

SCHEDULE 1

ARRANGEMENT OF RULES

PART E

DEATH BENEFITS

General Provisions

E.22 Pension debit members

- (1) This rule applies where the deceased member was a pension debit member.
- (2) If the member was an active member—
 - (a) the pension payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) is calculated as mentioned in paragraph (3),
 - (b) the amount payable under rule E.8(1) by virtue of rule E.10 (surviving children's pensions) —
 - (i) is first calculated as if the member were not a pension debit member (in particular, in determining the amount of the member's assumed pension or annual pension for the purposes of rule E.10(2)), and
 - (ii) is then subject to any reduction required under section 31 of the Welfare Reform and Pensions Act 1999 ("section 31"), and
 - (c) the lump sum payable under rule E.15 (death of a member: lump sum benefit) is calculated under rule E.16.
- (3) The pension is first calculated under rule E.3 as if the member were not a pension debit member, and then it is reduced in the same proportion as the member's assumed pension would have been reduced under that section if he had been entitled to it on the date of death.
- (4) If the member was a deferred member—
 - (a) the amount of the pension payable under rule E.1 or E.2 is calculated by reference to the amount of the pension to which the member would have been entitled after any reduction under section 31, and
 - (b) the amount payable under rule E.8(1) by virtue of rule E.11—
 - (i) is first calculated as if the member were not a pension debit member (in particular, in determining the amount of the annual pension referred to in rule E.11(2)), and
 - (ii) is then subject to any reduction required under section 31.
- (5) If the member was a pensioner member—
 - (a) the amount of the pension payable under rule E.1 or E.2 is calculated by reference to the amount of the pension to which the member was entitled (after the reduction under section 31), and
 - (b) the amount payable under rule E.8(1) by virtue of rule E.12—
 - (i) is first calculated as if the member were not a pension debit member (in particular, in determining the amount of the annual pension referred to in rule E.12(2) to which the member was entitled), and
 - (ii) is then subject to any reduction required under section 31.

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(6) The effect of any option under rule D.10 (option to exchange lump sum for pension) to increase any pension is to be disregarded in determining the amount payable under paragraph (5) in the first instance; then the option is to be taken into account so far as it increases the amount of the pension so payable.

E.23 Dependants' pensions: suspension and recovery

- (1) This rule applies where—
 - (a) on a member's death a pension has been awarded and paid under this Part, and
 - (b) subsequently it appears to the Secretary of State that the member or the person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.
- (2) The Secretary of State may—
 - (a) cease paying the pension, and
 - (b) recover any payment made under the award.
- (3) Paragraph (2) does not affect the Secretary of State's right to recover a payment or overpayment in any case where he considers it appropriate to do so.

E.24 Recovery of lump sum payments made to nominee

- (1) Where—
 - (a) payment is made to a person under rule E.15 (death of a member: lump sum benefit) because of the person's nomination by a member, and
 - (b) the person's nomination is subsequently found to be invalid under rule E.21(4) or (5),the Secretary of State may recover the payment.
- (2) Paragraph (1) does not affect the Secretary of State's right to recover a payment or overpayment in any case where he considers it appropriate to do so.

E.25 Provisional awards of children's pensions: later adjustments

- (1) This rule applies where after the death of an active member, a deferred member or a pensioner member—
 - (a) 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
 - (b) subsequently it appears—
 - (i) that a person in respect of whom such a pension has been paid was not then an eligible child, or
 - (ii) that a further person was then an eligible child, or
 - (iii) that a child who was born after the member's death is an eligible child.
- (2) The Secretary of State may make such adjustments in the amount of the pensions payable in respect of the children in question as are required in view of the facts as they subsequently appear.
- (3) Paragraph (2) does not affect the Secretary of State's right to recover a payment or overpayment in any case where he considers it appropriate to do so.

E.26 Payments under this Part

- (1) A pension under this Part is payable from the day after the date of the death of the member.

(2) Payment of a lump sum payable under this Part must be made before the expiry of the period of two years beginning with that date.

(3) A pension payable under this Part 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 spouse or civil partner or a person who is the member's surviving adult dependant for the purposes of rule E.2, to the surviving spouse or civil partner or the adult dependant, and

(b) in any other case, to the child's guardian,

unless the Secretary of State directs otherwise.

E.27 Dual capacity membership

(1) This rule applies where the deceased member was—

(a) a member of the Scheme of two or more of the kinds specified in paragraph (2), or

(b) a member of the Scheme and a member of the AFPS 1975.

(2) They are—

(a) an active member,

(b) a deferred member,

(c) a pensioner member, and

(d) a pension credit member.

(3) Where paragraph (1)(a) applies, the general rule is that—

(a) benefits are payable in respect of the member under this Part as if two or more members of the kinds in question had died (so that two or more pensions or lump sums are payable in respect of the one deceased member), and

(b) the amounts payable are determined accordingly.

(4) But that general rule is subject to—

(a) rule E.3(4) and E.4(4) (adult dependants' pension where the member was both an active member and a deferred member),

(b) rule E.14(3) and (4) (children entitled to three or more pensions),

(c) rules E.16(2) and E.17(2) (amount of lump sum where the member was both an active member and a deferred member), and

(d) rule E.16(3) and E.18(3) (amount of lump sum where the member was both an active member and a pensioner member).

(5) Where paragraph (1)(b) applies, the general rule is that benefits are payable in respect of the member under this Part regardless of the member's membership of the AFPS 1975.

(6) But that general rule is subject to rules E.16(4) and (5) and E.17(3) (amount of lump sum where member was both a member of the Scheme and a member of the AFPS 1975).

E.28 Guaranteed minimum pensions for surviving spouses

(1) This rule applies where the surviving spouse of a deceased active, deferred or pensioner member has a guaranteed minimum under section 17 of the Pension Schemes Act 1993 in relation to benefits in respect of the deceased member under the Scheme.

(2) If apart from this rule—

(a) no pension would be payable to the surviving spouse under this Part, or

(b) the weekly rate of the pension payable would be less than the guaranteed minimum,

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a pension the weekly rate of which is equal to the guaranteed minimum is payable to the surviving spouse for life.

(3) Paragraph (2) does not apply if the pension is forfeited in a case where rule J.6(1)(a) (conviction of treason or Official Secrets Acts offences) applies.