
STATUTORY INSTRUMENTS

1998 No. 192

**The Local Government (Discretionary Payments
and Injury Benefits) (Scotland) Regulations 1998**

PART III

COMPENSATION FOR PREMATURE RETIREMENT

Awards to surviving spouses

Entitlement to surviving spouse's short-term and long-term compensation

20.—(1) This regulation applies on the death of an eligible person who has been granted (whether before or after his death) a credited period under regulation 8 and is survived by a spouse or spouses—

- (a) who is or, as the case may be, who are jointly entitled to receive a pension under regulation E5 of the Superannuation Regulations (surviving spouses' pensions) in relation to the deceased's former employment; or
- (b) who would be so entitled apart from—
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies the surviving spouse is or, as the case may be, the surviving spouses are jointly entitled to receive—

- (a) surviving spouse's short-term compensation—
 - (i) in the case of a surviving spouse who has (or one of whose spouse's other surviving spouses has) one or more eligible children in his care, for the period of six months after the date of the death; and
 - (ii) otherwise, for the period of three months after that date; and
- (b) after that period, surviving spouse's long-term compensation;

and where surviving spouses are jointly entitled to compensation under this regulation, the employment authority may decide how it shall be apportioned between them.

(3) If the marriage with the deceased took place after the material date, a surviving spouse is only entitled to receive surviving spouse's short-term or long-term compensation if he is entitled to a surviving spouse's pension under the Superannuation Regulations (or would be so entitled apart from the matters mentioned in paragraph (1)(b)).

(4) Except where paragraph (5) applies, a surviving spouse who is entitled to short-term or long-term compensation by virtue of this regulation—

- (a) is not so entitled during any subsequent marriage or any period of cohabitation outside marriage; and

- (b) is entitled to surviving spouse's long-term compensation from the end of any such marriage or period only if the employing authority in their discretion so decide.
- (5) Where a widower and a widow each of whom is entitled to short-term or long-term compensation under this regulation marry each other or cohabit with each other outside marriage—
 - (a) only such one of them as they may determine shall be so entitled; and
 - (b) the other shall cease to be so entitled until the end of the marriage or cohabitation.

Amount of surviving spouse's short-term and long-term compensation

21.—(1) Surviving spouse's short-term compensation is payable at an annual rate equal to the rate at which any annual compensation would have been payable to the deceased in accordance with these Regulations immediately before his death if there were disregarded any adjustment in accordance with regulation 13, 14 or 18(3).

(2) Surviving spouse's long-term compensation is the relevant fraction of any annual compensation which would have been payable to the deceased in accordance with these Regulations immediately before his death—

- (a) if there were disregarded—
 - (i) any adjustment in accordance with regulation 12, 13, 14, 18(3) or 19;
 - (ii) in a case where at the time of the deceased's death, the deceased was in a new employment in which he was not a pensionable employee, any adjustment in accordance with regulations 15 and 16; and
 - (b) in a case where at the date of death the deceased was in a new employment in which he was a pensionable employee, if that annual compensation were reduced in accordance with regulation 18 on the assumption that the effective service referred to in regulation 18(5)(b) (ii) were the service which the deceased would have been entitled to count as reckonable service on the relevant assumptions if at the date of death the deceased had been such a person as is mentioned in regulation E2(1)(b)(i) of the Superannuation Regulations.
- (3) In paragraph (2) "the relevant fraction" means—
- (a) if the deceased was entitled to receive compensation under regulation 9, one half; and
 - (b) otherwise, three eighths.

(4) Where a surviving spouse receives periodic payments in respect of any period, surviving spouse's short-term or long-term compensation is only payable in respect of that period if, and to the extent that, it exceeds the amount of the aggregate of those periodic payments.

(5) In paragraph (4) "periodic payment" means an instalment of an allowance for life or other period (other than annual compensation under these Regulations) granted to the surviving spouse by the deceased's employing authority, in consequence of or as compensation for the loss of the deceased's former employment, under an enactment, or a contract or arrangement with that authority (excluding a payment which is an excepted payment in relation to that employment).