
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART G

CHILDREN'S PENSIONS

Preliminary

Meaning of “Child”

- G1.** For the purposes of these regulations “child” means a person who—
- (a) has not attained the age of 17 years,
 - (b) has attained that age and has since been—
 - (i) receiving full-time education, or
 - (ii) undergoing a full-time course of training of not less than 2 year’s duration for a trade, profession or vocation,either continuously or continuously with the exception of a period which the appropriate administering authority have in their discretion decided to disregard (on being satisfied that his education or training ought not to be regarded as completed), or
 - (c) has attained that age and is incapacitated by reason of ill-health or infirmity of mind or body which arose either—
 - (i) before he attained that age, or
 - (ii) while receiving such full-time education or training, or
 - (iii) during a period which the authority have decided to disregard under paragraph (b).

Meaning of “eligible child”

G2.—(1) For the purposes of these regulations a child is an eligible child of a deceased person who was in a local government employment when he died and was then a member or a former member, if he is—

- (a) the deceased’s legitimate or adopted child,
- (b) the deceased’s step-child or illegitimate child,
- (c) an adopted child of a person who has been married to the deceased, or
- (d) a child accepted by the deceased as a member of the family,

and, in the case of a child within paragraph (b), (c) or (d), is wholly or mainly dependent on the deceased at the time of his death.

(2) For the purposes of these regulations a child is an eligible child of a person who has died after becoming entitled to a retirement pension if—

- (a) he is a legitimate child of a marriage of the deceased which took place before the date on which he became entitled to the pension, and was born before the first anniversary of that date, or
- (b) he is a child adopted by the deceased before he became entitled to the pension, or
- (c) he is a child who was wholly or mainly dependent on the deceased both before he became entitled to the retirement pension and at the time of his death and is—
 - (i) the deceased’s step-child or illegitimate child,
 - (ii) an adopted child of a person who married the deceased before he became entitled to the pension, or
 - (iii) a child accepted by the deceased as a member of the family.

Death of a member

Member’s children’s long-term pension

G3.—(1) Subject to paragraph (6), where a member dies leaving one or more eligible children, the eligible children are entitled until they cease to be children to or to the benefit of a children’s long-term pension payable from the member’s death.

(2) Subject to paragraph (5) and regulations G9 and G10, the annual amount of a children’s long-term pension is the appropriate fraction of the deceased person’s retirement pension.

(3) Subject to regulation G10, for the purposes of paragraph (2), “the appropriate fraction” means—

- (a) if there is one eligible child and he is in the care of a surviving spouse of the deceased, one quarter;
- (b) if there is one eligible child and he is not in such care, one third;
- (c) if there are two or more eligible children and—
 - (i) half or more of them are in such care, or
 - (ii) fewer than half of them are in such care but a surviving spouse’s pension under Part F is for the time being payable, one half; and
- (d) if there are two or more eligible children and fewer than half of them are in such care and no such surviving spouse’s pension is payable, two thirds;

but references in paragraphs (c) and (d) to a surviving spouse’s pension do not include a short-term pension under regulation F1 in circumstances where no long-term pension is payable under regulation F2.

(4) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a member shall be taken to be the pension to which he would have become entitled if he had at the time of his death become entitled to a pension under regulation D7 (permanent ill-health, etc.) and on the relevant assumptions.

(5) In sub-paragraph (4) “the relevant assumptions” means that there is—

- (a) no increase in the pension by virtue of regulation D2(2)(i), and
- (b) no reduction in the pension under regulation D13 (early payments), regulation H2 (national insurance), or Part I of Schedule D5 (re-employed pensioners), or by virtue of a surrender under regulation D14.

(6) Where a children’s short-term pension—

- (a) is payable under regulation G4, or

(b) would be so payable apart from regulation G8(2), the children's long-term pension does not become payable until the expiry of the period in respect of which that pension is payable under regulation G4 or, as the case may be, would be so payable apart from regulation G8(2) (but subject to regulation G8(3) and (4)).

Member's children's short-term pension

G4.—(1) Subject to regulation G8, where a member dies leaving one or more eligible children, they are entitled to or to the benefit of a children's short-term pension for 6 months after the death or, if less, until they cease to be children.

(2) Subject to regulation G8, the annual rate of a children's short-term pension is the rate at which a surviving spouse's short-term pension would have been payable by virtue of regulation F1.

Death of a deferred pensioner

Deferred pensioner's children's long-term pension

G5.—(1) Where a person who is not a member dies leaving one or more eligible children 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.

those children are entitled to or to the benefit of a children's long-term pension until they cease to be children.

(2) Subject to regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the deceased person's retirement pension.

(3) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a person shall be taken to be the retirement pension to which he would have become entitled if at the time of his death he had become entitled under regulation D5 (retirement on or after NRD) and on the relevant assumptions (within the meaning of regulation G3(5)).

Death of a pensioner

Pensioner's children's long-term pension

G6.—(1) Subject to paragraph (4), where a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension sole entitlement to which is under regulation D17 or a pension under regulation D19), or
- (b) would have been entitled but for regulation H6 (commutation in exceptional circumstances of ill-health) or Part I of Schedule D5 (re-employed pensioners),

dies leaving one or more eligible children, they are entitled until they cease to be children to or to the benefit of a children's long-term pension payable from the death.

(2) Subject to regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the deceased person's retirement pension.

(3) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a person who is entitled at the time of his death to receive payments in respect of a retirement pension (or

would have been so entitled apart from regulation H6 or Part I of Schedule D5) shall be taken to be the retirement pension that would have been payable on the assumption that no payment under regulation H6 had been made and on the relevant assumptions (within the meaning of regulation G3(5)).

(4) In a case where a children's short-term pension is payable under regulation G7, the children's long-term pension does not become payable until the expiry of the period in respect of which that pension is payable under that regulation (or would be so payable if it were not for payment being suspended under regulation G8(2)).

Pensioner's children's short-term pension

G7.—(1) Subject to regulation G8(2), where a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension sole entitlement to which is under regulation D17 or a pension under regulation D19), or
- (b) would have been so entitled but for a payment under regulation H6 (commutation in exceptional circumstances of ill-health) or the operation of Part I of Schedule D5 (re-employed pensioners),

dies leaving one or more eligible children, they are entitled to or to the benefit of a children's short-term pension for 6 months after the death.

(2) Subject to regulation G8(1), the annual rate of a children's short-term pension is the rate at which a surviving spouse's short-term pension would have been payable by virtue of regulation F4 (but, in a case where there is a widower, disregarding regulation F8(2)).

General provisions relating to children's pensions

Limitations on entitlement to children's short-term pensions

G8.—(1) Where—

- (a) a widow's short-term pension is calculated in accordance with regulation F6(1) or a widower's short-term pension is payable by virtue of regulation F1(1) or F4(1), and
- (b) the child who is entitled to or to the benefit of a children's short-term pension is in the care of the widow or widower,

the rate of the child's short-term pension is reduced by the rate of the widow's or widower's pension.

(2) While—

- (a) a widow's short-term pension is payable under regulation F1(1) or F4(1);
- (b) a widower's short-term pension is payable under either of those regulations at a rate not less than that of the children's short-term pension; or
- (c) a widower's short-term pension is payable under regulation F1(1) in circumstances where no long-term pension is payable under regulation F2(1),

a children's short-term pension is not payable unless the child is not in the care of the widow or widower, and then for only three months after the death (or until he ceases to be a child, if sooner).

(3) Where—

- (a) (apart from paragraph (2), or this paragraph, or paragraph (4)) 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 surviving spouse's short-term pension would be payable; and

- (b) if a children's long-term pension and a surviving spouse's long-term pension were payable instead of those short-term pensions, that would result in a greater aggregate pension (having regard to paragraph (2)),

those long-term pensions shall be payable instead of those short-term pensions.

(4) Where—

- (a) apart from paragraph (3) and this paragraph, 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 surviving spouse's short-term pension is payable, and

- (b) a children's long-term pension would be greater,

the long-term pension shall be payable instead of the short-term pension.

Long-term pensions: increase of period of membership in certain cases

G9. Unless the retirement pension determined under regulation G3(4), G5(3) or G6(3) 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 count the lesser of—

- (a) 10 years of membership; and
- (b) the period of membership which he would have been entitled to count if he had continued to be a member until his 65th birthday.

Children over 17 in paid training

G10.—(1) If a child in respect of whom a children's long-term pension is payable has attained the age of 17 years and is receiving remuneration in respect of full-time training for a trade, profession or vocation at an annual rate in excess of the indexed training rate, then—

- (a) the annual rate of the pension is to be reduced by the amount of the excess, or
- (b) if it results in a smaller reduction, the child is to be disregarded for the purposes of calculating the pension.

(2) In paragraph (1) "the indexed training rate" means the annual rate at which an official pension (within the meaning of the Pension (Increase) Act 1971(1)) would for the time being be payable if it had begun on 1st April 1994 and had then been payable at an annual rate of £1,450.

Discretions as to payment of children's pensions

G11.—(1) The appropriate administering authority may apportion a children's pension among the eligible children in respect of whom it is for the time being payable in such shares as they think fit.

(2) The appropriate administering authority may pay a children's pension or any part of it to a person other than an eligible child, to be applied for the benefit of any eligible child or eligible children in accordance with any directions the authority may give.

Adjustments to children's pensions for certain re-employed pensioners etc.

G12. The provisions of this Part have effect subject to Part IV of Schedule D5 (re-employed pensioners) and to paragraph 3 of Schedule F1 (women dying before 6th April 1988).

(1) 1971 c. 56; section 5(1) was amended by the Superannuation Act 1972 (c. 11), section 29(1), Schedule 6, paragraph 85.