
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART F

SURVIVING SPOUSES' PENSIONS

Death of a member

Member's spouse's short-term pension

F1.—(1) Subject to regulations F7 (remarriage and cohabitation) and G8(3), if a member dies living a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled, to a spouse's short-term pension—

- (a) if the spouse has one or more eligible children in his or her care, for six months after the member's death, or
- (b) otherwise for three months after the member's death.

(2) Where paragraph (1) applies then, subject to paragraph 21 of Schedule D5 (re-employed pensioners), the annual rate of the short-term pension is a rate equal to the spouse's pensionable remuneration.

(3) Paragraph 7 of Schedule D1 (by virtue of which member is, in respect of any period of part-time local government employment, to be treated as having received the remuneration which would have been paid in respect of a single comparable whole-time employment) does not apply to the application of regulation D1 and that Schedule to this regulation.

Member's spouse's long-term pension

F2.—(1) Subject to regulation F7 (remarriage and cohabitation), if a member who has a statutory pension entitlement dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled, at the end of the period in respect of which a short-term pension is payable under regulation F1, to a spouse's long-term pension.

(2) Where paragraph (1) applies then, subject to Part IV of Schedule D5 (re-employed pensioners), the annual rate of the long-term pension is—

- (a) if the member's total period of membership was not less than two years, 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 D7 (permanent ill-health, etc.); and
- (b) otherwise, one one hundred and sixtieth of the member's pensionable remuneration, multiplied by the length in years of the member's total period of membership.

(3) For the purposes of paragraph (2)(a)—

- (a) any increase in the deceased's retirement pension by virtue of regulation D2(2)(i), and
- (b) any reduction in that pension under regulation H2, or by virtue of a surrender under regulation D14, shall be disregarded.

Death of a deferred pensioner

Deferred pensioner's spouse's long-term pension

F3.—(1) Subject to regulation F7 (remarriage and cohabitation), if a person who is not a member dies leaving a surviving spouse or spouses and at the time of his death he—

- (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,

that spouse is entitled or, as the case may be, they are jointly entitled, to a spouse's long-term pension.

(2) Subject to regulation F6 (post retirement marriages), the annual rate of the long-term pension to which a spouse is entitled under paragraph (1) is half the annual rate of the retirement pension to which the deceased would have been entitled if on the date of death he had become entitled under regulation D5.

Death of a pensioner

Pensioner's spouse's short-term pension

F4.—(1) Subject to regulations F7 (remarriage and cohabitation) and G8(3), if a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension under regulation D19), or
- (b) would have been so entitled but for regulation H6 (commutation in exceptional circumstances of ill-health) or Part I of Schedule D5 (re-employed pensioners),

dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled to a spouse's short-term pension—

- (i) if the spouse has one or more eligible children in his or her care, for six months after the deceased's death, or
- (ii) otherwise for three months after the deceased's death.

(2) Subject to regulation F6 (post retirement marriages), where paragraph (1) applies, the annual rate of the short-term pension is a rate equal to the spouse's retirement pension immediately before the date of death or the rate it would have been at that date apart from any payment under regulation H6 or the operation of Part I of Schedule D5.

Pensioner's spouse's long-term pension

F5.—(1) Subject to regulation F7 (remarriage and cohabitation), where regulation F4(1) applies the surviving spouse is entitled or, as the case may be, the surviving spouses are jointly entitled, at the end of the period in respect of which a short-term pension is payable under that regulation, to a spouse's long-term pension.

(2) Subject to regulation F6 (post retirement marriages), where paragraph (1) applies and any new employment for the purposes of Part I of Schedule D5 (re-employed pensioners) was not a local government employment, the annual rate of the long-term pension is half the annual rate of the deceased's retirement pension immediately before the date of death.

(3) For the purposes of paragraph (2)—

- (a) any increase in the deceased's retirement pension by virtue of regulation D2(2)(i),
- (b) any reduction in that pension under regulation D13 or H2 or by virtue of a surrender under regulation D14, and

(c) any extinguishment of that pension by virtue of the operation of regulation H6 or Part I of Schedule D5,
shall be disregarded.

General provisions relating to surviving spouse's pensions

Post retirement marriages

F6.—(1) Where a widow 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—

- (a) the long-term pension under regulation F3,
- (b) the short-term pension under regulation F4, and
- (c) the long-term pension under regulation F5,

shall be calculated in accordance with paragraph (2).

(2) Where paragraph (1) applies the references in regulations F3(2), F4(2) and F5(2) to the retirement pension are to be construed as references to the part of the pension which is attributable to the period of his membership in contracted-out employment after 5th April 1978.

Remarriage and cohabitation

F7.—(1) Except where paragraph (2) applies, where a widower or widow would otherwise be entitled to a pension by virtue of this Part—

- (a) he or she is not so entitled during any subsequent marriage or any period of cohabitation outside marriage, and
- (b) he or she is so entitled from the end of any such marriage or period only if the appropriate administering authority in their discretion so decide.

(2) Where a widower and a widow who are each entitled to a pension under this Part marry each other or cohabit with each other outside marriage—

- (a) only such one of them as they determine shall be entitled to his or her pension, and
- (b) the other shall cease to be entitled to his or her pension until the marriage or cohabitation ends.

Widowers: requirement for post 5th April 1988 service and consequent adjustments to "retirement pension"

F8.—(1) For the purpose of determining entitlement to a widower's pension under regulations F3(1), F4(1) and F5(1), in those regulations—

"retirement pension" means a retirement pension of which at least part is attributable to a period of membership after 5th April 1988;

"local government employment" means local government employment of which at least part was employment after that date; and

"preserved benefits" means preserved benefits of which at least part are attributable to a period of membership after that date.

(2) For the purposes of calculating a widower's short-term pension under regulation F4(2) or long-term pension under regulation F2(2), F3(2) or F5(2), in those regulations "retirement pension" means a retirement pension calculated—

- (a) by reference to the length in years of the wife's period of membership after that date; and
 - (b) if the widower was his wife's husband at some time while she was in local government employment after 31st March 1972, by reference also to—
 - (i) the length in years of any period treated under paragraph (3) as a period of membership after 5th April 1988,
 - (ii) the length in years of any period of which notice is given in accordance with paragraph 1(1) of Schedule F1, and
 - (iii) the length in years of any period of membership in respect of which payment under regulation C14 has been or is treated as having been completed.
- (3) For the purposes of paragraph (2)(b)(i) the following periods are to be treated as periods of membership after 5th April 1988, namely—
- (a) membership which the deceased became entitled to count after that date by virtue of regulation D7(2),
 - (b) membership which the deceased was entitled to count under regulation C9 of or paragraph 5 of Schedule M4 (transitional provisions) to these regulations or regulation D4, D5 or D9 of the 1986 regulations where the necessary payment was made or commenced after that date.
 - (c) membership which the deceased was entitled to count by virtue of a resolution passed under regulation B16 or B17 of these regulations or regulation D7 of the 1986 regulations after that date,
 - (d) membership which is treated as membership after that date by virtue of paragraph 7 of Schedule M4 (transitional provisions) to these regulations or regulation D13(3) of the 1986 regulations.
 - (e) membership which the deceased was entitled to count under regulation K14 where the relevant transfer value—
 - (i) was not a transfer value to which paragraph 17(1)(b) of Schedule M4 (transitional provision in relation to interchange) applies, and
 - (ii) was accepted after that date.

Widowers: elections for added years etc.

F9. Schedule F1 shall have effect for the purpose of making provision as to elections by women members affecting their widowers' pensions.

Adjustments to pensions of surviving spouses of certain-employed pensioners

F10. The provisions of this Part have effect subject to Part IV of Schedule D5 (re-employed pensioners).

Contracting-out requirements: GMP rule

Surviving spouse's guaranteed minimum pension

F11.—(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment; and

(b) the member has a guaranteed minimum under section 14 of the Pension Schemes Act 1993⁽¹⁾ in relation to benefits under these regulations,

then, if the member dies at any time leaving a widow or widower, the widow or widower is entitled to a pension at a weekly rate equal to the widow's or, as the case may be, the widower's guaranteed minimum (within the meaning of section 17 of that Act minimum pensions for widows and widowers) during any period for which that section provides that a pension of not less than that amount is to be payable to the widow or, as the case may be, the widower (unless the widow or widower is entitled to a surviving spouse's pension at a higher rate).

(2) The guaranteed minimum referred to in paragraph (1) shall, so far as it is attributable to earnings factors for the tax year 1988 89 or for subsequent tax years, be increased in accordance with the requirements of section 109 of the Pension Schemes Act 1993 (annual increase of guaranteed minimum pensions).

(3) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—

- (a) regulation H4 (forfeiture of rights); and
- (b) regulation H5 (commutation of small pensions).

⁽¹⁾ 1993 c. 48.