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STATUTORY INSTRUMENTS

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**1996 No. 1680**

**The Local Government (Discretionary  
Payments) Regulations 1996**

**PART III**

**COMPENSATION FOR PREMATURE RETIREMENT**

*Awards to surviving children*

**Entitlement to children's short-term compensation**

**22.**—(1) This regulation applies where an eligible person who has been granted a credited period under regulation 8 dies and is survived by an eligible child or children—

- (a) who is or are entitled to receive a children's short-term pension under regulation G4 or G7 of the LGPS Regulations in relation to the deceased's former 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) Where this regulation applies, children's short-term compensation is payable to or for the benefit of such eligible child or eligible children as are mentioned in paragraph (1)—

- (a) if a children's short-term pension under regulation G4 or G7 of the LGPS Regulations is payable for the period of 3 months beginning with the date of the death, for that period; and
- (b) otherwise, for the period of 6 months beginning with that date.

(3) Children's short-term compensation is not payable in respect of a period for which surviving spouse's short-term compensation is payable to the surviving spouse of the deceased.

**Amount of children's short-term compensation**

**23.**—(1) Children's short-term compensation is payable at an annual rate equal to the rate at which any annual compensation would have been payable to the deceased in accordance with these Regulations immediately before his death, disregarding any adjustment in accordance with regulation 13, 14 or 18(3).

(2) Where periodic payments are received in respect of a child in respect of any period, children's short-term compensation is only payable in respect of that child and that period if, and to the extent that, it exceeds the amount of the aggregate of those periodic payments.

(3) In paragraph (2) "periodic payment" means an instalment of an allowance for life or other period (other than annual compensation under these Regulations) granted to or in respect of the child by the deceased's employing authority, in consequence of or as compensation for the loss of the

deceased's former employment, under an enactment, or a contract or arrangement with that authority (excluding a payment which is an excepted payment in relation to that employment).

### **Entitlement to children's long-term compensation**

**24.**—(1) This regulation applies where an eligible person who has been granted a credited period under regulation 8 dies and is survived by an eligible child or children—

- (a) in respect of whom there is an entitlement to receive a children's long-term pension under regulation G3, G5 or G6 of the LGPS Regulations in relation to the deceased's former employment; or
- (b) in respect of whom there would be such an entitlement 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) Where this regulation applies, children's long-term compensation is payable to or for the benefit of such eligible child or eligible children—

- (a) if a children's long-term pension under regulation G3, G5 or G6 of the LGPS Regulations is payable following the expiry of the period of 3 months beginning with the date of death, from the day following the expiration of that period; or
- (b) otherwise, from the day following the expiry of the period of 6 months beginning with the date of death.

### **Amount of children's long-term compensation**

**25.**—(1) Children's long-term compensation is payable at an annual rate equal to the appropriate fraction of the deceased's annual compensation.

(2) In paragraph (1) "the appropriate fraction" means—

- (a) where there is a surviving spouse to whom surviving spouse's short-term compensation or long-term compensation is payable (or would be payable apart from regulation 20(4))—
  - (i) if there is one eligible child, one quarter; and
  - (ii) if there are two or more eligible children one half;
- (b) where there is no such surviving spouse or in respect of any period after the death of such a surviving spouse—
  - (i) if there is one eligible child, one third; and
  - (ii) if there are two or more eligible children, two thirds.

(3) For the purposes of paragraph (1), "the deceased's annual compensation" means any annual compensation which would have been payable to the deceased in accordance with these Regulations immediately before his death—

- (a) if there were disregarded—
  - (i) any adjustment in accordance with regulation 12, 13, 14, 18(3) or 19; and
  - (ii) in a case where at the time of the deceased's death, the deceased was in a new employment in which he was not a LGPS member, any adjustment in accordance with regulation 15 and 16; and
- (b) in a case where at the time of the deceased's death, the deceased was in a new employment in which he was a LGPS member, if that annual compensation were reduced in accordance with regulation 18, on the assumption that the total period of membership referred to in regulation 18(5)(b)(ii) were the membership which he would have been entitled to reckon

as membership on the relevant assumptions if he had been, at the time of his death, a person such as is mentioned in regulation D7(1)(b) of the LGPS Regulations.

(4) Where periodic payments (as defined in regulation 23(3)) are received in respect of a child in respect of any period, children's long-term compensation is only payable in respect of that child and that period if, and to the extent that, it exceeds the amount of the aggregate of those periodic payments.

(5) If an eligible child to whom, or for whose benefit, children's long-term compensation is payable—

- (a) has attained the age of 17; and
- (b) is in receipt of remuneration in respect of full-time training for a trade, profession or calling at an annual rate in excess of the indexed training rate,

then—

- (i) the annual rate of the children's long-term compensation shall be reduced by an amount equal to the amount of that excess (less any reduction made in the children's long-term pension in respect of that excess under regulation G10(1) of the LGPS Regulations); or
- (ii) if it would result in a smaller reduction of the children's long-term compensation, that child shall be disregarded for the purpose of calculating the amount of that compensation.

(6) In paragraph (5)(b) "the indexed training rate" means the annual rate at which an official pension would for the time being be payable if it had begun on 1st April 1994 and had then been payable at an annual rate of £1,450.

### **Payment of children's compensation**

**26.**—(1) In a case where children's compensation is payable in respect of children in relation to whom children's short-term pension or children's long-term pension is paid under regulation G11 of the LGPS Regulations (discretions as to payment of children's pensions), children's compensation—

- (a) is payable to the same person; and
- (b) is payable for the benefit of the eligible children in the same proportions,

as the children's pension is payable.

(2) If children's short-term pension or children's long-term pension is not paid under regulation G11 of the LGPS Regulations because—

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

but otherwise (and on the relevant assumptions) it would be so payable, the employing authority shall decide to whom the children's compensation is payable and in what shares it is to be apportioned amongst the eligible children.