
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 292

**The Teachers' Pension Scheme
(Scotland) (No. 2) Regulations 2014**

PART 6

Survivor's benefits

CHAPTER 1

General interpretation

General

123. In this Part—

“member” means a member other than a pension credit member;

“survivor's benefits” means any of the following—

- (a) a death grant;
- (b) a survivor's pension;

“survivor's pension” means a surviving adult pension, additional (surviving adult) pension or child pension.

When a retirement pension does not become payable

124. For the purpose of this Part—

- (a) an ill-health pension does not become payable before D's death unless the initial payment of the pension is made before D's death;
- (b) an ill-health pension that does become payable before D's death but ceases to be payable under regulation 111 or 115 is taken not to become payable before D's death; and
- (c) a phased retirement pension that does become payable before D's death but ceases to be payable under regulation 94 does not become payable before D's death.

Meaning of “dies in service”

125.—(1) A member (D) dies in service for the purpose of survivor's benefits if—

- (a) D dies while in pensionable service;
- (b) D dies while on non-pensionable family leave immediately following a period of pensionable service;
- (c) as at the date of D's death, an election under regulation 25 has effect or is taken to have effect; or
- (d) paragraph (2) applies.

(2) This paragraph applies if—

- (a) D dies within 12 months after leaving pensionable service in all eligible employment because D was incapacitated; and
- (b) a retirement pension other than a phased retirement pension does not become payable in relation to that service before D's death.

Meaning of “dies out of service”

126. A member (D) dies out of service for the purpose of survivor's benefits if—

- (a) D does not die in service; or
- (b) D does not die as a pensioner member.

Meaning of “dies as a pensioner member”

127. In this Part, a member (D) dies as a pensioner member if a retirement pension becomes payable before D's death.

Payment of survivor benefits for post-benefit service

128. For the purpose of calculating survivor benefits in respect of a member's period of post-benefit service, the member (D) is taken to have entered pensionable service for the first time when D entered the period of post-benefit service.

Death of a dual capacity member

129. The annual rate of a survivor's pension applies to the surviving adult or eligible child of a dual capacity member in relation to each of the member's capacities.

CHAPTER 2

Specific interpretation

Meaning of “death grant beneficiary”

130.—(1) For the purpose of a death grant, a person (P) is a “death grant beneficiary” if—

- (a) P is an individual;
 - (b) the member has nominated P to receive a death grant or a share of a death grant on the member's death; and
 - (c) at the date of the member's death, the nomination has effect.
- (2) A member may nominate P by giving written notice to the scheme manager.
- (3) The nomination ceases to have effect if—
- (a) the member revokes the nomination by giving written notice to the scheme manager;
 - (b) the member subsequently nominates a different person in place of P; or
 - (c) P dies.
- (4) If a member nominates more than one death grant beneficiary, the notice must state—
- (a) the share of the death grant to be paid to each beneficiary; and
 - (b) whether, if a beneficiary dies before the member, the beneficiary's share must be paid—
 - (i) to the surviving beneficiaries in accordance with paragraph (5); or
 - (ii) to the member's executors as part of the member's estate.

(5) If a beneficiary's share is to be paid to the surviving beneficiaries, it is to be paid to them in shares such that the proportion which each surviving beneficiary's share bears to each of the other surviving beneficiaries' shares is the same as it was in the nomination.

Meaning of "surviving adult"

131.—(1) For the purpose of a death grant, the "surviving adult" of a member who has died means the member's—

- (a) surviving spouse;
- (b) surviving civil partner; or
- (c) surviving nominated partner.

(2) For the purpose of a survivor's pension, the "surviving adult" of a member who has died means the member's—

- (a) surviving spouse;
- (b) surviving civil partner;
- (c) surviving nominated partner; or
- (d) surviving nominated beneficiary.

Meaning of "surviving nominated partner"

132.—(1) For the purpose of a survivor's pension, a member's partner (P) is a "surviving nominated partner" if—

- (a) the member has nominated P to receive a pension on the member's death; and
- (b) at the date of the member's death—
 - (i) the nomination has effect; and
 - (ii) the conditions in paragraph (3) were satisfied for a continuous period of at least 2 years ending on that date.

(2) A member may nominate P by giving the scheme manager a written declaration signed by both the member and P stating that the conditions in paragraph (3) are satisfied.

(3) The conditions are that—

- (a) the member is able to marry or form a civil partnership with P;
- (b) the member and P are living with each other as if they were a married couple or civil partners;
- (c) neither the member nor P is living with a third person as if they were a married couple or civil partners; and
- (d) the member and P are financially interdependent or P is financially dependent on the member.

(4) A nomination ceases to have effect if—

- (a) the member or P revokes the nomination by giving written notice to the scheme manager;
- (b) the member makes a subsequent nomination under this regulation;
- (c) any condition in paragraph (3) ceases to be satisfied; or
- (d) P dies.

Meaning of “surviving nominated beneficiary”

133.—(1) For the purpose of a survivor’s pension, a person (P) is a member’s “surviving nominated beneficiary” if—

- (a) the member has nominated P to receive a pension on the member’s death; and
- (b) at the date of the member’s death—
 - (i) the nomination has effect; and
 - (ii) the conditions in paragraph (3) are satisfied.

(2) A member may nominate P by giving the scheme manager a written notice signed by both the member and P stating that the conditions in paragraph (3) are satisfied.

(3) The conditions are that—

- (a) a retirement pension (other than phased retirement pension) has not become payable to the member;
- (b) P is an individual;
- (c) neither the member nor P is married nor in a civil partnership;
- (d) P is not living with another person as if they were a married couple or civil partners;
- (e) P is not an eligible child of the member;
- (f) if P is the member’s parent, brother or sister—
 - (i) P has never married nor formed a civil partnership; or
 - (ii) P is widowed or a surviving civil partner;
- (g) if P is the member’s step-parent, P is widowed or a surviving civil partner; and
- (h) P is wholly or mainly financially dependent on the member.

(4) A nomination ceases to have effect if—

- (a) the member or P gives written notice of revocation to the scheme manager;
- (b) any condition in paragraph (3) ceases to be satisfied;
- (c) the member makes a subsequent nomination under this regulation; or
- (d) P dies.

Meaning of “eligible child”

134.—(1) In these Regulations, a person is the “eligible child” of a member who dies (D) if—

- (a) the person—
 - (i) is D’s child and was born before D died or within 12 months after D’s death;
 - (ii) was adopted by D; or
 - (iii) was accepted by D as a member of D’s family and was wholly or mainly financially dependent on D at the date of D’s death;
- (b) the person has never married or formed a civil partnership; and
- (c) the person meets Condition 1, 2 or 3.

(2) Condition 1 is that the person is under 17.

(3) Condition 2 is that the person—

- (a) is 17 or over and under 23;
- (b) is receiving full-time education; and
- (c) since reaching the age of 17, has received full-time education without a break.

- (4) Condition 3 is that the person—
 - (a) is incapable of earning a livelihood by reason of physical or mental impairment;
 - (b) because of that impairment, was dependent on D at the date of D’s death; and
 - (c) is not wholly maintained out of money provided by the UK Parliament or the Scottish Parliament or by council tax levied by a local authority.
- (5) For the purpose of Condition 2—
 - (a) a person is receiving full-time education if the person attends a full-time vocational training course which runs for a period of at least 2 years;
 - (b) a person does not cease to receive full-time education if the person takes a single break of up to a year (or such longer period as the scheme manager may determine in the circumstances of the particular case); and
 - (c) a person who ceases to receive full-time education is taken to receive it up to and including the week which includes whichever of the following days occurs first after the end of the term in which the person ceases to receive it—
 - (i) the first Monday in January;
 - (ii) the first Monday after Easter Monday;
 - (iii) the first Monday in September.

CHAPTER 3

Death grant

SECTION 1

General

Payment of death grant

- 135.** On the death of a member (D), a death grant is payable as follows—
- (a) to D’s death grant beneficiary;
 - (b) if there is more than one death grant beneficiary, to those beneficiaries in the shares determined in accordance with regulation 130(4) and (5); or
 - (c) if there is no death grant beneficiary—
 - (i) to D’s surviving adult; or
 - (ii) if there is no surviving adult, to D’s executors as part of D’s estate.

SECTION 2

Death in service

Death in service grant

- 136.**—(1) A death grant is payable under this regulation if a member (D) dies in service (“death in service grant”).
- (2) A death in service grant is not payable if—
- (a) D dies while in pensionable service that is not post-benefit service and a retirement pension other than a phased retirement pension becomes payable before D’s death; or

- (b) D dies while in a period of post-benefit service and a retirement pension in respect of that period becomes payable before D's death.
- (3) If D dies while in pensionable service that is not post-benefit service, the amount of the death in service grant is found by—
 - (a) multiplying D's annual rate of pensionable earnings as at the date of D's death by 3; and
 - (b) deducting the following amounts previously paid to D in respect of pensionable service under this scheme—
 - (i) any part of a lump sum under regulation 162;
 - (ii) any short-service serious ill-health grant.
- (4) If D dies while in a period of post-benefit service, the amount of the death in service grant is found by—
 - (a) multiplying D's annual rate of pensionable earnings as at the date of D's death by 3; and
 - (b) deducting the following amounts previously payable to D under this scheme in respect of both the period of post-benefit service and any previous period of pensionable service—
 - (i) any lump sum under regulation 162 not attributable to additional pension;
 - (ii) any short-service serious ill-health grant.

SECTION 3

Death out of service

Death out of service grant

- 137.**—(1) A death grant is payable under this regulation if a member (D) dies out of service (“death out of service grant”).
- (2) A death out of service grant is not payable if a retirement pension other than a phased retirement pension becomes payable before D's death.
- (3) If a surviving adult pension becomes payable on D's death, the amount of the death out of service grant is found by—
- (a) taking the amount of D's accrued earned pension as at the date of D's death;
 - (b) multiplying that amount by 2.25; and
 - (c) deducting the following amounts previously paid to D in respect of pensionable service under this scheme—
 - (i) any part of a lump sum under regulation 162;
 - (ii) any short-service serious ill-health grant.
- (4) If a surviving adult pension does not become payable on D's death, but D was qualified for retirement benefits, the amount of the death out of service grant is the greater of—
- (a) the amount calculated under paragraph (3); or
 - (b) D's balance of contributions.
- (5) If at the date of D's death D was not qualified for retirement benefits or a short-service serious ill-health grant had not become payable, the amount of the death out of service grant is an amount equal to D's balance of contributions.

Supplementary death grant payable on death of pensioner member

- 138.**—(1) A death grant is payable under this regulation (“supplementary death grant”) if—

- (a) a member (D) dies as a pensioner member; and
 - (b) AR is greater than AP.
- (2) The amount of the death grant is AR-AP,

where—

AR is 5 x D's annual rate of retirement pension payable as at the date of D's death; and
AP is the total amount of pension which was payable to D up until D's death.

CHAPTER 4

Surviving adult pensions

Surviving adult pensions

139.—(1) This regulation applies on the death of a person (D) if D is qualified or re-qualified for retirement benefits.

(2) A surviving adult pension becomes payable to D's surviving adult from the day after the date of D's death.

(3) A surviving adult pension is payable for life.

(4) The annual rate of the pension is to be calculated in accordance with regulations 140 and 141.

Annual rate of surviving adult pension: short-term

140.—(1) The short-term rate of surviving adult pension—

- (a) applies if a member (D) dies in service or dies as a pensioner member; and
- (b) is payable for the first 3 months after D's death.

(2) The short-term rate is calculated as follows—

- (a) if D dies in service, it is D's annual rate of pensionable earnings as at the date of D's death (disregarding any reduction by reason of sick leave, maternity leave, paternity leave, additional paternity leave or adoption leave);
- (b) if D dies as a pensioner member, it is D's annual rate of retirement pension as at the date of D's death; or
- (c) if the rate calculated under sub-paragraph (a) or (b) is smaller than the annual rate calculated in accordance with regulation 141 ("long-term rate"), it is the same as the long-term rate.

(3) In this regulation, "annual rate of retirement pension" means annual rate of phased retirement earned pension or annual rate of full retirement earned pension.

Annual rate of surviving adult pension: long-term

141.—(1) Subject to regulation 142, the long-term rate of surviving adult pension applies—

- (a) if a member (D) dies out of service; or
- (b) otherwise, when the short-term rate ceases to be payable.

(2) The long-term rate of surviving adult pension is 37.5% of D's full retirement earned pension as at the date of D's death.

(3) If a pension sharing order has taken effect, the long-term rate must be reduced by the same proportion by which D's annual rate of retirement pension as at the date of D's death was reduced or would have been reduced by that pension sharing order.

Enhancement of surviving adult pension

142.—(1) This regulation applies if a member (D) has not reached prospective normal pension age and—

- (a) dies in service; or
- (b) dies as a pensioner member after an ill-health pension and a total incapacity pension become payable to D.

(2) If this regulation applies, the long-term rate of surviving adult pension is 37.5% of the sum of the following amounts—

- (a) the amount of D's accrued earned pension as at the date of D's death; and
- (b) the amount found by multiplying half D's prospective service (in years and fractions of a year) by 1/57th of D's annual rate of pensionable earnings as at the date of D's death.

(3) In this regulation, "D's prospective service" means the period (in years and fractions of a year) beginning with the day after the date of D's death and ending on the day on which D would have reached prospective normal pension age.

CHAPTER 5

Additional (surviving adult) pensions

Additional pensions for surviving adults

143.—(1) This regulation applies on the death of a member (D) if—

- (a) D is qualified or re-qualified for retirement benefits;
- (b) the scheme manager accepted an election for an additional (self only) pension and an additional (surviving adult) pension in respect of D;
- (c) an additional pension account was established in respect of D; and
- (d) that account specified an amount of additional pension immediately before D's death.

(2) From the day after D's death, an additional (surviving adult) pension becomes payable to D's surviving adult.

(3) An additional (surviving adult) pension is payable for life.

Annual rate of additional (surviving adult) pension: short-term

144.—(1) The short-term rate of additional (surviving adult) pension—

- (a) applies if a member (D) dies in service or dies as a pensioner member; and
- (b) is payable for the first 3 months after D's death.

(2) The short-term rate is calculated as follows—

- (a) if D dies in service, it is the annual rate of additional (self only) pension payable as at D's death; or
- (b) if D dies as a pensioner member—
 - (i) where a phased retirement pension became payable before D's death, it is the annual rate of additional (self only) pension which would have been payable as at D's death if D had applied under regulation 91 to receive additional pension with the phased retirement earned pension; and
 - (ii) where a retirement pension other than a phased retirement pension became payable before D's death, it is the annual rate of additional (self only) pension payable as at D's death.

(3) Part 2 of Schedule 2 makes further provision in relation to payment of additional pension in respect of a member who dies in service.

Annual rate of additional (surviving adult) pension: long-term

145.—(1) The long-term rate of additional (surviving adult) pension applies—

- (a) if a member (D) dies out of service; or
- (b) otherwise, when the short-term rate ceases to be payable.

(2) The long-term rate of additional (surviving adult) pension is half the annual rate of additional (self only) pension payable as at the date of D's death.

(3) If a pension-sharing order has taken effect, the long-term rate must be reduced by the same proportion by which D's annual rate of retirement pension as at the date of D's death was reduced or would have been reduced by that pension sharing order.

CHAPTER 6

Child pensions

Entitlement to child pension

146.—(1) This regulation applies on the death of a person (D) if D is qualified or re-qualified for retirement benefits.

(2) A child pension becomes payable to an eligible child of D from the day after the date of D's death.

(3) If a child is an eligible child of more than 2 members who die—

- (a) the child is only entitled to payment of a child pension in respect of 2 of those members; and
- (b) the 2 highest child pensions are payable.

(4) A child pension is not payable while an eligible child—

- (a) is on a break from receiving full-time education; or
- (b) attends a full-time vocational training course in respect of which the eligible child is paid at a rate which equals or exceeds the annual rate at which an official pension within the meaning of section 5(1) of PIA 1971 would be payable if the pension had begun, and first qualified for increases under that Act, on 1st April 2014 and had then been payable at an annual rate of £3045.

(5) A child pension ceases to be payable when the person to whom it was payable ceases to be an eligible child.

(6) If D dies in service or dies as a pensioner member, paragraphs (4) and (5) do not apply while the short-term rate of child pension is payable.

(7) The annual rate of a child pension is to be calculated in accordance with regulations 147 and 148.

Annual rate of child pension: short-term

147.—(1) The short-term rate of child pension—

- (a) applies if a member (D) dies in service or dies as a pensioner member; and
- (b) is payable as follows—

- (i) if a surviving adult pension does not become payable on D's death, for the first 6 months after D's death;

- (ii) if a surviving adult pension becomes payable on D's death and continues to be payable for the first 3 months after D's death, for those 3 months; or
 - (iii) if a surviving adult pension becomes payable on D's death but ceases to be payable before the end of the first 3 months after D's death, for those 3 months plus the length of the period from the date on which the surviving adult pension ceased to be payable to the date 3 months after D's death.
- (2) The short term rate of child pension is calculated as follows—
- (a) if D dies in service, it is D's annual rate of pensionable earnings as at the date of D's death (disregarding any reduction by reason of sick leave, maternity leave, paternity leave, additional paternity leave or adoption leave) divided by the number of D's eligible children to whom a pension is payable;
 - (b) if D dies as a pensioner member, it is D's annual rate of retirement pension payable as at the date of D's death (disregarding any reduction by virtue of a pension sharing order) divided by the number of D's eligible children to whom a pension is payable; or
 - (c) if the rate calculated under sub-paragraph (a) or (b) is smaller than the annual rate calculated in accordance with regulation 148 ("long-term rate"), it is the same as the long-term rate.
- (3) In this regulation, "annual rate of retirement pension" means annual rate of phased retirement earned pension or annual rate of full retirement earned pension.

Annual rate of child pension: long-term

- 148.**—(1) The long-term rate of child pension applies—
- (a) if a member (D) dies out of service; or
 - (b) otherwise, when the short-term rate ceases to be payable.
- (2) The long-term rate of child pension is—
- $$\frac{R \times \text{accrued earned pension}}{EC.}$$
- (3) R is—
- (a) 37.5%, if a surviving adult pension is payable;
 - (b) 50%, if a surviving adult pension is not payable or has ceased to be payable.
- (4) In paragraph (2), "accrued earned pension" is D's accrued earned pension as at the date of D's death.
- (5) EC is—
- (a) 2, if a child pension is payable to no more than 2 eligible children; or
 - (b) the number of eligible children, if a child pension is payable to more than 2 eligible children.

Enhancement of child pension

- 149.**—(1) This regulation applies if a member (D) has not reached prospective normal pension age and—
- (a) dies in service; or
 - (b) dies as a pensioner member after an ill health pension and a total incapacity pension become payable to D.
- (2) If this regulation applies, the long-term rate of child pension is—

$$\frac{R \times S}{EC}$$

where—

R is—

- (i) 37.5%, if a surviving adult pension is payable;
- (ii) 50%, if a surviving adult pension is not payable or has ceased to be payable;

S is the sum of the following amounts—

- (i) the amount of D's accrued earned pension as at the date of D's death; and
- (ii) the amount found by multiplying half D's prospective service (in years and fractions of a year) by 1/57th of D's annual rate of pensionable earnings as at the date of D's death;

EC is—

- (i) 2, if a child pension is payable to no more than 2 eligible children; or
- (ii) the number of eligible children, if a child pension is payable to more than 2 eligible children; and

“D's prospective service” means the period (in years and fractions of a year) beginning with the day after the date of D's death and ending on the day on which D would have reached prospective normal pension age.