
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

PART 9

Death benefits

CHAPTER 4

Payment of pensions for surviving adults and eligible children

Payment of pensions under this Part

137.—(1) A surviving adult's pension is payable in respect of each month as from the date of the member's death.

(2) An eligible child's pension is payable—

- (a) in respect of each month as from the date of a member's death; or
- (b) for an eligible child born after the member's death, in respect of each month as from the day on which that child is born.

(3) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a person is taken to claim payment of a surviving adult's pension or eligible child's pension in respect of a member—

- (a) on the date of the member's death; or
- (b) for an eligible child born after the member's death, on the day on which that child is born.

(4) An eligible child's pension payable 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 adult, to the surviving adult (unless the scheme manager directs otherwise); and
- (b) in any other case, to a person determined by the scheme manager.

(5) A person who receives a sum under paragraph (3) must apply that sum for the benefit of the child.

Suspension and recovery of pensions paid under this Part

138.—(1) This regulation applies if—

- (a) on a member's death a pension is paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension was paid made a false declaration or deliberately suppressed a material fact in connection with the claim for payment.

(2) The scheme manager may—

- (a) cease paying the pension; and

(b) recover any payment of the pension.

(3) Paragraph (2) does not affect any other right the scheme manager has to recover a payment or an overpayment.

Provisional payment of eligible child's pension: later adjustments

139.—(1) This regulation applies where—

- (a) an active member, deferred member or pensioner member of this scheme has died;
- (b) 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
- (c) it later appears that—
 - (i) a person in respect of whom an eligible child's pension was paid was not an eligible child on the date of death;
 - (ii) on that date one or more other persons was an eligible child; or
 - (iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters in paragraph (1)(c).

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

Adjustment of benefits to comply with FA 2004 where members die over 75

140.—(1) This regulation applies if—

- (a) a member of this scheme dies after reaching the age of 75; and
- (b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 of FA 2004 (the pension death benefit rules) (see paragraphs 16 to 16C of Schedule 28 to that Act).

(2) The benefit payable to the person may be adjusted in any way as determined by the scheme manager so that it qualifies as a dependants' scheme pension for the purposes of section 167 of FA 2004.

Guaranteed minimum pensions for surviving spouses and civil partners

141.—(1) This regulation applies in relation to a person (P) who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member who has a guaranteed minimum under section 17 of PSA 1993 in relation to the member's benefits under this scheme.

(2) Nothing in these Regulations permits or requires anything that would cause requirements under PSA 1993 that relate to such a person or that relate to the rights of such a person not to be met in relation to P.

(3) Nothing in these Regulations prevents anything from being done which is necessary or expedient for the purpose of meeting such requirements in relation to P.

(4) The following paragraphs are without prejudice to the generality of paragraphs (2) and (3).

(5) If apart from this regulation a pension would not be payable to P under this Part—

- (a) a pension the weekly rate of which is equal to the guaranteed minimum is payable to P for life; or

- (b) pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.
- (6) If apart from this regulation the weekly rate of a pension payable to P under this Part would be less than the guaranteed minimum, the pensions payable are increased to the amount specified in paragraph (5).
- (7) Paragraphs (5) and (6) do not apply to a pension that is—
 - (a) forfeited as a result of a conviction for treason; or
 - (b) forfeited under regulation 201 (forfeiture: offences committed by members) where the relevant offence within the meaning of that regulation is an offence under the Official Secrets Acts 1911 to 1989⁽¹⁾.

⁽¹⁾ 1989 c.6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.