
STATUTORY INSTRUMENTS

2014 No. 2336

The Armed Forces Pension Regulations 2014

PART 6

Death benefits

CHAPTER 1

Pensions for adult dependants

Surviving spouses' and civil partners' pensions

65.—(1) If an active member, deferred member or pensioner member dies leaving a surviving spouse or civil partner, the surviving spouse or civil partner—

- (a) is entitled to a dependant's earned pension that is payable for life; and
- (b) depending on the deceased member's circumstances, may be entitled to one or more other pensions payable under this scheme.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under—

- (a) regulation 43 (retirement on or after reaching normal pension age – active members) by virtue of regulation 43(2)(a); or
- (b) regulation 44 (retirement before reaching normal pension age – deferred members) by virtue of regulation 44(1)(b) or (c),

if the member's service had ceased on the date of death otherwise than by reason of death.

(3) A person entitled to a dependant's earned pension under this regulation is entitled to a dependant's added pension if the member was entitled to immediate payment of a retirement added pension (member and dependants) as at the date of the member's death or would have become entitled to such a pension had the member not died.

(4) The scheme manager may withhold the pension or pensions—

- (a) where the pension or pensions would be payable to a surviving spouse, if the member and the surviving spouse married less than 6 months before the member's death; or
- (b) where the pension or pensions would be payable to a surviving civil partner, if the civil partnership was formed less than 6 months before the member's death.

(5) The annual rate of the pension or pensions payable under this regulation is calculated under regulation 68, 69 and 70 (annual rate of adult dependants' pensions payable on death) by reference to the deceased member's own pension rights.

Guaranteed minimum pension for surviving spouses and civil partners

66.—(1) If a person who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member has a guaranteed minimum under section 17 PSA 1993 in relation to benefits in respect of the deceased member under this scheme—

- (a) nothing in these regulations permits or requires anything that would cause requirements made by or under that Act in relation to such a person and such a person's rights under a scheme not to be met;
 - (b) nothing in these regulations prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements; and
 - (c) paragraph (2) is without prejudice to the generality of this paragraph.
- (2) If apart from this regulation—
- (a) no pension would be payable to the surviving spouse or civil partner under this Part; or
 - (b) the weekly rate of the pensions payable would be less than the guaranteed minimum,
- a pension the weekly rate of which is equal to the guaranteed minimum is payable to the surviving spouse or civil partner for life.
- (3) Paragraph (2) does not apply to a pension that is forfeited as a result of a conviction of an offence referred to in regulation 122 (1)(a) or (b) (events enabling forfeiture).

Other adult dependants' pensions

67.—(1) If an active member, deferred member or pensioner member dies leaving a surviving adult dependant, and no benefit is payable under regulation 65 (surviving spouses' and civil partners' pensions), the scheme manager may award the surviving adult dependant—

- (a) a dependant's earned pension that is payable for life; and
- (b) depending on the deceased member's circumstances, one or more other pensions that are payable under this scheme.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under—

- (a) regulation 43 (retirement on or after reaching normal pension age – active members), by virtue of regulation 43(2)(b); or
- (b) regulation 44 (retirement before reaching normal pension age – deferred members), by virtue of regulation 44(1)(b) or (c),

if the member's service had ceased on the date of death otherwise than by reason of death.

(3) A person entitled to a dependant's earned pension under this regulation is entitled to a dependant's added pension if the member was entitled to immediate payment of a retirement added pension (member and dependants) as at the date of the member's death or would have become entitled to such a pension had the member not died.

(4) A person is a surviving adult dependant in relation to a member for the purposes of this regulation if the person satisfied the scheme manager as at the date of the member's death—

- (a) the person and the member were cohabitating as partners in an exclusive and substantial relationship;
- (b) the person and the member were not prevented from marrying or entering a civil partnership; and
- (c) either the person was financially dependent on the member or the person and the member were financially interdependent.

(5) The annual rate of the pension or pensions payable under this regulation is to be calculated under regulation 68, 69 and 70 (annual rate of adult dependants' pensions payable on death) by reference to the deceased member's own pension rights.

Annual rate of adult dependants' pensions payable on death of pensioner member

68.—(1) This regulation deals with the annual rate of the pensions payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) on the death of a pensioner member.

(2) The annual rate of the dependant's earned pension is determined by taking an amount equal to 62.5% of the annual rate of the member's retirement earned pension at the point of the member's death after—

- (a) subtracting the commutation amount (if any) specified in the account in relation to that amount;
- (b) subtracting the pension sharing order amount (if any) specified in the account in relation to that amount; and
- (c) disregarding—
 - (i) the early payment reduction (if any) specified in the account in relation to that amount;
 - (ii) the in service late payment supplement (if any) specified in the account in relation to that amount;
 - (iii) the late payment supplement (if any) specified in the account in relation to the amount; and
 - (iv) the allocation amount (if any) specified in the account in relation to that amount.

(3) Where a member was entitled to immediate payment of a retirement club transfer pension as at the date of death or would have become entitled to such a pension had the member not died, instead of the determination under paragraph (2) a determination shall be made after taking the actions specified in sub paragraphs (a) to (c) by taking an amount equal to 62.5% of the aggregate of the annual rate of the member's retirement earned pension and retirement club transfer pension.

(4) The annual rate of the dependant's added pension is found by taking an amount equal to 62.5% of the annual rate of the member's retirement added pension (members and dependants) at the point of the member's death after—

- (a) subtracting the commutation amount (if any) specified in the account in relation to that amount;
- (b) subtracting the pension sharing order amount (if any) specified in the account in relation to that amount; and
- (c) disregarding—
 - (i) the early payment reduction (if any) specified in the account in relation to that amount;
 - (ii) the in service late payment supplement (if any) specified in the account in relation to that amount;
 - (iii) the late payment supplement (if any) specified in the account in relation to that amount; and
 - (iv) the allocation amount (if any) specified in the account in relation to that amount.

Annual rate of adult dependants' pensions payable on death of deferred member

69.—(1) This regulation deals with the annual rate of the pensions payable under regulation 65 or 67 (surviving spouses' and civil partners' pension and other adult dependants' pensions) on the death of a deferred member.

(2) The annual rate of the dependant's earned pension is an amount equal to 62.5% of the provisional amount of the member's deferred earned pension and any deferred club transfer earned pension specified in the deferred member's account at the point of the member's death after subtracting the pension sharing order amount (if any) specified in the account in relation to that amount.

(3) The annual rate of the dependant's added pension is an amount equal to 62.5% of the provisional amount of the member's deferred added pension (member and dependants) specified in the deferred member's account at the point of the member's death after subtracting the pension sharing order amount (if any) specified in the account in relation to that amount.

Annual rate of adult dependants' pensions payable on death of active member

70.—(1) This regulation deals with the annual rate of pension payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) on the death of an active member, providing—

- (a) the member has at least 2 years' qualifying service; or
- (b) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers).

(2) The annual rate of the dependant's earned pension is determined by—

- (a) (subject to paragraph (b)) taking an amount equal to 62.5% of the annual rate of the member's retirement earned pension at the point of the member's death as if they left with an ill-health pension under regulation 51 (entitlement to ill-health pension: active members with permanent serious ill-health), or

- (b) for active members serving beyond normal pension age, by taking an amount equal to 62.5% of the annual rate of the member's retirement earned pension at the point of the member's death, in each case under paragraph (a) and this paragraph (b) after—

- (i) subtracting the pension sharing order amount relating to that pension (if any) specified in the member's pension account; and

(ii) disregarding—

- (aa) the early payment reduction (if any) specified in that account in relation to that amount;

- (bb) the in service late payment supplement (if any) specified in that account in relation to that amount; and

- (cc) the late payment supplement (if any) specified in that account in relation to that amount.

(3) Where a member was entitled to immediate payment of a retirement club transfer pension as at the date of death or would have become entitled to such a pension had the member not died, instead of the determination under paragraph (2)(a) and (b) a determination shall be made, after taking the actions specified in sub paragraphs (i) and (ii), by taking an amount equal to 62.5% of the aggregate of the annual rate of the member's retirement earned pension and retirement club transfer pension.

(4) The annual rate of the dependant's added pension is determined by taking an amount equal to 62.5% of the annual rate of the member's retirement added pension at the point of the member's death after—

- (a) subtracting the pension sharing order amount relating to that pension (if any) specified in the member's pension account; and

(b) disregarding—

- (i) the early payment reduction (if any) specified in that account in relation to that amount;

- (ii) the in service late payment supplement (if any) specified in that account in relation to that amount; and
- (iii) the late payment supplement (if any) specified in that account in relation to that amount.

Reduction in pensions in case of wide age disparity

71.—(1) If on the death of a member a pension is payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) to a person ("the beneficiary") who is more than 12 years younger than the member, the annual rate of the pension calculated under this Chapter is reduced by the appropriate amount.

(2) The appropriate amount is the lower of—

- (a) 50% of the amount of the annual rate of the pension so calculated; or
- (b) $2.5 \times (N - 12)\%$ of the annual rate of the pension,

where N is the number of whole years by which the beneficiary is younger than the member.

(3) This regulation does not apply in respect of a member—

- (a) to whom rule K.8 or L.7 of the Armed Forces Pension Scheme Order 2005⁽¹⁾ ("2005 scheme") would apply had the member not transferred from the 2005 scheme to this scheme; or
- (b) who on 31st March, 2015 was a member of a scheme listed in paragraphs 25, 26 or 27 of Schedule 5 to the Act.