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## STATUTORY INSTRUMENTS

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# 2013 No. 2356

## The Local Government Pension Scheme Regulations 2013

### PART 1 **E+W**

#### Membership, contributions and benefits

##### Survivor benefits

##### **Survivor benefits: children of active members **E+W****

**42.**—(1) If an active member dies leaving one or more eligible children, they are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) If a pension is payable to a partner of an active member under regulation 41(1), the appropriate administering authority shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(3) The opening balance of a survivor member's pension account opened under paragraph (2) is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (4) or (5), but if the pension payable under regulation 41(1) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with paragraph (9) or (10) as from the day following the date the pension under regulation 41(1) ceased to be paid.

(4) The amount of pension payable under paragraph (3) where there is only one such child is calculated by adding together the amounts in sub-paragraphs (a) and (b),

(a) the pension that the member would have been entitled to draw [<sup>F1</sup>, excluding any final guarantee amount under regulation 4B or 4C of the 2014 Regulations,] if—

- (i) the member had been entitled to draw a pension on the date of the member's death,
- (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn, or following a Scheme pays election, or any pension debit applied on account of a pension sharing order,
- (iii) the pension excluded any additional pension purchased under regulation 16 (additional pension contributions) and any additional pension awarded under regulation 31 (award of additional pension),
- (iv) the member's earned pension had accrued at a rate of 1/320th of pensionable pay and,
- (v) the amount of any earned pension credited under regulation 101(1) (effect of acceptance of transfer value) has been multiplied by 49/320;

[<sup>F2</sup>(aa) For the purposes of sub-paragraph (a), if the member died in the period beginning with 1st April and ending with 5th April in any Scheme year, the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.]

(b) a sum equivalent to 1/320th of the member's annual assumed pensionable pay calculated in accordance with regulation 21(4) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal

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pension age<sup>[F3]</sup>, but where in the opinion of an IRMP the member was at the date of death in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account is to be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition].

(5) The amount of pension payable under paragraph (3) where there is more than one such child, is calculated by adding together the amounts in sub-paragraphs (a) and (b), and is payable to those children in equal shares—

- (a) the pension that the member would have been entitled to draw <sup>[F4]</sup>, excluding any final guarantee amount under regulation 4B or 4C of the 2014 Regulations,] if—
  - (i) the member had been able to draw a pension on the date of the member's death,
  - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction relating to the age at which it was drawn or following a Scheme pays election or any pension debit applied on account of a pension sharing order,
  - (iii) the pension excluded any additional pension purchased under regulation 16 (additional pension contributions) and any additional pension awarded under regulation 31 (award of additional pension),
  - (iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay and,
  - (v) the amount of any earned pension credited under regulation 101(1) (effect of acceptance of transfer value) has been multiplied by 49/160;

<sup>[F5]</sup>(aa) For the purposes of sub-paragraph (a), if the member died in the period beginning with 1st April and ending with 5th April in any Scheme year, the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.]

- (b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 21(4) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age<sup>[F6]</sup>, but where in the opinion of an IRMP the member was at the date of death in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account is to be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition].

(6) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 41(1), the pension payable to that eligible child is recalculated in accordance with paragraph (4) as from the day following the date the other eligible child's or children's pension ceased to be paid.

(7) If, on the day following the member's death, no pension is payable to a partner of an active member under regulation 41(1), the appropriate administering authority shall close the active member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(8) The opening balance of a survivor member's pension account opened under paragraph (7) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (9) or (10).

(9) The amount of pension payable under paragraph (8) where there is only one such child is calculated by adding together the amounts in paragraphs (a) and (b),

- (a) the pension that the member would have been entitled to draw <sup>[F7]</sup>, excluding any final guarantee amount under regulation 4B or 4C of the 2014 Regulations,] if—
  - (i) the member had been entitled to draw a pension on the day the member died,

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- (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme pays election or any pension debit applied on account of a pension sharing order,
  - (iii) the pension excluded any additional pension purchased under regulation 16 (additional pension contributions) and any additional pension awarded under regulation 31 (award of additional pension),
  - (iv) the member's earned pension had accrued at a rate of 1/240th of pensionable pay and
  - (v) the amount of any earned pension credited under regulation 101(1) (effect of acceptance of transfer value) has been multiplied by 49/240;
- [<sup>F8</sup>(aa) For the purposes of sub-paragraph (a), if the member died in the period beginning with 1st April and ending with 5th April in any Scheme year, the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.]
- (b) a sum equivalent to 1/240th of the member's annual assumed pensionable pay, calculated in accordance with regulation 21(4) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age<sup>[F9]</sup>, but where in the opinion of an IRMP the member was at the date of death in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account is to be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition].
- (10) The amount of pension payable under paragraph (8) where there is more than one such child, is calculated by adding together the amounts in paragraphs (a) and (b), and is payable to those children in equal shares—
- (a) the pension that the member would have been entitled to draw <sup>[F10]</sup>, excluding any final guarantee amount under regulation 4B or 4C of the 2014 Regulations,] if—
    - (i) the member had been entitled to draw a pension on the date the member died,
    - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme pays election or any pension debit applied on account of a pension sharing order,
    - (iii) the pension excluded any additional pension purchased under regulation 16 (additional pension contributions) and any additional pension awarded under regulation 31 (award of additional pension),
    - (iv) the member's earned pension had accrued at a rate of 1/120th of pensionable pay and
    - (v) the amount of any earned pension credited under regulation 101(1) (effect of acceptance of transfer value) has been multiplied by 49/120;
- [<sup>F11</sup>(aa) For the purposes of sub-paragraph (a), if the member died in the period beginning with 1st April and ending with 5th April in any Scheme year, the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.]
- (b) a sum equivalent to 1/120th of the member's annual assumed pensionable pay, calculated in accordance with regulation 21(4) as at the date of the member's death , for each year or fraction of a year between the date of the member's death and the member's normal pension age<sup>[F12]</sup>, but where in the opinion of an IRMP the member was at the date of death in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account is to be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition].

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(11) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (9).

(12) The balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's account was opened is adjusted [<sup>F13</sup>on the revaluation date in] the following Scheme year by the [<sup>F14</sup>revaluation] adjustment applicable to the Scheme year in which the survivor member's account was opened [<sup>F15</sup>and takes effect from the start of the Scheme year following the Scheme year in which the survivor member's account was opened,], in accordance with actuarial guidance issued by the Secretary of State.

(13) The <sup>F16</sup>... balance calculated under paragraph [<sup>F17</sup>(3) or (8)] is the opening balance of the survivor member's pension account for the following Scheme year and, [<sup>F18</sup>having applied the revaluation adjustment to the balance in accordance with paragraph (12)] thereafter, the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the Pensions (Increase) Act 1971 <sup>M1</sup> applied.

[<sup>F19</sup>(14) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.]

#### Textual Amendments

- F1** Words in reg. 42(4)(a) inserted (1.10.2023) by [The Local Government Pension Scheme \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/972\)](#), regs. 1(2), **3(6)**
- F2** [Reg. 42\(4\)\(aa\) inserted \(31.3.2023\) by The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(a)**
- F3** Words in reg. 42(4)(b) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **17**
- F4** Words in reg. 42(5)(a) inserted (1.10.2023) by [The Local Government Pension Scheme \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/972\)](#), regs. 1(2), **3(6)**
- F5** [Reg. 42\(5\)\(aa\) inserted \(31.3.2023\) by The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(a)**
- F6** Words in reg. 42(5)(b) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **17**
- F7** Words in reg. 42(9)(a) inserted (1.10.2023) by [The Local Government Pension Scheme \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/972\)](#), regs. 1(2), **3(6)**
- F8** [Reg. 42\(9\)\(aa\) inserted \(31.3.2023\) by The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(a)**
- F9** Words in reg. 42(9)(b) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **17**
- F10** Words in reg. 42(10)(a) inserted (1.10.2023) by [The Local Government Pension Scheme \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/972\)](#), regs. 1(2), **3(6)**
- F11** [Reg. 42\(10\)\(aa\) inserted \(31.3.2023\) by The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(a)**
- F12** Words in reg. 42(10)(b) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **17**
- F13** Words in reg. 42(12) substituted (31.3.2023) by [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(b)(i)**
- F14** Word in reg. 42(12) substituted (31.3.2023) by [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(b)(ii)**
- F15** Words in reg. 42(12) inserted (31.3.2023) by [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(b)(iii)**
- F16** Word in reg. 42(13) omitted (31.3.2023) by virtue of [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), **4(2)(c)(i)**

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- F17** Words in reg. 42(13) substituted (31.3.2023) by [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), [4\(2\)\(c\)\(ii\)](#)
- F18** Words in reg. 42(13) inserted (31.3.2023) by [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), [4\(2\)\(c\)\(iii\)](#)
- F19** Reg. 42(14) inserted (31.3.2023) by [The Local Government Pension Scheme \(Amendment\) Regulations 2023 \(S.I. 2023/279\)](#), regs. 1(1), [4\(2\)\(c\)\(iv\)](#)

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**Marginal Citations**

- M1** 1971 c. 56.

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 30(13) inserted by [2016 c. 12 Sch. 6 para. 5\(1\)\(a\)](#)
- reg. 68A inserted by [2016 c. 12 Sch. 6 para. 5\(1\)\(b\)](#)