

# Benefits on death-in-service

## Chapter 10

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## 1 Lump sum benefits

Where an employee dies in service before normal retirement age (NRA) a lump sum not exceeding the greater of €6,350 or four times the deceased employee's final remuneration may be provided. The definition of final remuneration for this purpose need not be the same as for the calculation of other benefits and may in this case be the rate payable at the date of death.

The lump sum may be paid to the employee's legal personal representatives or a nominated beneficiary, or distributed at the discretion of the employer, trustee or administrator. It is not necessary to limit distribution to dependants. The money may continue to be held under the rules of the pension scheme for a period not exceeding two years, if this is necessary for the administrator to determine who is to benefit. Once the recipients have been selected, the money should be paid over to them promptly or transferred to a separate account outside the scheme. A refund of the employee's own contributions (with or without interest) may be paid in addition to any other lump sum.

## 2 Pensions or benefits for spouses, civil partners and dependants

In addition to the lump sum, an approved scheme may provide a pension or transfer of benefits into an Approved Retirement Fund (ARF) for a spouse, or civil partner, or where the employee does not have a spouse or civil partner, for a dependant, of an amount not exceeding the maximum aggregate pension that could have been approved for the employee if s/he had retired on ill-health grounds on the date of her/his death (see [Chapter 9.2](#) - such a pension, or benefits transferred to an ARF, can take account of the whole potential service up to NRA).

Section 772(3)(b) Taxes Consolidation Act 1997 (TCA), as amended by section 12 Finance Act 2021, states that occupational pension scheme rules can provide that the aggregate pension that can be provided for a spouse or civil partner, or where there is no spouse or civil partner, for dependants of a deceased member of a scheme who dies in service, can be taken as either a pension or a sum of equivalent pension value transferred to an ARF. This option has effect from 21 December 2021, the date of the passing of Finance Act 2021. Where benefits are transferred to an ARF, the rules relating to ARFs shall apply (see [Chapter 23](#) - ARFs for details).

Where an employee has died in service before 21 December 2021, and a pension for a spouse, or civil partner, or where there is no spouse or civil partner, for a dependant, has not yet been paid, Revenue discretion will be exercised in such cases to allow the benefits transfer to an ARF after 21 December 2021.

Where benefits for the employees themselves take the form of a pension, or benefits transferred to an ARF, plus a separate lump sum, rather than a partly commutable pension, the maximum pension or benefits, includes the pension equivalent of the lump sum. A spouse's or civil partner's (but not a dependant's) pension may be deferred instead of being taken immediately. In cases of benefits transferable to an ARF, this cannot be deferred.

Where there are both a spouse or civil partner and dependants, or no spouse or civil partner but more than one dependant, separate pensions or pension equivalent of the benefits transferred to an ARF, may be provided for each individual. However, no single pension, or pension equivalent of the benefits transferred to an ARF, nor the aggregate of all pensions payable under this paragraph may exceed the amount specified in the preceding paragraph. Subject to these limits, the benefits may be shared in any manner desired.

Where an individual dies in service and the equivalent pension value is transferred to an ARF for the individual's spouse, civil partner or dependant(s), the person(s) taking the benefits in the form of an ARF are deemed to take an inheritance for CAT purposes. The usual CAT rules will apply in determining whether any CAT liability arises on the individual(s) deemed to take the inheritance. No CAT arises on gifts or inheritances between spouses or civil partners. For persons other than a spouse or civil partner, there may be a CAT liability.

Payment of death-in service-benefits, including benefits transferred to an ARF under s772(3)(b)(ii), or a dependant's pension is not a benefit crystallisation event (BCE) (see [Chapter 25.4](#)).

An approved scheme may permit full commutation of a pension if the aggregate benefits payable to a spouse, or civil partner, or where there is no spouse or civil partner, for a dependant under that scheme and any other scheme relating to the same employment, do not exceed the value of a pension of €330 per annum (see [Chapter 7.4](#) for details of trivial pensions).

### 3 Benefits from earlier employment

For the purpose of the limits set out in the preceding paragraphs, preserved death benefits derived from earlier employments must be taken into account and benefits of the same type from the current employment correspondingly restricted, but the following may be ignored:

- (a) refunds of contributions to the employee by a scheme of an earlier employer;
- (b) small preserved benefits, that is, lump sums not exceeding €1,270 in aggregate or spouse's or dependants' pensions not exceeding €330 per annum in aggregate;
- (c) preserved lump sums from earlier employments, so long as the lump sum from the current employment does not exceed twice final remuneration (excluding any refund of the employee's contributions); and
- (d) preserved lump sum death benefits arising from retirement annuity contracts.

Revenue will exercise discretion flexibly on the provision of pension benefits on death-in-service, especially for lower-paid employees.

Where it is proposed to provide spouse's or civil partner's and dependants' pensions, or pension equivalent of the benefits transferred to an ARF, on a scale based on the employee's pre-death salaries rather than as a proportion of the pensions which s/he might

have received, the scheme will probably be approved in that form if the spouse's or civil partner's and dependants' pensions, or pension equivalent of the benefits transferred to an ARF, are unlikely, by and large, to exceed the limit set out in paragraph 2 above or to be large in monetary terms.

#### 4. Death-in-service after normal retirement age

Where an employee dies in service after her/his NRA, benefits may be given either on the basis appropriate to death-in-service generally, or on the basis that would have applied if s/he had in fact retired on the day before his/her death. If, however, the employee took her/his pension and/or lump sum at NRA, the only lump sum death-in-service benefit which may be provided is any payment due under a guarantee attaching to this pension (see [Chapter 11.9 and 11.10](#)).