
STATUTORY INSTRUMENTS

1996 No. 1680

The Local Government (Discretionary Payments) Regulations 1996

PART VI

GRATUITIES AS RESPECTS NON-PENSIONABLE SERVICE

Death in service gratuities

40.—(1) Where a person who has been employed by a LGPS employer for not less than one year dies while in their employment, the LGPS employer may make a discretionary grant (“a death benefit gratuity”) to one or more of the person’s spouse and dependants.

(2) A death benefit gratuity may consist of a lump sum or an annuity or both.

(3) The amount of a death benefit gratuity (including the capital value of any annuity) or, in a case where the gratuity is paid to more than one person, the aggregate amount of such gratuity must not exceed the prescribed maximum.

(4) In this regulation “the prescribed maximum” means 3.75 per cent. of the aggregate of—

- (a) an amount equal to remuneration at the annual rate for a period equal to the total of the length in years and days of the person’s service before 1st April 1987 and 50 per cent. of any war service (within the meaning of Part F of the 1986 Regulations) in respect of which a period might have become reckonable as reckonable service under regulation F6 of those Regulations if the conditions in regulation F3(2) to (10) of those Regulations had been satisfied; and
- (b) an amount equal to remuneration at the annual rate (with the necessary adjustments in accordance with paragraph (6)), for a period equal to the length in years and days of that person’s service after 31st March 1987, but in the case of a person—
 - (i) whose contractual hours are fewer than 15 and who had not attained the age of 50 on 16th August 1993; or
 - (ii) whose contractual hours are at least 15 and who had not before 1st April 1987 attained the age of 55,

disregarding the assumed membership.

(5) In this regulation “annual rate of remuneration”, in relation to an employee, means the annual rate of his remuneration (ascertained as if regulation K21(5) and (6) of the LGPS Regulations had applied) at whichever of the following times yields the highest figure—

- (a) the date on which he ceased to be employed;
- (b) 12 months before that date; or
- (c) 24 months before that date.

(6) For the purposes of paragraph (4), the necessary adjustments to the annual rate of remuneration are—

- (a) if that rate exceeds the annual equivalent of the lower earnings limit in force at the time at which the annual rate of remuneration falls to be ascertained (as determined in accordance with section 5 of the Social Security Contributions and Benefits Act 1992(1)), but not the upper earnings limit then in force (as so determined), to substitute the lower earnings limit; and
 - (b) if that rate exceeds that upper earnings limit, to substitute the sum of that lower earnings limit and the excess over that upper earnings limit.
- (7) In paragraph (4) “the assumed membership”, in relation to any person, means any service which would have been counted as part of his total period of membership if the person—
- (a) in the case of paragraph (4)(b)(i), had made an election under regulation B1A or regulation B1C of the 1986 Regulations on 17th August 1993; and
 - (b) in the case of paragraph (4)(b)(ii)—
 - (i) had made any election which he was entitled to make under regulation B1(18) of, or paragraph 1(1) or 5(2) of Part IV of Schedule 2 to, those Regulations on 1st April 1987; and
 - (ii) had not made any election he has made under regulation B1(15B) of those Regulations or given any notice he is entitled to give under regulation B12 of the LGPS Regulations.