
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 352

**Local Government Pension Scheme
Regulations (Northern Ireland) 2002**

PART II

PRIMARY PROVISIONS

CHAPTER IV

BENEFITS

Children's pensions

Meaning of “eligible child”

46.—(1) The eligible child of a deceased member is –

- (a) the deceased's legitimate or adopted child; or
- (b) a child who was wholly or mainly dependent on the deceased at the time of his death or, where the child is born after the member's death, who would have been so dependent if he had been born before or on the date of the deceased member's death,

but does not include a child who was born on or after the first anniversary of the date of the deceased's death.

(2) A person only counts as a child if –

- (a) he is aged under 17;
- (b) since he became 17 he has been engaged continuously in full-time education or in training for a trade, profession or vocation; or
- (c) he is physically or mentally incapacitated and became so whilst a child within paragraph (a) or (b).

(3) If the Committee wishes, it may treat education or training as continuous despite a break.

Children's short-term pensions

47.—(1) If an active member or pensioner member dies leaving one or more eligible children, they are entitled to a children's short-term pension.

(2) If a short-term pension is payable to a surviving spouse under regulation 42, the children's short-term pension is payable only for three months after the death.

(3) Otherwise, it is payable for six months after the death.

(4) Where the deceased was an active member, the annual rate of children's short-term pension is equal to the deceased's final pay.

(5) Where the deceased was a pensioner member, the annual rate of children's short-term pension is equal to his retirement pension immediately before the death.

(6) But in the case of a pensioner member who was a pension debit member, the pension is calculated by reference to the retirement pension to which the deceased would have been entitled had his shareable rights not been subject to a pension debit.

(7) If a short-term pension is payable to a surviving spouse under regulation 42, the children's short-term pension is reduced by that pension, if one or more of the children are in the care of the surviving spouse.

(8) Where, if a children's long-term pension and a surviving spouse's long-term pension were payable instead of short-term pensions, that would result in a greater aggregate pension, long-term pensions shall be payable instead of short-term pensions.

(9) Where –

(a) a children's short-term pension is payable for one or more children who are not in the care of a person to whom a short-term pension is payable (or would be payable apart from paragraph (8)); and

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

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

(10) In this regulation "pensioner member" includes a person whose retirement pension has been commuted under regulation 52 (exceptional ill-health).

Children's long-term pensions

48.—(1) If a member dies leaving one or more eligible children, they are entitled to a children's long-term pension.

(2) If the deceased was an active member or pensioner member, it is payable from the end of the period for which the short-term spouse's and short-term children's pensions are payable.

(3) The pension payable on the death of a deferred member is payable from the day after his death.

(4) An eligible child ceases to be entitled to a long-term pension when he ceases to be a child within regulation 46(2).

(5) If the deceased was an active member, the pension is the appropriate fraction of the pension to which he would have been entitled if on the date of death he had become entitled under regulation 29(1) (ill-health).

(6) If the deceased was a deferred member, the pension is the appropriate fraction of the amount of the pension to which he would have been entitled if on the date of death he had become entitled under regulation 26 (normal retirement).

(7) If the deceased was a pensioner member, the pension is the appropriate fraction of his retirement pension disregarding –

(a) any increase made under regulation 57(2),

(b) any reduction made under regulation 33 or regulation 36, and

(c) any loss of pension as a result of an election made under regulation 31.

(8) But in the case of a member who was a pension debit member, the pension is calculated by reference to the pension to which the deceased would have been entitled had his shareable rights not been subject to a pension debit.

(9) If, apart from this paragraph, the calculation of the long-term pension would be based on a member's retirement pension calculated on the basis of membership of less than –

(a) 10 years; or

(b) the period he would have been entitled to count if his active membership had continued until his 65th birthday,
(whichever is the shorter), then that period should be used instead in calculating it.

(10) The appropriate fractions are –

(a) where there is one eligible child –

- (i) if a surviving spouse's long-term pension is payable, one quarter,
- (ii) otherwise one-third;

(b) where there is more than one eligible child –

- (i) if a surviving spouse's long-term pension is payable, one half,
- (ii) otherwise two-thirds.

(11) If a child in full-time training for a trade, profession or vocation is receiving pay at an annual rate exceeding the training rate –

(a) the pension is reduced by the excess; but

(b) if the pension would be greater without the child, he need not be counted.

(12) In paragraph (11) "the training rate" means the current annual rate of an official pension which began to be paid on 1st April 1994 at an annual rate of £1,450.

Discretions as to payment of children's pensions

49.—(1) If a children's pension is payable for more than one eligible child, the Committee may apportion it amongst the children as it thinks fit.

(2) The Committee may pay the whole or part of a children's pension to a person other than an eligible child, to be applied for the benefit of one or more eligible children as it directs.

Dependants of re-employed pensioners

50.—(1) If –

(a) after a member became entitled to an unreduced retirement pension, he entered further local government employment in which he died; and

(b) assuming that immediately before he died he had retired from the further employment, he would have been entitled to elect under regulation 31 for a single pension,

the benefits payable under the Scheme on his death (except short-term pensions) and any surrendered benefits must be calculated in the case of each beneficiary using whichever of assumptions A and B gives that beneficiary the most favourable benefits.

(2) Assumption A is that the deceased did so retire and assumption B is that he did so retire and so elect.

(3) An unreduced retirement pension is a pension which is not reduced under regulation 33(4) (early leavers).

(4) Where –

(a) a member dies in a new employment; and

(b) assuming he had retired from it on the date he died, he would have been entitled to a retirement pension under this Chapter (whether payable immediately or not),

the short-term pension under regulation 42 is the sum of –

(i) his final pay in the new employment, and

- (ii) the rate at which his retirement pension from his former employment is payable (after taking into account any reduction under regulation 113 (application of abatement policy in individual cases)).
- (5) Where a member dies in a new employment, the long-term pension under regulation 43 is the greater of amount A or amount B.
- (6) Amount A is half the sum of –
 - (a) the member’s retirement pension; and
 - (b) the retirement pension to which he would have been entitled if on the date of death he had become entitled to a pension under regulation 29(1) (ill-health) from the new employment.
- (7) Amount B is half the retirement pension to which the member would have been entitled if on the date of death he had become entitled under regulation 29(1) and had elected under regulation 31 for a single pension.
- (8) Amount A and amount B are both to be calculated on the basis that the retirement pensions have not been –
 - (a) reduced by virtue of a surrender under regulation 36; or
 - (b) increased under regulation 56 (effect of increases under Chapter II of Part III for older members).