
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

PART 9

Death benefits

CHAPTER 6

Payment of lump sum death grants

Payment of lump sum death grants: general

145.—(1) A lump sum death grant is payable in respect of—

- (a) an active member of this scheme who dies; or
- (b) a pension credit member of this scheme who dies before any benefits attributable (directly or indirectly) to a pension credit become payable.

(2) A lump sum death grant is payable whether or not a surviving adult's pension or death gratuity is payable in respect of the member.

(3) A lump sum death grant is not payable in respect of a member who dies after reaching 75 (see regulation 148 for payment of a pension instead of a lump sum for members who have reached 75).

Persons who may be paid lump sum death grant

146.—(1) The scheme manager must pay a lump sum death grant to any surviving spouse or surviving civil partner of the member, unless immediately before the member's death—

- (a) the member and the spouse or civil partner were separated by an order or decree of a competent court; and
- (b) the member was not required by the order to contribute, and was not in fact regularly contributing—
 - (i) to the support of the spouse or civil partner; or
 - (ii) to the support of a child of the spouse or civil partner.

(2) If a lump sum death grant is not paid under paragraph (1), the scheme manager may in its discretion pay a lump sum death grant to any surviving adult partner of the member, if the surviving adult partner—

- (a) claims payment of a surviving adult's pension; and
- (b) satisfies the scheme manager that at the time of the member's death—
 - (i) the circumstances stated in the declaration under regulation 125 (meaning of "surviving adult partner") continued to subsist; and
 - (ii) the member and the surviving adult partner had cohabited for at least 2 years.

(3) The scheme manager may in its discretion accept a shorter period of cohabitation if satisfied in the particular circumstances of the case that the member and P would have cohabited as partners for at least 2 years had the member not died.

(4) If a lump sum death grant is not paid under paragraph (1) or (2), the scheme manager may in its discretion pay a lump sum death grant to a person nominated under regulation 142 if the nomination has effect at the date of the member's death.

(5) If a lump sum death grant is not paid under paragraph (1), (2) or (4), the scheme manager may in its discretion pay a lump sum death grant to the member's executors.

(6) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a surviving spouse or surviving civil partner of a deceased member is taken to claim payment of a lump sum death grant on the date of the member's death.

Pension protection lump sum death benefit

147.—(1) A lump sum death grant is treated for the purposes of FA 2004 as a pension protection lump sum death benefit if and to the extent that—

- (a) the member has given written notice to the scheme manager that the lump sum death grant is to be so treated; and
- (b) the lump sum death grant meets all of the conditions required by FA 2004 for it to be treated as a pension protection lump sum death benefit (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to FA 2004(1)).

(2) The scheme manager may deduct tax from the lump sum death grant if the scheme manager is liable for tax under section 206 of FA 2004 in respect of a pension protection lump sum death benefit.

Payment of pension instead of lump sum death grant for members who have reached 75

148.—(1) This regulation applies if an active member dies after reaching 75.

(2) The scheme manager must pay a pension under this regulation to any surviving spouse or surviving civil partner of the member.

(3) If there is no surviving spouse or surviving civil partner, the scheme manager may pay a pension to—

- (a) a surviving adult partner of the member;
- (b) a person nominated by the member under regulation 142; or
- (c) the member's executors.

(4) The restrictions in regulation 146 (persons who may be paid lump sum death grant) relating to payment of a lump sum death grant also apply to payment of a pension under this regulation.

(5) A pension payable under this regulation is payable in respect of each month as from the date of the member's death for the 5 year period beginning with the date of death.

(6) The amount of each payment of pension must be equal to the sum of—

- (a) the amount of pension that would have been payable to the member had the member—
 - (i) become entitled to payment of the pension on the date of death; and
 - (ii) lived until the end of the 5 year period beginning with the date of death; and
- (b) any increases in the annual rate of that pension under PIA 1971 during the 5 year period.

(1) Paragraph 14 was amended by the Finance Act 2011 (c.11), Schedule 16, paragraphs 32 and 34.

(7) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a surviving spouse or surviving civil partner of a deceased member is taken to claim payment of a pension under this regulation on the date of the member's death.