
STATUTORY INSTRUMENTS

2010 No. 990

The Teachers' Pensions Regulations 2010

PART 8

Death grants

Person to whom death grant is payable

82.—(1) A person (“the appointor”) may nominate another individual (“the nominee”) for the purpose of this Part by giving written notice to the Secretary of State.

(2) A nomination under paragraph (1) ceases to have effect if—

- (a) the appointor revokes the nomination by giving written notice to the Secretary of State,
- (b) the appointor subsequently nominates a different person in place of the nominee, or
- (c) the nominee dies.

(3) The nominee is the appointor’s death grant beneficiary for the purpose of this Part if the nomination has effect at the date of the appointor’s death.

(4) Where the appointor nominates more than one individual under paragraph (1), the notice must state in relation to each nominee—

- (a) the share of the death grant to be paid to the nominee, and
- (b) whether, if the nominee predeceases the appointor, the Secretary of State must treat the notice as stating that the deceased nominee’s share of the death grant be paid—
 - (i) to the surviving nominee or, if there is more than one, to the surviving nominees in accordance with paragraph (5), or
 - (ii) to the appointor’s personal representatives as part of the appointor’s estate.

(5) Where the share of the deceased’s nominee’s death grant is to be paid to the surviving nominees it is to be paid to them in shares such that the proportion which each surviving nominee’s share bears to each of the other surviving nominee’s shares is the same as it was in the nomination.

(6) Any death grant paid under this Part must be paid to the appointor’s death grant beneficiary or, if more than one, death grant beneficiaries in the shares determined in accordance with paragraphs (4) and (5).

(7) But where there is no death grant beneficiary, the death grant must be paid to the appointor’s surviving spouse, surviving civil partner or surviving nominated partner or, if there is no such person, to the appointor’s personal representatives as part of the appointor’s estate.

Death grant: death in service

83.—(1) A death grant may be paid on the death of a person (D) in any of the following circumstances—

- (a) D dies in pensionable employment;

- (b) D dies during a period in respect of which D is paying contributions under regulation C9 of TPR 1997 or regulation 19 (election to pay contributions by a person serving in a reserve force);
- (c) D ceases to be in pensionable employment because D is incapacitated and dies within 12 months after the cessation of the pensionable employment without returning to employment in a capacity mentioned in Schedule 2;
- (d) the period in respect of which D is paying contributions under regulation 19 ends because D is incapacitated, and D dies within 12 months after the end of that period without returning to employment in a capacity mentioned in Schedule 2;
- (e) D dies while on non-pensionable family leave which immediately follows a period of pensionable employment.

(2) Paragraph (1) does not apply if a retirement pension, short-service incapacity grant or short-service serious ill-health grant, calculated in every case by reference to all of D's reckonable service at the date of D's death, became payable before D's death.

(3) For the purpose of paragraph (2) an ill-health pension does not become payable before a person's death unless payment is initiated before the person's death.

(4) The amount of the death grant is 3 times D's average salary less the total of the following benefits previously payable to D other than any already deducted in the calculation of a lump sum—

- (a) any phased retirement lump sum;
- (b) any retirement lump sum;
- (c) any total incapacity lump sum;
- (d) any lump sum under regulation 116 (election to receive lump sum in place of part of pension) other than a lump sum attributable to an additional pension;
- (e) any short-service incapacity grant;
- (f) any short-service serious ill-health grant.

Death grant: death in service (further employment)

84.—(1) If a person (D) dies after entering further employment, regulation 83 (death grant: death in service) applies with the following modifications.

(2) In paragraph (2) the reference to a retirement pension is a reference to a retirement pension paid in respect of further employment which D entered most recently ("the last further employment").

(3) In paragraph (4) the reference to D's average salary is a reference to average salary in respect of the last further employment (but the reference to benefits previously payable to D is a reference to benefits in respect of the last further employment and all previous employments).

Death grant: death out of service

85.—(1) A death grant may be paid on the death of a person (D) who was in pensionable employment at any time before D's death.

(2) Paragraph (1) does not apply if—

- (a) a death grant may be paid under regulation 83 (death grant: death in service), or
- (b) a retirement pension, short-service incapacity grant or short-service serious ill-health grant, calculated in every case by reference to all of D's reckonable service at the date of D's death, became payable before D's death.

(3) For the purpose of paragraph (2) an ill-health pension does not become payable before a person's death unless payment is initiated before the person's death.

(4) D falls within this paragraph if—

- (a) D was in pensionable employment at any time after 31st March 1972, and
- (b) D had reckonable service of at least 2 years and, if D was in pensionable employment on or after 1st November 1988, D was qualified for retirement benefits.

(5) If D falls within paragraph (4) and no adult pension becomes payable on D's death, the amount of the death grant is the greater of—

- (a) the amount mentioned in paragraph (8), and
- (b) the amount mentioned in paragraph (11).

(6) If D falls within paragraph (4) and an adult pension becomes payable on D's death, the amount of the death grant is the amount mentioned in paragraph (8).

(7) If D does not fall within paragraph (4), the amount of the death grant is the amount mentioned in paragraph (11).

(8) The amount is $\frac{3}{80} \times D$'s average salary \times D's reckonable service (in years (and fractions of a year)) less the total of the following benefits previously payable to D other than any already deducted in the calculation of a lump sum—

- (a) any phased retirement lump sum in a case where the phased retirement pension payable with the lump sum ceased to be payable under regulation 59 (cessation of phased retirement pension);
- (b) any retirement lump sum;
- (c) any total incapacity lump sum;
- (d) any lump sum under regulation 116 (election to receive lump sum in place of pension) other than a lump sum attributable to—
 - (i) a phased retirement pension except where the pension ceased to be payable under regulation 59 (cessation of phased retirement pension), or
 - (ii) an additional pension;
- (e) any short-service incapacity grant, in a case where, after the grant became payable, D either did not re-enter pensionable employment or re-entered pensionable employment before 1st September 2010.

(9) In paragraph (8)—

- (a) the reference to D's reckonable service does not include a reference to reckonable service taken into account in the calculation of a phased retirement pension except where the pension ceased to be payable under regulation 59 (cessation of phased retirement pension);
- (b) where D was a person with mixed service to whom a pension mentioned in paragraph (10) had become payable—
 - (i) the reference to D's reckonable service is a reference to NPA 65 reckonable service, and
 - (ii) the reference to benefits previously payable to D does not include a reference to benefits calculated by reference to NPA 60 reckonable service.

(10) The pensions are—

- (a) a retirement pension payable because Case A applied to D's NPA 60 reckonable service;
- (b) where D was 60 or over, an ill-health pension, or any part of such a pension, calculated by reference to D's NPA 60 reckonable service.

(11) The amount is an amount equal to a refund of D's contributions (calculated in accordance with regulation 23) paid in respect of any reckonable service which is not taken into account in the calculation of benefits.

Death grant: death out of service (further employment)

86.—(1) If a person (D) dies having been in further employment, regulation 85 (death grant: death out of service) applies with the following modifications.

(2) In paragraph (2) the reference to a retirement pension is a reference to a retirement pension paid in respect of further employment which D entered most recently ("the last further employment").

(3) For paragraph (4) substitute—

“(4) D falls within this paragraph if D was qualified for retirement benefits following further employment.”.

(4) In paragraph (8) the reference to D's average salary, D's reckonable service and benefits previously payable to D is a reference to average salary, reckonable service and benefits in respect of the last further employment.

(5) In paragraph (11) the reference to D's contributions is to a reference to contributions in respect of the last further employment.

Death grant: death of pensioner

87.—(1) This regulation applies to the following pensions—

- (a) a phased retirement pension;
- (b) a retirement pension;
- (c) a total incapacity pension;
- (d) an additional pension.

(2) But this regulation does not apply to the following pensions—

- (a) a phased retirement pension which ceased to be payable under regulation 59 (cessation of phased retirement pension);
- (b) an ill-health pension, or that part of such a pension, which ceased to be payable under regulation 68 (cessation and reinstatement of ill-health pension (application received before 6th January 2007)) or regulation 69 (cessation of ill-health pension (application received on or after 6th January 2007)).
- (c) an additional pension which became payable with a pension mentioned in sub-paragraphs (a) and (b);
- (d) a total incapacity pension which ceased to be payable under regulation 67 (cessation of total incapacity pension).

(3) A death grant may be paid on the death of a person (D) if—

- (a) a pension to which this regulation applies had become payable before D's death, and
- (b) AR is greater than AP.

(4) For the purpose of paragraph (3) the following pensions do not become payable before a person's death unless payment is initiated before the person's death—

- (a) an ill-health pension;
- (b) an additional pension paid with an ill-health pension;
- (c) a total incapacity pension.

- (5) AR is 5 times the annual rate of the pension at the date of D's death.
- (6) AP is the amount payable to D since the pension became payable.
- (7) For the purpose of calculating AR and AP, any amount by which a pension was reduced by regulation 63 (reduction of benefits: duplicate pensions) or 64 (abatement of retirement pension during further employment) is to be treated as being payable.
- (8) The amount of the death grant is AR-AP.