
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART H

GENERAL PROVISIONS CONCERNING BENEFITS

Interest on late payment of certain benefits

H1.—(1) Where all or part of—

- (a) a pension payable under Part D, F or G (other than a pension payable to a surviving spouse under regulations F1 in a case where the surviving spouse is not entitled to a pension under regulation F2),
- (b) a retirement grant,
- (c) an ill-health retirement grant payable under regulation D8,
- (d) a death grant, or
- (e) a payment under regulation H6,

is not paid within the relevant period after the due date, the appropriate administering authority shall pay the person to whom the pension or grant is payable interest on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

(2) For the purposes of paragraph (1) the due date is—

- (a) in the case of a retirement pension which becomes payable by virtue of an election under regulation D9(2)(b) or D11(2)(d), one month after the date on which the notice of election is duly given;
- (b) in the case of part of a pension which becomes payable by virtue of payments of contributions (other than an increase in contributions made following a decision under regulation J1 or J5) made after the date on which the remainder of the pension became payable, one month after those payments or contributions were paid;
- (c) in the case of a pension or part of a pension which becomes payable by virtue of contributions made following such a decision, the date on which that pension or part of a pension would have become payable had those contributions been made on the first date which would otherwise have applied;
- (d) in the case of any other pension or part of a pension, the date on which it becomes payable;
- (e) in the case of a retirement grant or part of a retirement grant (other than one to which paragraph (3) applies), the date on which that grant or part becomes payable;
- (f) in the case of an ill-health retirement grant, the day after the person who is entitled to the grant ceased to hold his employment;
- (g) in the case of a death grant, the date on which—
 - (i) probate or letters of administration are produced to the administering authority, or

- (ii) the authority become satisfied that the grant may be paid as provided in regulation H7; and
 - (h) in the case of a payment under regulation H6, the day after the person to whom the payment is made would otherwise become entitled to payment of his pension.
- (3) Where—
- (a) a retirement grant becomes payable by virtue of an election under regulation D9(2)(b) or D11(2)(d) made by a notice given on or after the date on which the grant becomes payable, or
 - (b) a part of a retirement grant becomes payable by virtue of payments or contributions made after the date on which the remainder of the grant became payable;
- then, the due date is—
- (i) in the case mentioned in paragraph (a), one month after the notice was given, and
 - (ii) in the case mentioned in paragraph (b)—
 - (I) where an increase in contributions is made following a decision under regulations J1 or J5, the date on which the grant or the part of the grant would have become payable had those contributions been made at the first opportunity which these regulations would otherwise have provided, and
 - (II) otherwise, one month after the increase in contributions was paid.
- (4) For the purposes of paragraph (1) the relevant period means—
- (a) in the case of a pension within paragraph (a) of that paragraph, one year, and
 - (b) in the case of a grant within paragraph (b), (c) or (d) of that paragraph or a payment within paragraph (e) of that paragraph, one month.

National Insurance

H2. Where, but for the revocation of the 1974 regulations, the amount of a benefit would have fallen to be reduced under Part F of those regulations, the amount shall be reduced as if that Part had not been revoked.

Benefits not assignable

- H3.** Every benefit to which a person is entitled under these regulations—
- (a) is payable to or in trust for him, and
 - (b) is not assignable or chargeable with that or any other person's debts or other liabilities.

Forfeiture of pension rights after conviction of employment-related offences

- H4.—**(1) If—
- (a) a person has been convicted of an offence in connection with an employment as respects which he was a member;
 - (b) he has (whether before or after the conviction) ceased to hold that employment in consequence of that offence; and
 - (c) on an application made within three months after the conviction by the body who were his employing authority in that employment, the Secretary of State has certified that the offence—
 - (i) was gravely injurious to the State, or
 - (ii) is liable to lead to serious loss of confidence in the public service,

then that body may direct that all or any of the rights enjoyed by or in respect of him under these regulations as respects his previous membership shall be forfeited.

(2) No direction may be given under paragraph (1) which would deprive a convicted person of his guaranteed minimum pension or would, in the event of his leaving a surviving spouse, deprive that spouse of any widow's or widower's guaranteed minimum pension, unless the convicted person ceased to hold his employment in consequence of—

- (a) an offence of treason, or
- (b) one or more offences under the Official Secrets Acts 1911 to 1989(1) for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(3) If—

- (a) a person has ceased to hold an employment as respects which he was a member in consequence of an offence in connection with his employment, and
- (b) the body who were his employing authority have neither notified a decision under Part J on any question as to entitlement to a benefit nor given any direction under paragraph (1)

the appropriate administering authority shall, if so directed by that body, make interim payments of such amounts as may be specified in the direction to any person so specified who appears to the body to be a person who would be entitled to receive payment of a benefit under these regulations if no direction under paragraph (1) were given.

(4) Directions under paragraph (3) shall not require any person to be paid more than it appears to the body giving the direction that he would for the time being be entitled to have been paid on the assumption that no direction under paragraph (1) will be given, but such directions do not constitute decisions under Part J as to any person's entitlement to a benefit.

(5) Payments made to a person in accordance with directions under paragraph (3) shall be deemed to have been payments in respect of a benefit to which he was entitled, notwithstanding any direction given under paragraph (1) or any decision under Part J as to entitlement to the contrary.

(6) A body applying for a certificate under paragraph (1)(c) in respect of a convicted person shall at the same time send copies of the application to him and to the appropriate administering authority.

Commutation: small pensions

H5.—(1) Where the annual rate—

- (a) of a retirement pension (or pensions) to which any person has become entitled as a member or former member, or
- (b) of a long-term pension to which any surviving spouse has become entitled, or
- (c) of a long-term pension payable to or in respect of an eligible child or children,

amounts (or amount in aggregate) to not more than the relevant amount, the appropriate administering authority may discharge their liability in respect of that pension (or those pensions) by payment to the member or former member or, in the case of a surviving spouse's pension, the spouse or, in the case of a child's pension, any person who appears to them to be appropriate, of a lump sum of such amount as represents the capital value of the relevant pension (or pensions), calculated in accordance with tables prepared by the Government Actuary.

(2) For the purposes of this regulation, the relevant amount is—

- (a) in the case of a retirement pension £195;
- (b) in the case of a surviving spouse's long-term pension £260;

(1) 1911, c. 28, 1920 c. 25, 1939 c. 121, 1989 c. 6.

(c) in the case of a children's long-term pension £260;

but, for the purposes of determining whether such pension or pensions exceed the relevant amount, the pension—

- (i) shall be taken in include any increase payable under the Pensions (Increase) Act 1971⁽²⁾ in respect of it, and
- (ii) shall be aggregated with any other such pension to which the member or, in the case of a surviving spouse's pension, that spouse or, in the case of a children's pension, any child or other person, has become entitled under the Scheme in respect of the member in question.

(3) This regulation only applies to a retirement pension where the member who has become entitled to the pension has attained state pensionable age, and a member shall not be treated as having become entitled to a retirement pension under regulation D11 until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(4) Where a payment is made to a person under paragraph (1) in respect of any retirement pension or pensions—

- (a) it shall include a payment of an amount representing the capital value (calculated as there mentioned) of any surviving spouse's long-term pension which, if the person died leaving a surviving spouse, would be payable to that spouse; and
- (b) the liability in respect of any such surviving spouse's long-term pension or pensions and in respect of any children's long-term pension which, if the person died leaving an eligible child or eligible children, would be payable to or for the benefit of that child or those children is also discharged by the payment.

Commutation: exceptional circumstances of ill-health

H6.—(1) Where at the time a retirement pension first becomes payable to a member or former member under Part D the appropriate administering authority are satisfied, having considered the advice of a registered medical practitioner—

- (a) that the member or former member is exceptionally ill, and
- (b) that he has a life expectancy of less than one year,

they may discharge their liability in respect of—

- (i) so much of that pension as exceeds his guaranteed minimum, and
- (ii) any lump sum death grant which would otherwise be payable at his death under regulation E3 or E4,

by payment to him of a lump sum of an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to him exceeds the amount of his guaranteed minimum.

(2) The appropriate administering authority shall deduct from any payment under this regulation any tax to which they may become chargeable under section 599 of the Income and Corporation Taxes Act 1988⁽³⁾ (charge to tax: commutation of entire pension in special circumstances).

Payments due in respect of deceased persons

H7.—(1) Where a person dies and the total of—

- (a) any sums that were due to him under these regulations, and
- (b) any other sums payable under these regulations to his personal representatives,

(2) 1971 c. 56.

(3) 1988 c. 1; section 599 was amended by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 11, 18.

(“the amount due”) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965(4) and applying in relation to his death, then the appropriate administering authority may, without requiring the production of probate or letters of administration of his estate, pay the whole or any part of the amount due out of their pension fund—

(i) to the personal representatives, or

(ii) to the person, or to or among any one or more of any persons, appearing to the authority to be beneficially entitled to the estate.

(2) Where a payment is made to any person under paragraph (1), the administering authority cease to be liable to account for the amount paid to him.

Benefits in respect of certain persons employed before April 1974

H8. In relation to a member who is a person to whom regulation E19 of the 1974 regulations applied but who did not make an election under that regulation, these regulations apply—

- (a) if he fell within paragraph (1)(b)(i) of that regulation (no previous right to retiring grant or widow’s pension), subject to the modifications set out in Parts I and III of Schedule H1; and
- (b) if he fell within paragraph (1)(b)(ii) of that regulation (no previous right to widow’s pension), subject to the modifications set out in Parts II and III of that Schedule.