

**TEACHERS' PENSION SCHEMES
CIRCULAR 2017/06**

WHO SHOULD READ: Members, Chief Executives, Directors of Education, HR and Payroll Managers, Teachers' Unions and representatives

ACTION: The contents of this circular should be brought to the attention of all staff

SUBJECT: Unmarried Survivor Pensions

The purpose of this circular is to provide clarification on:

- **Unmarried Survivor Pensions following the judicial review on the Brewster case by the Supreme Court**

This circular outlines changes being introduced to the Scottish Teachers' Superannuation Scheme (STSS) and the Scottish Teachers' Pension Scheme 2015 (STPS 2015) in respect of nominated partner benefits.

Nominated partner benefits were introduced to the Scottish Teachers' Superannuation Scheme from April 2007 as part of the reforms introduced to public service pensions. There are underlying conditions that must be met for a continuous period of at least 2 years to allow a nominated partner pension to be paid are:

- The scheme member is able to marry, or form a civil partnership with their partner;
- The scheme member and partner are living with each other as if they were a married couple or civil partners;
- Neither the scheme member nor the partner is living with a third person as if they were a married couple or civil partners; and
- The member and partner are financially interdependent or the partner is financially dependent on the member.

In addition to those conditions the STSS and STPS 2015 also required that a nomination form had to be completed to allow a claim to proceed. If a nomination form was not received then a nominated partner pension could not be paid even if the underlying conditions were met.

On 8 February 2017, the Supreme Court decided that refusing a claim on the grounds that a nomination form had not been completed despite the underlying conditions being met is incompatible with Article 14 of the European Convention on Human Rights was therefore unlawful.

The Supreme Court decision applies to other public service schemes including the STSS and STPS 2015 and therefore the mandatory requirement for a nomination form to be completed to allow a claim to proceed can no longer be applied. Since the Supreme Court's decision in February SPPA have removed the requirement for a nomination form for all new claims received from that date. This means that entitlement to a nominated partner pension is now solely based on whether or not the underlying conditions are met and the fact that a nomination form has not been completed will not affect that claim.

Scottish Ministers have decided that this change should be applied to any case that has previously met the underlying conditions but which would not have gained entitlement due to the lack of a nomination form. In those cases the member concerned should contact SPPA for guidance. It remains the case that for a nominated partner pension to be paid the underlying conditions **must** be met.

Nominated partner benefits are based on service accrued from April 2007. The scheme does provide the option for a member to buy back pre 2007 service to increase their nominated partner benefits. Currently the timelimit for making an election is no later than 6 months after a nomination form was received by SPPA. As the requirement for a nomination form is being withdrawn the new timelimit for making an election is as follows. An election to buy back pre 2007 service must be made no later than 6 months after the member has been in a relationship that meets the underlying conditions for a continuous period of 2 years. Further advice on elections to buy back pre 2007 service is available from SPPA.

Amendments to the scheme regulations will be made to reflect this change.

Please bring the contents of this circular to the attention of all staff and circulate as widely as possible.

Brenda J M Callow
Policy Manager
19 April 2017

Contact information

Please contact brenda.callow@gov.scot if you have any enquiries about this circular.

Scottish Public Pensions Agency
7 Tweedside Park
Tweedbank
GALASHIELS
TD1 3TE

www.sppa.gov.uk
Telephone: 01896 893000
Fax: 01896 893214



INVESTOR IN PEOPLE

An agency of



The Scottish Government
Riaghaltas na h-Alba