
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 61

The Local Government (Early Termination of
Employment) (Discretionary Compensation)
Regulations (Northern Ireland) 2003

PART VIII

SURRENDERS AND AWARDS TO SURVIVING SPOUSES AND CHILDREN

Surrender of part of annual compensation

19.—(1) A person who, under regulation 36 (surrenders of pension) of the Pension Regulations has been allowed to surrender part of the retirement pension to which he would otherwise have been entitled on ceasing to hold his former employment, may (having been awarded a credited period) notify his employing authority, in accordance with paragraph (2) or (3), that he wishes to surrender part of his annual compensation.

(2) A person who has not entered a new employment must give notice within one month of the date on which he is notified of the award of a credited period or, if later, his 65th birthday⁽¹⁾.

(3) A person who has entered a new employment must give notice within one month of –

- (a) the date on which that employment ends;
- (b) the date on which he is notified of any adjustment made by reason of the ending of that employment; or
- (c) his 65th birthday,

whichever is the latest.

(4) A person to whom paragraph (1) applies may surrender the same percentage of his annual compensation as that surrendered under the Pension Regulations so that, if he is survived by his spouse or a dependant of his (“the beneficiary”), the equivalent value of that part is paid instead to the beneficiary.

(5) On the death of the person who has surrendered part of his annual compensation the beneficiary becomes entitled to annual compensation at a rate equivalent to the value of the surrender in the beneficiary’s favour at the time when the surrender was made.

(6) The equivalent rate is such rate as is indicated in guidance issued by the Government Actuary.

(7) If the surrender is allowed, it has effect from the date the person who has made the surrender retires from his employment.

(8) But it does not take effect if the beneficiary or that person dies before that date, and it ceases to have effect if the beneficiary dies before that person.

(1) See regulation 26(2) of the Pension Regulations

(9) A person to whom regulation 36 of the Pension Regulations does not apply, because of a relevant disqualification, may notify his employing authority as mentioned in paragraph (1) and paragraph (4) shall apply in his case as if –

- (a) for “paragraph (1)” there were substituted “paragraph (9)”; and
- (b) for “the same percentage of his annual compensation as that surrendered under the Pension Regulations” there were substituted “such part of his annual compensation, not exceeding one third, as he may specify in his notice under paragraph (2) or (3)”.

(10) In this regulation “annual compensation” means the compensation payable to a person under regulation 10, subject to any necessary adjustment –

- (a) in accordance with regulation 12;
- (b) if he is a person to whom an allowance for life has been granted (see regulation 14(2)), in accordance with that regulation;
- (c) under regulation 18.

Awards to surviving spouses

20.—(1) This regulation applies where, on the death of a person who has been awarded a credited period, there is a surviving spouse –

- (a) who is entitled to receive a pension under regulations 42 to 45 (surviving spouses' pensions) of the Pension Regulations in respect of the deceased's terminated 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) This regulation also applies where the deceased is survived by more than one spouse if both, or all, of them are, or but for the matters mentioned in paragraph (1)(b) would be, jointly entitled to receive such a pension as is mentioned in paragraph (1)(a); and in such a case references in the following paragraphs (in whatever terms) to an entitlement of the surviving spouse are references to the joint entitlement of the surviving spouses.

(3) Where this regulation applies, the surviving spouse is entitled to receive –

- (a) surviving spouse's short-term compensation –
 - (i) for six months after the date of the death if the surviving spouse cares for one or more eligible children of the deceased;
 - (ii) otherwise, for three months after that date; and
- (b) after that period, surviving spouse's long-term compensation,

but if the marriage took place after the termination date, the surviving spouse is only entitled to receive compensation under this regulation if the surviving spouse is (or would be apart from the matters mentioned in paragraph (1)(b)), entitled to a surviving spouse's pension under the Pension Regulations.

(4) Where there is a joint entitlement under this regulation the employing authority may decide how it shall be apportioned.

(5) Subject to paragraphs (6) and (7), the surviving spouse of an eligible person who ceased employment before 1st February 2003 is not entitled to any compensation under this regulation during any subsequent marriage or period of cohabitation outside marriage, and is entitled to long-term compensation from the end of such marriage or period only if the employing authority so decides.

(6) Where a widower and a widow marry each other or cohabit with each other outside marriage and both –

- (a) are entitled to short-term or long-term compensation under this regulation; and
- (b) are the surviving spouses of eligible persons who ceased employment before 1st February 2003,

only such one of them as they may choose shall be so entitled; and the other shall cease to be so entitled until the end of the marriage or cohabitation.

(7) The employing authority may determine by resolution in any case where the surviving spouse had not, as at 1st February 2003 entered into a subsequent marriage or a period of cohabitation that paragraph (5) or (6), as appropriate, shall not apply.

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 that at which annual compensation would have been payable to the deceased immediately before his death in accordance with these Regulations, ignoring –

- (a) any adjustment in accordance with regulation 13 or 14; or
- (b) where the adjustment is under regulation 18 and is to take into account an entitlement to lump sum compensation, such an adjustment under that regulation.

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

- (a) under regulation 12, 13, 14 or 19; and
- (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 16.

(3) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by it under regulation 18 to the annual compensation is to be taken into account.

(4) The amount payable under regulation 20 for a period to a surviving spouse who receives periodic payments is the amount which would have been paid to that surviving spouse for that period, less the total of the periodic payments received for that period.

Short-term compensation for children

22.—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children –

- (a) who are entitled to a short-term pension under regulation 47 (children's short-term pensions) of the Pension Regulations; or
- (b) who would be so entitled but for –
 - (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, but subject to paragraph (3), the eligible children are entitled to, or to have paid for their benefit, children's short-term compensation for the same period as that for which their short-term pension is payable under regulation 47(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period during which he is in the care of a surviving spouse who is entitled to short-term compensation under regulation 20.

(4) Children's short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased in accordance with these Regulations, ignoring any adjustment in accordance with regulation 13 or 14 or under regulation 18.

(5) If eligible children to whom or for whose benefit periodic payments are made are entitled to children's short-term compensation for a period, the amount payable to or for their benefit for that period is the amount which would have been paid to them (in accordance with paragraph (1) or (2)) for that period, less the total of any periodic payments made for that period.

Long-term compensation for children

23.—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children –

- (a) who are entitled to a long-term pension under regulation 48 (children's long-term pensions) of the Pension Regulations; or
- (b) who would be so entitled but for –
 - (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, but subject to paragraph (3), the eligible children are entitled to receive, or to have paid for their benefit, children's long-term compensation for the same period as that for which their long-term pension is payable under regulation 48(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period in which the total of periodic payments made to him and any other eligible children or for their benefit for that period is greater than the amount of children's short-term compensation which would otherwise have been paid to them or for their benefit for that period.

(4) Children's long-term compensation is the relevant fraction of the annual compensation which would have been payable to the deceased immediately before his death in accordance with these Regulations ignoring any adjustment –

- (a) under regulation 12, 13, 14 or 19; and
- (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 16.

(5) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by it under regulation 19 to the annual compensation is to be taken into account.

(6) The amounts payable under this regulation for a period to a child who receives periodic payments is the amount which would have been paid to him for that period, less the total of the periodic payments received for that period.

Payment of children's compensation

24.—(1) Where children's compensation is payable to, or for the benefit of, the same children to whom, or for whose benefit, children's pensions are payable under regulation 49 (discretions as to payment of children's pensions) of the Pension Regulations, the compensation shall be paid to the same person and, if applicable, in the same proportions as the pension is paid under that regulation.

(2) If the only reason why a children's pension is not paid under regulation 49 of the Pension Regulations is –

- (a) a relevant disqualification with respect to the deceased; or
- (b) the transfer of benefits to another pension scheme,

the employing authority shall decide to whom the children's compensation is to be paid and, if applicable, how it is to be apportioned amongst the eligible children.