
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 393

The Teachers' Superannuation (Scotland) Regulations 2005

PART F

PENSION SHARING

Failure to discharge liability in respect of pension credit within the implementation period – death of ex spouse within period

F9.—(1) Where the Scottish Ministers have not done what is required to discharge their liability in respect of a pension credit before the end of the implementation period for the credit—

- (a) they shall, except in such cases as the Secretary of State may prescribe by regulations under section 33(2)(a) of the 1999 Act, notify the Pensions Regulator of that fact within such period as the Secretary of State may so prescribe; and
- (b) section 10 of the 1995 Act⁽¹⁾ shall apply where the Scottish Ministers have failed to take all such steps as are reasonable to ensure that liability in respect of the credit was discharged before the end of the implementation period for it.

(2) If the Scottish Ministers fail to perform the obligation imposed by paragraph (1)(a) above, section 10 of the 1995 Act shall apply.

(3) Where the Scottish Ministers are subject to liability in respect of a pension credit, the Pensions Regulator may on the application of the Scottish Ministers extend the implementation period for the credit for the purposes of this section if it is satisfied that the application is made in such circumstances as the Secretary of State may prescribe by regulations made under section 33(4) of the 1999 Act.

(4) Where an ex-spouse dies before the Scottish Ministers have discharged their liability in respect of the pension credit, that liability may be discharged by the payment of a lump sum in accordance with paragraph (6).

(5) Upon the death of a pension credit member, a death grant shall be paid if, at the time of the member's death, he or she has not received any pension credit benefits or if he or she has received a pension for less than 5 years. The amount of the death grant to be paid is—

- (a) if the pension credit member was already entitled to payment of pension credit benefits, a lump sum equal to 5 times the amount of the pension which would otherwise have been payable less any amount which has already been paid; or
- (b) if the pension credit member was not entitled to pension credit benefits, a lump sum equal to that to which the member would have been entitled if, on the date of his or her death, he or she had attained the age of 60.

(6) Any death grant referred to in paragraph (5) shall be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination, to the deceased's spouse,

(1) 1995 c. 26, as amended by the Welfare Reform and Pensions Act 1999 (c. 30) section 18 and Schedule 2, paragraph 11 and the Pensions Act 2004 (c. 35), Schedule 12, paragraph 38 and Schedule 13, Part 1.

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whom failing, to his or her legal personal representative. Any nomination for the purposes of this paragraph shall be made by giving written notice to the Scottish Ministers.