deferred pensioner, means the annual amount of the pension or pensions specified in whichever of the following sub-paragraphs apply to him—
- (i) where the deceased was a former participating Member, the annual amount of the pension, calculated in accordance with regulation F2, which he would have been entitled to receive under regulation F1 if he had ceased to be a Member of the House of Commons immediately before his death and he had then fulfilled the conditions specified in sub-paragraphs (a) to (c) of regulation F1(1);
  - (ii) where the deceased was a participating office holder, the annual amount of the pension, calculated in accordance with regulation F4, which he would have been entitled to receive under regulation F3 if immediately before his death he had fulfilled the conditions specified in sub-paragraphs (a) to (c) of regulation F1 (1).