

# Benefits on Death After Retirement

## Chapter 11

This chapter should be read in conjunction with section 772 Taxes Consolidation Act 1997.

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## 1 Lump sum benefits

No lump sum benefits may be paid if death occurs after retirement except:

- (a) any payment due under a guarantee attaching to the pension (paragraphs 4 to 4.4), or
- (b) any sum falling due under a life policy or scheme rule that gave continued cover on death after retirement (see [Chapter 6.9](#)).

## 2 Pensions paid to surviving spouses, civil partners and dependants in their own right

A spouse's or civil partner's pension may be provided up to a limit which is equal to the maximum aggregate pension that could be approved for the employee, whether or not the employee was given that maximum. Alternatively, a similar pension may be provided for a dependant.

If the employee leaves both a spouse or civil partner and a dependant, or if there is no spouse or civil partner but more than one dependant, no single pension nor the aggregate of all pensions payable under this paragraph may exceed the above limit.

In this paragraph, "maximum aggregate pension" means the maximum in the particular circumstances in which the employee themselves retired, that is, at normal retirement age (NRA) or earlier or later than NRA, increased proportionately to any rise in the Consumer Price Index (CPI) from the date from which the employee's own pension became payable.

### 2.1 Commencement of benefits to surviving spouse/civil partner or dependant

Pensions for surviving spouses, civil partners and dependants may commence on the employee's death except where the member's pension is guaranteed for more than five years, in which case the spouse's or civil partner's pension must not commence until the end of the guaranteed period.

### 2.2 Cessation

A spouse's or civil partner's pension may continue for life, or it may cease on re-marriage or on entry into a new civil partnership (N.B. – no new civil partnerships may be entered into since the enactment of the Marriage Act 2015). A pension for a child must cease when the child ceases to be a dependant. Pensions payable to other dependants may continue for life irrespective of any later change in the dependant's circumstances.

### 3 Employee pensions part-allocated or surrendered to spouses or civil partners

Part of an employee's pension may be allocated or surrendered to provide a spouse's or civil partner's pension. The spouse's or civil partner's pension may not exceed the amount retained by the employee. This option is also available where a spouse or civil partner has an entitlement to a separate pension under another scheme or under another rule of the same scheme. For the purposes of calculation, the reduced pension retained can include any part of the employee's pension that has been commuted and the pension equivalent of any separate lump sum benefit.

#### 3.1 Employee pension part-surrendered for dependant pension payable on death of employee

Alternatively, a pension for a dependant coming into payment on the employee's death after retirement may also be provided by means of the surrender of part of the employee's pension, subject to the same conditions as for a spouse or civil partner. A retiring employee who is likely to be survived by a spouse or civil partner and by one or more dependants may similarly provide reversionary pensions for them, provided that those pensions do not exceed in aggregate what is left for the retiring employee.

#### 3.2 Payment of an allocated or surrendered pension

Unlike an own-right pension (see paragraph 2.1), payment of an allocated or surrendered pension may commence on the member's death even if payment of their pension continues under a guarantee for more than five years.

### 4 Guaranteed minimum benefits

If benefits paid under an approved scheme are less than the member's own contributions plus reasonable interest, the rules may provide for payment of a lump sum equal to the difference.

#### 4.1 Identifiable contributions towards a pension for spouses, civil partners or dependants

If the employee made separately identifiable contributions to provide an independent spouse's or civil partner's pension or a pension for dependants, provision may similarly be made for payment of a lump sum equal to the excess of those contributions plus interest over the amount actually received by the beneficiaries.

## 4.2 No guaranteed minimum period except for allocated or surrendered pensions

Pensions for surviving spouses, civil partners and dependants may not be guaranteed for a minimum number of years except that, where an allocated pension for a spouse, civil partner or dependant has been provided by allocation or surrender of part of the member's pension, the allocated pension may be guaranteed for a period not exceeding five years after the commencement of the member's pension.

## 4.3 Alternative guarantees

As an alternative to the guarantees in this paragraph, an approved scheme may provide that a pension payable to a retired employee may continue for a period of up to ten years even if the pensioner dies within that period. If the guarantee period does not exceed five years and the normal retirement age for the scheme is not more than 70, an immediate lump sum may be paid equal to the instalments falling due after the pensioner's death. This may reflect quantified cost of living increases that would have been paid if the pension had continued.

## 4.4 Who may receive the pension?

Payments discussed in this paragraph may be made to a member's spouse, civil partner or dependant, or to the legal personal representatives, or to a nominated beneficiary, at the discretion of the employer, trustee or administrator.