
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

PART 9

Death benefits

CHAPTER 1

Application of Part

Application of Part

123.—(1) This Part applies in relation to death benefits payable in respect of a continuous period of pensionable service under this scheme (“period of service”).

(2) In this Part, “active member”, in relation to this scheme, means a person—

- (a) who is an active member of this scheme; or
- (b) who, for the purpose of determining entitlement to payment of benefits to or in respect of the member, is taken to be an active member of this scheme⁽¹⁾.

CHAPTER 2

Pensions for surviving adults

Surviving adults

124. In these Regulations—

“surviving adult”, in relation to a deceased member of this scheme, means the member’s surviving spouse, surviving civil partner or surviving adult partner;

“surviving civil partner”, in relation to a deceased member of this scheme, means a person who was in a civil partnership⁽²⁾ with the member at the date of the member’s death; and

“surviving spouse”, in relation to a deceased member of this scheme, means a person who was married to the member at the date of the member’s death.

Meaning of “surviving adult partner”

125.—(1) A person (P) is a surviving adult partner of a deceased member of this scheme if—

- (a) the member has sent to the scheme manager a written declaration in a form required by the scheme manager signed by both the member and P that—
 - (i) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;

(1) See Chapter 1 of Part 4 (active membership) for when a member of the police force is taken to be an active member of this scheme.

(2) See section 1 of the Civil Partnership Act 2004 (c.33) for the meaning of “civil partnership”.

- (ii) either P was financially dependent on the member or P and the member were financially interdependent;
 - (iii) the member was able to marry or form a civil partnership with P; and
 - (iv) the member acknowledged an obligation to give the scheme manager a signed notice of revocation should the relationship terminate;
- (b) the member has not revoked the declaration before the member's death; and
- (c) P has satisfied the scheme manager that—
- (i) the circumstances in sub-paragraphs (i) to (iii) of paragraph (a) continued to subsist at the time of the member's death; and
 - (ii) the period of cohabitation had been of at least 2 years' duration at the time of the member's death.
- (2) 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.
- (3) The member or P may revoke a declaration at any time by giving a signed notice to the scheme manager in any form the scheme manager requires.
- (4) On receipt of a declaration or notice under this regulation, the scheme manager must send the member a written notification of its receipt.

Meaning of “surviving adult’s pension”

126. In these Regulations, “surviving adult’s pension” means any of the following pensions payable to a surviving adult under this Chapter—

- (a) a surviving adult’s earned pension;
- (b) a surviving adult’s lower tier ill-health pension;
- (c) a surviving adult’s enhanced upper tier ill-health pension;
- (d) a surviving adult’s added pension.

Entitlement to surviving adult’s pension

- 127.**—(1) This regulation applies in relation to a member who was at the date of death—
- (a) an active member of this scheme with at least 2 years’ qualifying service;
 - (b) a deferred member of this scheme; or
 - (c) a pensioner member of this scheme.
- (2) The surviving adult of the member is entitled to immediate payment for life of a surviving adult’s pension as follows—
- (a) if the member was entitled to payment for life of a retirement earned pension at the date of the member’s death, or would have become entitled to such a pension had the member not died, a surviving adult’s earned pension;
 - (b) if the member was entitled to payment for life of a lower tier ill-health pension at the date of the member’s death, a surviving adult’s lower tier ill-health pension;
 - (c) if the member was entitled to payment for life of both a lower tier ill health pension and an enhanced upper tier ill-health pension at the date of the member’s death, a surviving adult’s lower tier ill-health pension and a surviving adult’s enhanced upper tier ill-health pension;

(d) if the member was entitled to payment for life of a retirement added (all beneficiaries) pension at the date of the member's death or would have become entitled to such a pension had the member not died, a surviving adult's added pension.

(3) The scheme manager may in its discretion withhold a surviving adult's pension that would otherwise be payable to a surviving spouse if the member and the surviving spouse were married less than 6 months before the member's death.

(4) The scheme manager may in its discretion withhold a surviving adult's pension that would otherwise be payable to a surviving civil partner if the civil partnership was formed less than 6 months before the member's death.

(5) Paragraphs (3) and (4) are subject to regulation 141 (guaranteed minimum pensions for surviving spouses and civil partners).

Surviving adult's pension payable in respect of pension debit member

128. The annual rate of surviving adult's pension payable in respect of a pension debit member is calculated by reference to the pension debit member's rights under these Regulations as reduced under section 31 of WRPA 1999.

Annual rate of surviving adult's pensions payable on death of pensioner member

129.—(1) This regulation applies on the death of a pensioner member of this scheme (P).

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the annual rate of retirement earned pension calculated without subtracting the early payment reduction (if any).

(3) The annual rate of a surviving adult's lower tier ill-health pension is an amount equal to 50% of the annual rate of P's lower tier ill-health pension.

(4) The annual rate of a surviving adult's enhanced upper tier ill-health pension is an amount equal to 50% of the annual rate of P's enhanced upper tier ill-health pension.

(5) The annual rate of a surviving adult's added pension is an amount equal to 50% of the annual rate of retirement added (all beneficiaries) pension calculated without subtracting the early payment reduction (if any).

(6) In accordance with section 7(4) of PIA 1971, for the purposes of this regulation there is to be disregarded any increase in the annual rate of a pension since the beginning date for that pension.

Annual rate of surviving adult's pensions payable on death of deferred member

130.—(1) This regulation applies on the death of a deferred member of this scheme.

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the sum of the provisional amount of deferred earned pension specified in the deferred member's account.

(3) The annual rate of a surviving adult's added pension is an amount equal to 50% of the provisional amount of deferred added (all beneficiaries) pension specified in the deferred member's account.

(4) In this regulation "deferred earned pension" means—

- (a) deferred standard earned pension; and
- (b) deferred club transfer earned pension (if any).

Annual rate of surviving adult's pensions payable on death of active member

131.—(1) This regulation applies on the death of an active member of this scheme who has at least 2 years' qualifying service.

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the annual rate of ill-health pension under this scheme that would have been payable to the member on the date of the member's death had the member met the upper tier threshold.

(3) The annual rate of a surviving adult's added pension is an amount equal to 50% of the amount of retirement added (all beneficiaries) pension that would have been specified in the member's retirement account had the member become entitled to the immediate payment of such a pension on the date of the member's death.

Reduction in pensions in cases of wide age disparity

132.—(1) This regulation applies if, on the death of a member of this scheme, a surviving adult's becomes payable to a surviving adult who is more than 12 years younger than the member.

(2) The annual rate of the surviving adult's pension is reduced by the lower of—

- (a) 50% of the amount of the annual rate of the pension calculated under regulation 129, 130 or 131; and
- (b) $2.5 \times (N - 12)\%$ of the amount of the annual rate of the pension so calculated,

where N is the number of whole years by which the surviving adult is younger than the member.

CHAPTER 3

Pensions for eligible children

Meaning of “eligible child's pension”

133. In these Regulations, “eligible child's pension” means any of the following pensions payable to an eligible child under this Chapter—

- (a) a child's earned pension;
- (b) a child's lower tier ill-health pension;
- (c) a child's enhanced upper tier ill-health pension;
- (d) a child's added pension.

Meaning of “eligible child”

134.—(1) In these Regulations, “eligible child”, in relation to a deceased member of this scheme, means a person mentioned in paragraph (2) who meets one of the conditions in paragraph (3).

(2) The persons are—

- (a) a natural child of a member born before the member's death;
- (b) a natural child of a member born after the member's death if the child's mother was pregnant with the child at the date of the member's death;
- (c) an adopted child or step-child of the member; or
- (d) any other child or young person who, in the opinion of the scheme manager, at the date of the member's death was substantially dependent on the member, financially or because of physical or mental impairment.

(3) The conditions are—

- (a) that the person is 18 or under;
- (b) that the person is under 23 and in full-time education or full-time vocational training on a course of at least one year's duration;

- (c) that the person is under 23 and, in the opinion of the scheme manager, unable to engage in any regular employment because of physical or mental impairment;
- (d) that in the opinion of the scheme manager—
 - (i) the person is dependent on the member at the date of the member's death because of physical or mental impairment;
 - (ii) the person is unable to engage in any regular employment because of that impairment; and
 - (iii) that impairment is likely to be permanent.

Eligible child's pension

- 135.**—(1) This regulation applies if a member of this scheme dies leaving an eligible child.
- (2) An eligible child's pension is only payable in respect of such period or periods during which a child or young person is an eligible child.
- (3) An eligible child's pension is not payable in respect of any period before a child's birth.
- (4) An eligible child's pension is payable in respect of an eligible child as follows—
- (a) a child's earned pension is payable if the member was entitled to payment for life of a retirement earned pension at the date of the member's death or the member would have become entitled to such a pension had the member not died;
 - (b) a child's lower tier ill-health pension is payable if a lower tier ill-health pension was payable to the member at the date of the member's death;
 - (c) a child's enhanced upper tier ill-health pension is payable if an enhanced upper tier ill-health pension was payable to the member at the date of the member's death;
 - (d) a child's added pension is payable if the member was entitled to payment for life of a retirement added (all beneficiaries) pension at the date of the member's death or would have become entitled to such a pension had the member not died.
- (5) Part 7 of Schedule 4 (transitional provisions) provides for payment of an eligible child's pension in respect of a transition member with continuity of service—
- (a) who dies as an active member of this scheme; and
 - (b) who has at least 2 years' qualifying service.

Annual rate of eligible child's pension

- 136.**—(1) The annual rate of an eligible child's pension is determined by reference to the annual rate of the corresponding surviving adult's pension (disregarding any reduction falling to be made under regulation 132 (wide age disparity)) whether or not a surviving adult's pension becomes payable on the death of the member.
- (2) For the purposes of this regulation, the corresponding surviving adult's pensions are—
- (a) for a child's earned pension, a surviving adult's earned pension;
 - (b) for a child's lower tier ill-health pension, a surviving adult's lower tier ill-health pension;
 - (c) for a child's enhanced upper tier ill-health pension, a surviving adult's enhanced upper tier ill-health pension; and
 - (d) for a child's added pension, a surviving adult's added pension.
- (3) If an eligible child's pension is payable in respect of one or 2 eligible children, the annual rate of eligible child's pension is equal to 50% of the annual rate of the corresponding surviving adult's pension.

(4) If an eligible child's pension is payable in respect of 3 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of 50% of the annual rate of the corresponding surviving adult's pension.

(5) In this regulation, "the appropriate fraction" means

$$\frac{2}{Y}$$

where—

Y is the number of eligible children in respect of whom the annual rate of eligible child's pension is calculated.

(6) In calculating the annual rate of eligible child's pension payable on the death of a pension debit member of this scheme, the reduction of the pension debit member's benefits under section 31 of WRPA 1999 is disregarded.

CHAPTER 4

Payment of pensions for surviving adults and eligible children

Payment of pensions under this Part

137.—(1) A surviving adult's pension is payable in respect of each month as from the date of the member's death.

(2) An eligible child's pension is payable—

- (a) in respect of each month as from the date of a member's death; or
- (b) for an eligible child born after the member's death, in respect of each month as from the day on which that child is born.

(3) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a person is taken to claim payment of a surviving adult's pension or eligible child's pension in respect of a member—

- (a) on the date of the member's death; or
- (b) for an eligible child born after the member's death, on the day on which that child is born.

(4) An eligible child's pension payable in respect of an eligible child aged under 18 must be paid—

- (a) if the child is in the care of the member's surviving adult, to the surviving adult (unless the scheme manager directs otherwise); and
- (b) in any other case, to a person determined by the scheme manager.

(5) A person who receives a sum under paragraph (3) must apply that sum for the benefit of the child.

Suspension and recovery of pensions paid under this Part

138.—(1) This regulation applies if—

- (a) on a member's death a pension is paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension was paid made a false declaration or deliberately suppressed a material fact in connection with the claim for payment.

(2) The scheme manager may—

- (a) cease paying the pension; and

(b) recover any payment of the pension.

(3) Paragraph (2) does not affect any other right the scheme manager has to recover a payment or an overpayment.

Provisional payment of eligible child's pension: later adjustments

139.—(1) This regulation applies where—

- (a) an active member, deferred member or pensioner member of this scheme has died;
- (b) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children at the date of the member's death and that there were then no other eligible children; and
- (c) it later appears that—
 - (i) a person in respect of whom an eligible child's pension was paid was not an eligible child on the date of death;
 - (ii) on that date one or more other persons was an eligible child; or
 - (iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters in paragraph (1)(c).

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

Adjustment of benefits to comply with FA 2004 where members die over 75

140.—(1) This regulation applies if—

- (a) a member of this scheme dies after reaching the age of 75; and
- (b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 of FA 2004 (the pension death benefit rules) (see paragraphs 16 to 16C of Schedule 28 to that Act).

(2) The benefit payable to the person may be adjusted in any way as determined by the scheme manager so that it qualifies as a dependants' scheme pension for the purposes of section 167 of FA 2004.

Guaranteed minimum pensions for surviving spouses and civil partners

141.—(1) This regulation applies in relation to a person (P) who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member who has a guaranteed minimum under section 17 of PSA 1993 in relation to the member's benefits under this scheme.

(2) Nothing in these Regulations permits or requires anything that would cause requirements under PSA 1993 that relate to such a person or that relate to the rights of such a person not to be met in relation to P.

(3) Nothing in these Regulations prevents anything from being done which is necessary or expedient for the purpose of meeting such requirements in relation to P.

(4) The following paragraphs are without prejudice to the generality of paragraphs (2) and (3).

(5) If apart from this regulation a pension would not be payable to P under this Part—

- (a) a pension the weekly rate of which is equal to the guaranteed minimum is payable to P for life; or

- (b) pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.
- (6) If apart from this regulation the weekly rate of a pension payable to P under this Part would be less than the guaranteed minimum, the pensions payable are increased to the amount specified in paragraph (5).
- (7) Paragraphs (5) and (6) do not apply to a pension that is—
 - (a) forfeited as a result of a conviction for treason; or
 - (b) forfeited under regulation 201 (forfeiture: offences committed by members) where the relevant offence within the meaning of that regulation is an offence under the Official Secrets Acts 1911 to 1989(3).

CHAPTER 5

Nominations for lump sum death grants

Nominations for lump sum death grants

- 142.**—(1) A member of this scheme may nominate an individual to receive a lump sum death grant.
- (2) A nomination may only be made by giving a signed notice to the scheme manager in a form the scheme manager requires.
- (3) A member may revoke or alter a nomination by giving a further signed notice to the scheme manager in a form the scheme manager requires.
- (4) On receipt of a notice under this regulation, the scheme manager must send the member a written notification of its receipt.

Invalid nominations of individuals

- 143.**—(1) If the nomination of an individual is invalid, any lump sum death grant that would have been payable to the individual is payable to the member’s executors.
- (2) A nomination of an individual is invalid if—
 - (a) the individual predeceases the member; or
 - (b) the individual is convicted of the offence of murder of the member.
- (3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of the culpable homicide of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

Recovery of payment if nomination found to be invalid

- 144.**—(1) The scheme manager may recover a lump sum death grant paid to any person if the person’s nomination is subsequently found to be invalid.
- (2) Paragraph (1) does not affect any other right the scheme manager has to recover a payment or an overpayment.

(3) 1989 c.6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

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(4)).

(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.

(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.

CHAPTER 7

Amount of lump sum death grant

Meaning of “final pay”

149.—(1) In these Regulations, “final pay” in relation to a continuous period of pensionable service under this scheme (“period of service”) means the greater of the following amounts—

- (a) the amount of a member’s pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;
- (b) the amount of a member’s pensionable earnings payable in respect of any scheme year in the 10 scheme years immediately before the last active scheme year (“the earnings year”).

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

(2) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater

- (a) if the member's period of service was less than 12 months, the amount in paragraph (1)(a) is an amount equal to the member's annualised final pay; and
- (b) the amount in paragraph (1)(b) is adjusted for inflation in accordance with paragraph (3).

(3) The amount of pensionable earnings payable in respect of the earnings year is adjusted for inflation by increasing it by the same amount as that by which the annual rate of a pension of an amount equal to the amount of pensionable earnings would have been increased under PIA 1971 by the day following the last day of pensionable service if—

- (a) that pension was eligible to be so increased; and
- (b) the beginning date for that pension was the first day of the next scheme year after the earnings year.

(4) For the purpose of this regulation—

- (a) "annualised final pay" has the meaning given by regulation 159;
- (b) in respect of a period of assumed pay under this scheme, "pensionable earnings" means the member's assumed pay; and
- (c) if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes the member's pensionable earnings under the existing police pension scheme before the transition date for that member.

Meaning of "annualised final pay"

150.—(1) This regulation applies for the purpose of regulation 149(2)(a) (meaning of "final pay").

(2) If the member's period of service was less than 12 months, the member's annualised final pay is—

$$FP \times \frac{365}{N}$$

where—

FP is the amount of the member's pensionable earnings payable in respect of that period of service; and

N is the number of days in that period.

(3) But if the period of service includes 29th February, paragraph (1) has effect with "366" substituted in place of "365".

(4) For the purpose of this regulation—

- (a) in respect of a period of assumed pay under this scheme, "pensionable earnings" means the member's assumed pay; and
- (b) if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes the member's pensionable earnings under the existing police pension scheme before the transition date for that member.

Amount of lump sum death grant payable on death of active member

151.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme ("period of service").

(2) If the member is a transition member with continuity of service, the period of service includes the member's period of pensionable service under the existing police pension scheme before the transition date for that member.

(3) The amount of the lump sum death grant payable in respect of a person (P) who dies as an active member is—

(a) if P's period of service was at least 12 months—

P's final pay × 3

(b) if P's period of service was less than 12 months—

P's annualised final pay × 3

Amount of lump sum death grant payable on death of pension credit member

152.—(1) This regulation applies if a pension credit member of this scheme dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death grant is equal to—

annual rate of pension × 3

where—

“annual rate of pension” means the annual rate of pension credit member's pension to which the member would have been entitled if the member had reached the member's state pension age on the date of the member's death.

Amount payable under court order to former spouse or civil partner

153.—(1) This regulation applies if on or after the death of a member of this scheme the scheme manager is required under a court order to pay any part of a lump sum death grant to the member's former spouse or civil partner.

(2) The amount of the lump sum death grant is first determined as if no such order had been made, and then this Part applies as if the amount of the lump sum death grant were reduced by the amount payable under the court order.

CHAPTER 8

Death gratuities

Application of Chapter

154.—(1) This Chapter applies in relation to a member's continuous period of pensionable service under this scheme (“the period of service”).

(2) If a member has more than one period of service, this Chapter applies in relation to each period of service.

Death gratuities - dependants

155.—(1) This regulation applies in relation to a member of this scheme—

- (a) who dies as a deferred member or pensioner member of this scheme if the death results from an injury received in the execution of duty; or
- (b) who dies as a pensioner member of this scheme if the member dies within 2 years after becoming a pensioner member.

(2) The scheme manager may in its discretion grant a gratuity to any person who at the date of the member's death was in the opinion of the scheme manager—

- (a) wholly or partly financially dependent on the member; or
- (b) wholly or partly dependent on the member because of physical or mental impairment.

(3) The total amount of any gratuities granted under this regulation must not exceed the sum of all member contributions and payments for added pension made by the member under this scheme.

Death gratuity - estate

156.—(1) This regulation applies in relation to a member of this scheme—

- (a) who dies as a deferred member or pensioner member of this scheme if the death results from an injury received in the execution of duty; or
- (b) who dies as a pensioner member of this scheme if the member dies within 2 years after becoming a pensioner member.

(2) If the sum of the amounts in paragraph (3) is less than the sum of all member contributions and payments for added pension made by the member under this scheme, the scheme manager must pay to the member's executors a gratuity equal to the difference.

(3) The amounts are—

- (a) any amount of pension or lump sum paid to the member in relation to the period of service, together with any increase under PIA 1971;
- (b) the capitalised value (determined by the scheme manager in accordance with actuarial tables) of any surviving adult's pension or eligible child's pension granted in respect of the member's death;
- (c) if the member is also a pension credit member, the actuarial value of any pension credit; and
- (d) any gratuity granted under regulation 155 (death gratuities - dependants) in respect of the member's death.

(4) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a claim for payment of a gratuity under this regulation is taken to be made on the date of the member's death.

CHAPTER 9

Prevention of duplication of benefits

Payment of one benefit only in respect of deceased member

157.—(1) This regulation applies for the purpose of determining benefits payable to a surviving adult or eligible child (P) in respect of a member's continuous period of pensionable service under this scheme.

(2) P is not entitled to be paid in respect of the member's period of service both—

- (a) a surviving adult's pension or an eligible child's pension; and
- (b) an award under the Injury Benefits Regulations.

(3) P may choose which of the benefits in paragraph (2) P wishes to be paid.

(4) If P chooses which benefit P wishes to be paid, the scheme manager must pay P that benefit.

(5) If P does not choose which benefit P wishes to be paid, the scheme manager must pay P—

- (a) the benefit which is for the time being greater; or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) if the amount of both benefits is the same, that amount.