
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 393

The Teachers' Superannuation (Scotland) Regulations 2005

PART E

BENEFITS

Amounts of spouses' and nominated beneficiaries' long-term pensions

E31.—(1) Subject to paragraphs (2), (3) and (8), the annual rate of a pension payable under regulation E30 to a surviving spouse or a nominated beneficiary shall be 1/160th of the deceased's pensionable salary multiplied by the length of his or her family benefit service.

(2) If—

(a) paragraph 15 of Schedule 6 applies; and

(b) a person entitled to limit the amount of the deduction or lump sum has done so,

the retrospective salary increase is not to be taken into account in calculating the deceased's pensionable salary.

(3) Where after a pension sharing order has taken effect a surviving spouse of a nominated beneficiary becomes entitled to a pension under regulation E30, that pension shall be reduced by the same proportion by which the deceased's retirement benefits would have been reduced if he or she had become entitled to them on the day he or she died.

(4) Family benefit service does not include any period in respect of which contributions made by a teacher have been returned and not repaid to the Scottish Ministers in pursuance of regulation C14.

(5) Subject to paragraphs (4), (6) and (9) to (11), if the pension is payable to a nominated beneficiary or to a woman whom the deceased married before the end of his or her pensionable employment, the deceased's family benefit service comprises—

(a) any period falling within regulation E30(3)(a) to (h) and;

(b) in the case of a member, his credited service and any period that fell to be calculated in accordance with paragraph 6(3) of Schedule 6.

(6) If the member's credited service exceeds the total of his normal service and any additional period, for the purposes of paragraph (5)(b) his credited service is reduced by 1/6th of the excess.

(7) If the pension is payable to a widower, other than a widower to whom paragraph (8) applies, the deceased's family benefit service comprises, subject to paragraphs (4) and (9) to (11), the relevant service described in regulation E30(4).

(8) Notwithstanding anything in paragraphs (1), (5), (6), (7) and (9) to (11), the pension payable to a widower of a teacher who had in effect at the date of death a nomination in respect of another person under regulation 65 of the 1977 Regulations shall be the aggregate of the following amounts—

(a) a pension equal to one half of that part of the teacher's guaranteed minimum which is attributable to earnings for the tax years 1988/89 to 1996/97 inclusive; and

- (b) a pension calculated by multiplying 1/160th of the deceased teacher's pensionable salary by the period in respect of which family benefit contributions have been paid under Part II of Schedule 6.

(9) This paragraph applies if the deceased died—

- (a) while in pensionable employment;
- (b) during a period for which he or she was paying additional contributions under regulation C8 or C9;
- (c) within 12 months after ceasing to be in pensionable employment as a result of ill-health but before becoming entitled to payment of retirement benefits; or
- (d) after becoming entitled to payment of retirement benefits, if they fell to be enhanced under regulation E10, and

he or she had at least 5 years' reckonable service.

(10) If paragraph (9) applies and the family benefit service calculated in accordance with paragraphs (4) to (7) is less than his or her effective reckonable service, his or her family benefit service is increased by—

$$\frac{A}{B} \times C$$

where—

A is the family benefit service calculated in accordance with paragraphs (4) to (7);

B is his or her effective reckonable service apart from C; and

C is the period which was, or would if regulation E10 had applied have been, the appropriate period within the meaning of regulation E10.

(11) If paragraph (9) applies and A is not less than B, his or her family benefit service is increased by C.

(12) If the deceased had been in pensionable employment after 5th April 1978 and the pension is payable to a woman whom he first married after his last day in pensionable employment, his family benefit service comprises, subject to paragraph (4)—

- (a) any period of pensionable employment after 5th April 1978;
- (b) any period for which additional contributions have been paid under regulation C5 in accordance with an election made after that date;
- (c) any period beginning after that date for which additional contributions have been paid under regulation C8 or C9;
- (d) if a transfer value has been received after that date in respect of comparable British service, any period of reckonable service attributable to comparable British service after that date;
- (e) any period counting as reckonable service by virtue of the receipt after that date of any other transfer value; and
- (f) so much of any period counting as reckonable service by virtue of regulation 6A of the 1977 Regulations⁽¹⁾ as is attributable to service after that date.

(1) [S.I. 1977/1360](#) ("the 1977 Regulations"). Regulation 6A was substituted by [S.I. 1989/666](#). The 1977 Regulations were revoked in their entirety (see Schedule 1 to these Regulations).