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STATUTORY INSTRUMENTS

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**2014 No. 525**

**The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014**

**Survivor benefits**

17.—(1) Except where regulation 10(4) of these Regulations (interfund adjustments etc: deferred members rejoining after five year break in membership) applies, survivor pensions in the case of a survivor of a person who became an active member of the 2014 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme) are calculated by adding together the 2008 Scheme survivor pension and the 2014 Scheme survivor pension.

(2) Subject to paragraphs (9) to (16), 2008 Scheme survivor pensions for the purposes of paragraph (1) are calculated under the 2008 Scheme, notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations), taking account of the deceased member's membership up to 31st March 2014 but—

- (a) in the case of a death in service where a survivor benefit is payable under regulations 41 or 42 of the 2013 Regulations (survivor benefits for partners and children of active members), excluding any augmentation under regulation 20(2) of the Benefits Regulations (early leavers: ill-health), and
- (b) using final pay calculated in accordance with regulations 8 to 11 of the Benefits Regulations (calculation of final pay) as if those Regulations were still in force.

(3) 2014 Scheme survivor pensions for the purposes of paragraph (1) are calculated in accordance with the 2013 Regulations.

(4) Subject to paragraphs (9) to (16), where—

- (a) a member did not accrue any membership in the 2014 Scheme but had pension rights under the Earlier Schemes, or
- (b) a member did accrue membership in the 2014 Scheme and has pension rights under the Earlier Schemes that have not been aggregated with the rights in the 2014 Scheme,

the survivor pension in respect of the rights under the Earlier Schemes are calculated under the Earlier Schemes notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations).

(5) Death grants in the case of a member who did not accrue any membership of the 2014 Scheme are calculated under the Earlier Schemes notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations).

(6) Subject to paragraph (7), death grants in the case of an active member who accrued any membership of the 2014 Scheme are calculated under regulation 40 of the 2013 Regulations (death grants: active members) regardless of whether the member had accrued any membership of the Earlier Schemes (excluding membership deriving from a pension credit).

(7) In the case of an active member of the 2014 Scheme who is also a deferred, deferred pensioner or pensioner member of the Earlier Schemes, if the amount of death grant that would have been payable if regulations 32 and 35 of the Benefits Regulations, or the corresponding provisions under any of the other Earlier Regulations, (death grants: deferred and pensioner members) still applied is

higher than the amount that would be payable under paragraph (6), the death grant payable is that higher amount.

(8) Death grants in the case of a deferred, deferred pensioner or pensioner member of the 2014 Scheme who has membership accrued before 1st April 2014 are calculated by adding together the death grant calculated under the Earlier Schemes based on the membership accrued before 1st April 2014, and the death grant calculated under the 2014 Scheme based on membership after 31st March 2014.

(9) For the purposes of calculating eligibility of a person to survivor benefits under the 2008 Scheme and the other Earlier Schemes—

- (a) the definition of “eligible child” contained in Schedule 1 to the 2013 Regulations (interpretation) is substituted for the definition contained in regulation 26 of the Benefits Regulations (meaning of “eligible child”) and the corresponding provisions in the other Earlier Regulations; and
- (b) the definition of “cohabiting partner” contained in Schedule 1 to the 2013 Regulations (interpretation) is substituted for the definition of “nominated cohabiting partner” contained in regulation 25 of the Benefits Regulations (meaning of “nominated cohabiting partner”).

(10) Any calculation of the survivor pension payable under the Earlier Regulations to a person specified in paragraph (11) is only to take account of membership accrued by a member after 5th April 1988.

(11) The persons referred to in paragraph (10) are—

- (a) the surviving civil partner of a member where the civil partnership took place after the member’s active membership ceased;
- (b) the survivor of a female married—
  - (i) deferred member,
  - (ii) deferred pensioner member, or
  - (iii) pensioner member,where the marriage took place after the member’s active membership ceased;
- (c) the male survivor of a married same sex couple where the marriage took place after the member’s active membership ceased;
- (d) a cohabiting partner.

(12) Where a male deferred, deferred pensioner member or pensioner member marries and dies, any calculation of any survivor pension payable under the Earlier Regulations to a female survivor of the member is only to take account of membership accrued by the member after 5th April 1978.

(13) Membership for the purposes of paragraphs (10) and (12) includes any relevant additional membership that would have counted as membership for the purposes of regulation 42 of the 1997 Regulations (reduction of some surviving spouses’ pensions).

(14) Paragraph (15) applies in relation to persons entitled to pensions which are being paid or may become payable under a Scheme to, or in respect of, persons who, having served in an employment, service in which qualifies persons to participate in the benefits for which the Scheme provides, have ceased to serve therein before 1st April 2014 (whether or not they subsequently recommenced any such service).

(15) Any person to whom this paragraph applies who is placed in a worse position than he or she would have been if the provision in paragraph (11)(a) had not been made in relation to any pension which is being paid or may become payable to or in respect of that person may elect that the provision in paragraph (11)(a) shall not apply in relation to that pension.

(16) Any such election must be made by giving written notice to the appropriate administering authority before 1st April 2015.