

1993 No. 249

POLICE

**Royal Ulster Constabulary Pensions
(Additional Voluntary Contributions) Regulations 1993**

Made 23rd April 1993

Coming into operation 30th June 1993

To be laid before Parliament

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The Secretary of State, in pursuance of section 25 of the Police Act (Northern Ireland) 1970(a), read with Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972(b), and after consulting, in accordance with section 34(2) of the said Act of 1970, the Police Authority and the Police Association, and, in accordance with section 2(3) of the Police Negotiating Board Act 1980(c), the Police Negotiating Board for the United Kingdom, hereby, with the consent of the Treasury, makes the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the Royal Ulster Constabulary Pensions (Additional Voluntary Contributions) Regulations 1993.

(2) These regulations shall come into operation on 30th June 1993, and shall have effect as from 5th April 1990.

Interpretation

2.—(1) In these regulations references to the Taxes Act are references to the Income and Corporation Taxes Act 1988(d) and references to the 1988 regulations are references to the Royal Ulster Constabulary Pensions Regulations 1988(e).

(2) In these Regulations, unless the context otherwise requires—

“approved scheme” means a retirement benefits scheme approved under Chapter 1 of Part XIV of the Taxes Act;

“basic contributions” means contributions paid pursuant to an election under regulation 4(1);

“basic contributor” is to be construed in accordance with regulation 7;

“cash equivalent” means a cash equivalent mentioned in paragraph 12(1) of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975(f);

“death benefit contributions” means contributions paid pursuant to an election under regulation 5(1);

“death benefit contributor” is to be construed in accordance with regulation 7;

“death benefit cover” is to be construed in accordance with regulation 5(1);

“earnings” and “emoluments” mean earnings and emoluments in respect of service as a pensionable policeman, disregarding, except where regulation 3 or 5 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations

(a) 1970 c. 9 (N.I.) as modified by S.I. 1973/2163 and S.I. 1981/1670

(b) S.I. 1972/1073 (N.I. 10)

(c) 1980 c. 10

(d) 1988 c. 1

(e) S.R. 1988 No. 374; relevant amendments were made by S.R. 1990 No. 411

(f) S.I. 1975/1503 (N.I. 15); Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and amended by paragraphs 23 and 24 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

1990(a) applies, any excess in any tax year over the figure which is the permitted maximum for that year for the purposes of section 592(8B) of the Taxes Act(b) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act);

“free-standing additional voluntary contributions scheme” means an approved scheme which falls within section 591(2)(h) of the Taxes Act;

“the Index” means the index of retail prices published by the Department of Employment;

“participator” means a basic contributor or a person who has ceased to be a basic contributor but has not exercised any right to take a cash equivalent or to be paid a lump sum under regulation 14(1);

“pension investments” means investments made under regulations 9(1) and 10(2);

“pensionable member” means a person by whom contributions are for the time being payable under regulation G2 of the 1988 regulations;

“retire” means become entitled to payment of a pension or gratuity under regulations B1 to B5 of the 1988 regulations;

“the Society” means The Equitable Life Assurance Society; and

“tax year” means the 12 months beginning with 6th April in any year.

Making and acceptance of elections

3.—(1) Any election under these regulations—

(a) is to be made by giving written notice to the Police Authority, and

(b) is, subject to paragraphs (2) to (4), to be accepted by the Authority.

(2) No election under these regulations is to be accepted if any limit imposed by regulation 8(4) or 13 (limits on contributions and benefits) would be exceeded.

(3) An election falling within regulation 16(2) (death benefit cover, continued death benefit cover and increased death benefit cover) is not to be accepted if—

(a) any information required under regulation 16(2) is not given, or

(b) the information given is such that the cover could not be secured by investment under regulation 9(3).

(4) A pension election under regulation 11(2) made after retirement may be accepted only if the Police Authority are satisfied as mentioned in regulation 11(2).

(5) The Police Authority are to give effect as soon as is reasonably practicable to any election accepted by them.

(a) S.I. 1990/586

(b) Sections 590C and 592(8B) were inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 4 and 5(4)

Election to pay basic contributions

4.—(1) A pensionable member may at any time elect to pay basic contributions under these regulations.

(2) The notice of such an election is to specify—

(a) the amount of each contribution, and

(b) the way in which the contributions are to be invested under regulation 9.

Elections in respect of death benefit cover

5.—(1) A pensionable member may at any time elect to pay death benefit contributions to secure death benefit cover, that is to say the payment of a lump sum in the event of his dying in the circumstances specified in paragraph (2).

(2) The circumstances are that—

(a) at the time of his death he is still a death benefit contributor, and

(b) his death occurs before his retirement date and is not the result of an injury received in the execution of his duty (within the meaning of regulation A10 of the 1988 regulations).

(3) A pensionable member's retirement date is the date on which he would be required by regulation A16(1) of the 1988 regulations to retire assuming that there were no postponement under regulation A16(2) and no change of rank.

(4) The notice of an election under paragraph (1) is to specify the amount to be secured, which must not be more than that which should be the permitted amount for the purposes of Part III of Schedule 2 if he were to die on the date on which the election takes effect.

(5) An election under paragraph (1) ceases to have effect on the person's retirement date, but if the time at which he is required by regulation A16(1) of the 1988 regulations to retire becomes later by reason of—

(a) his being promoted, or

(b) a postponement under regulation A16(2).

he may elect to pay further contributions to secure the continuance to the later date of the death benefit cover in force immediately before the change.

(6) Any continued death benefit cover secured by an election under paragraph (5) lapses if the person retires before the date to which the cover was continued.

Variation and cancellation of elections

6.—(1) A basic contributor may at any time elect—

(a) to alter the amount of his basic contributions, or

(b) to require them to be invested in future, under regulation 9, in a different way, or

(c) to require the Police Authority to realise any investment and to reinvest the proceeds, under regulation 9, in a different way, or

(d) to cancel his election under regulation 4(1).

(2) A death benefit contributor may at any time elect—

(a) to alter the amount to be secured, but not so as to exceed the amount which would be the permitted amount for the purposes of Part III of Schedule 2 if he were to die on the date on which the election takes effect, or

(b) to cancel his election under regulation 5(1).

(3) A person paying further contributions under regulation 5(5) (continuance of death benefit cover during service after retirement age) may at any time make any election that he could have made under paragraph (2)(a) above if he had been paying death benefit contributions.

Basic and death benefit contributors

7.—(1) Subject to paragraph (3), a person is a basic contributor while an election under regulation 4(1) (regular contributions) has effect.

(2) Subject to paragraph (3), a person is a death benefit contributor while an election under regulation 5(1) has effect.

(3) A person who has ceased to be a pensionable member ceases to be either a basic contributor or a death benefit contributor.

Payment and amount of contributions

8.—(1) Basic contributions are payable to the Police Authority at intervals of not less than 4 weeks.

(2) Death benefit contributions and further contributions under regulation 5(5) (continuance of death benefit cover) are payable to the Police Authority at the same times as basic contributions.

(3) All contributions are to be deducted by the Police Authority from the person's pay.

(4) The total of the contributions of all kinds paid in any tax year must not exceed the lesser of (A—B—C) and D, where—

A is 15 per cent of the person's emoluments for that year,

B is the total of any contributions paid by him in the year to another approved scheme,

C is the total of the contributions paid by him in the year under the 1988 regulations, and

D is the amount which would provide the maximum allowable benefits.

(5) The maximum allowable benefits are—

(a) where the person is a basic contributor only, a retirement pension the annual rate of which is likely to be the maximum allowed by regulation 13,

(b) where he is not a basic contributor but is paying contributions to secure death benefit cover, the maximum amount that can be secured having regard to regulations 5(4) and 6(2)(a), and

(c) where he both is a basic contributor and is paying contributions to secure death benefit cover, both the retirement pension mentioned in sub-paragraph (a) and the maximum amount mentioned in sub-paragraph (b).

Investment of contributions

9.—(1) Basic contributions are to be invested by the Police Authority in accordance with any election for the time being having effect under regulation 4(1) or 6(1)(b) or (c).

(2) In paragraph (1) “invested” means invested with the Society in one or more of the following ways:

- (a) in The Equitable Life With-Profits Fund;
- (b) in The Equitable Life Unit-Linked Managed Pensions Fund;
- (c) for deposit by the Society with the Equitable Life Building Society Fund.

(3) Death benefit contributions and further contributions under regulation 5(5) are to be invested by the Police Authority with the Society so as to secure death benefit cover of the amount required by any election for the time being having effect under regulation 5(1) or (5) or 6(2) or (3).

Inward transfers

10.—(1) The Police Authority may accept a transfer value from the administrator of—

- (a) a free-standing additional voluntary contributions scheme, or
- (b) an approved scheme which provides additional benefits but does not fall within section 591(2)(h) of the Taxes Act,

in respect of a basic contributor.

(2) A transfer value accepted by the Police Authority is to be invested by them with the Society—

- (a) in such one or more of the ways mentioned in regulation 9(2) as may be specified in writing by the contributor, or
- (b) if he does not specify how the transfer value is to be invested, in the fund mentioned in regulation 9(2)(a).

Retirement pensions

11.—(1) A retirement pension is a pension payable to the participator for life, commencing on the date of his retirement.

(2) During the month ending on the date of his retirement, a participator is to make a pension election; but if the Police Authority are satisfied that it was not reasonably practicable for an election to be made during that period they may accept one made after retirement.

(3) The notice of a pension election is to specify whether the annual rate of the retirement pension—

- (a) is to be fixed, or
- (b) is to vary in accordance with the Index, or
- (c) is to increase yearly by a specified percentage,

and from which of the pension providers it is to be purchased.

- (4) The pension providers are the bodies listed in Schedule 1.

(5) The notice may also specify that if the participator dies within the period of 5 years beginning when the pension commenced the balance that would have been payable during the remainder of that period if the pension had continued at the rate in force at the time of his death is to be paid as a lump sum.

(6) Subject to paragraphs (7) and (8), the Police Authority are to realise the pension investments and apply the amount obtained to the purchase from the specified pension provider of a retirement pension in accordance with the notice of election.

(7) Subject to paragraph (8), the Police Authority—

(a) if they do not accept a pension election made after retirement, shall, and

(b) if—

(i) 6 months after retirement no election has been made, and

(ii) they are satisfied that there is no reasonable excuse for the delay,

may in their discretion at any time,

apply the amount obtained to the purchase from any of the pension providers of such a retirement pension as appears to them to be suitable having regard to the participator's family circumstances and his age and health.

(8) If—

(a) there are exceptional circumstances of serious ill-health, or

(b) his aggregate pension benefits would be trivial,

the Police Authority may in their discretion realise the pension investments without purchasing any pension, and in that event the amount obtained becomes payable as a lump sum.

(9) Aggregate pension benefits are trivial if the annual rate of the retirement pension that could be purchased, together with the annual equivalent of all pension benefits payable to the participator from other sources, would not exceed—

(a) £104, or

(b) if greater, any amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975(a).

(10) Except as provided in paragraph (8), a retirement pension may not in whole or in part be surrendered, commuted or assigned.

Lump sum death benefit

12. Where a person who is paying death benefit contributions or further contributions under regulation 5(5) dies and any lump sum secured by those contributions is obtained by the Police Authority from the Society the lump sum becomes payable.

Benefit Limits

13.—(1) Schedule 2 has effect for limiting the benefits that may be paid under these regulations.

(2) The maximum annual rate of a retirement pension ascertained from Schedule 2 is increased—

- (a) by 3 per cent for each complete year that has elapsed, or
- (b) if a greater increase results, in proportion to the increase in the Index that has occurred,

since the date on which the pension became payable.

Repayment in certain cases

14.—(1) If a person—

- (a) ceases to be a basic contributor before retiring, and
 - (b) does not acquire a right to a cash equivalent, and
 - (c) becomes entitled under regulation B6 of the 1988 regulations to an award by way of repayment of his aggregate pension contributions,
- the appropriate lump sum becomes payable.

(2) If a participator dies before retirement the appropriate lump sum becomes payable.

(3) The appropriate lump sum is the realisable value of the pension investments.

Payment by the Police Authority

15.—(1) Retirement pensions shall be paid by the Police Authority to the persons entitled to them.

(2) Lump sums payable—

- (a) as mentioned in regulation 11(5), or
- (b) under regulation 12 or 14(2),

shall be paid by the Police Authority to the deceased's widow or widower or, if there is no widow or widower, to the personal representatives.

(3) Lump sums payable under regulation 11(8) or 14(1) shall be paid by the Police Authority to the former basic contributor.

(4) If by reason of regulation 13 a benefit is not payable in full, the Police Authority shall pay to the person entitled to the benefit so much of the relevant amount as would—

- (a) in the case of a retirement pension, if applied to its purchase, or
 - (b) in the case of a lump sum, if paid as part of it,
- have caused the benefit to exceed the limit.

(5) The relevant amount is—

- (a) in the case of a retirement pension the amount obtained under regulation 11(6), and
- (b) in the case of a lump sum payable under regulation 12 or 14, that sum.

(6) The amount of any tax chargeable under the Taxes Act on a payment under this regulation shall be deducted by the Police Authority before payment.

Information

16.—(1) A person making an election under these regulations is to give the Police Authority such information as they may reasonably require for the purposes of their functions under these regulations.

(2) A person making—

(a) an election under regulation 5(1) or (5) (death benefit and continued death benefit cover), or

(b) an election under regulation 6(2)(a) (increased death benefit cover), or

(c) an election under regulation 6(3) corresponding to one that could have been made under regulation 6(2)(a),

is, in particular, to give the Police Authority such information about his health as they may reasonably require having regard to regulation 9(3) (investment so as to secure death benefit cover).

Appeals

17.—(1) A person who is aggrieved by the refusal of the Police Authority to admit a claim to receive as of right a pension, or a larger pension than that granted, under these regulations may, subject to paragraph (2), appeal to the County Court.

(2) Paragraph (1) does not confer a right of appeal against anything done by the Police Authority in the exercise of a power conferred by these regulations which is expressly declared by these regulations to be a power which they are to exercise in their discretion.

(3) In this regulation “pension” includes a lump sum payable under these regulations.

Retrospective effect: incidental provision

18.—(1) Any notice given after 5th April 1990 and before 30th June 1993 which, if these regulations had been in force, would have constituted notice of an election under these regulations is to be treated as having constituted notice of such an election.

(2) These regulations shall be treated as having come into force on 1st March 1990 in relation to any sum paid by a pensionable member in anticipation of these regulations, and any such sum shall be treated as forming part of his pension investments.

(3) A sum is one paid in anticipation of these regulations if—

(a) it was paid to the Society after 28th February 1990 and before 6th April 1990 on the understanding that if regulations providing for additional voluntary contributions were made it would be treated as consisting of contributions invested with the Society under the regulations, and

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(b) it would not, if these regulations had been in force during the tax year ending with 5th April 1990, have exceeded the limit imposed by regulation 8(4).

Northern Ireland Office
23rd April 1993

P. B. B. Mayhew
One of Her Majesty's Principal
Secretaries of State

We concur
24th May 1993

Nicholas Baker
Tim Kirkhope
Two of the Lords Commissioners
of Her Majesty's Treasury

Pension Providers

The Society

Eagle Star Insurance Company Limited

Legal and General Assurance Society Limited

Prudential Corporate Pensions

Scottish Widows' Fund and Life Assurance Society

The Standard Life Assurance Company

Sun Life Assurance Society PLC

Benefit Limits

PART I

INTERPRETATION

1. Paragraphs 2 to 5 have effect for defining expressions used in this Schedule.

2. "Total retirement benefits" means the total of so much of—

- (a) the annual rate of the participator's retirement pension under these regulations,
- (b) the annual rate of any pension under regulations B1 to B5 of the 1988 regulations, and
- (c) the actuarial equivalent as an annual pension of any gratuity under regulations B2 to B4 of the 1988 regulations,

as is not attributable to the receipt of any transfer value, together with the annual rate of any pension payable to him under a free-standing additional voluntary contributions scheme.

3.—(1) "Final remuneration" means the greater of A and B, where—

A is the participator's highest year's adjusted earnings during the period of 5 years ending on the material date, and

B is the average of his total taxable earnings for any period of 3 or more consecutive years ending no earlier than 10 years before the material date,

but, in respect of any year other than the one ending on the material date, earnings are to be taken to have been increased in proportion to any increase in the Index from the end of the year up to the material date.

(2) In this paragraph "adjusted earnings" means C + D, where—

C is the participator's total taxable earnings for the year in question less any bonus payments and payments for overtime ("fluctuating emoluments"), and

D is the average, for a period ending with the year in question, of any fluctuating emoluments; the period is one of at least 3 years or, if shorter, the period during which the fluctuating emoluments have been payable,

and "the material date" means the earliest of—

(a) the retirement date, and

(b) the date on which the participator ceased to be a pensionable member.

4.—(1) "Retained benefits" means the total of any pensions payable to the participator—

(a) in respect of employment before he became a pensionable member, under a retirement benefits scheme (within the meaning of section 611 of the Taxes Act) or under an annuity contract falling within section 431(4)(d) of the Taxes Act, or

(b) under a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act,

and so much of any pension payable to him under these regulations or the 1988 regulations as is attributable to a transfer value received from any such scheme or on the termination of any such contract.

(2) In this paragraph "pension" includes the actuarial equivalent as an annual pension of any lump sum.

5.—(1) "Actuarial" means determined by, or in accordance with tables prepared by, the Government Actuary.

(2) "Relevant service" means service as a regular member within the meaning of the 1988 regulations, and "relevant birthday" means the birthday on which he would be required by regulation A16(1) of those regulations to retire assuming that there were no postponement under regulation A16(2) and no change of rank.

PART II

RETIREMENT PENSIONS

6. The annual rate of a participator's retirement pension under these regulations must not be such as to cause his total retirement benefits to exceed the permitted amount.

7.—(1) If the participator retires on his relevant birthday, the permitted amount is the greater of E and F, where—

E is 1/60th of his final remuneration for each of up to 40 years of relevant service, and

F is the lesser of G and H.

(2) In sub-paragraph (1)—

G is 1/30th of his final remuneration for each of up to 20 years of relevant service, and

H is 2/3rds of his final remuneration less any retained benefits.

8. If the participator retires on a date later than his relevant birthday, the permitted amount is the greatest of J, K and, where applicable, L, where—

J is an amount calculated in accordance with paragraph 7 as at the later date,

K is an amount calculated in accordance with paragraph 7 as at his relevant birthday increased, up to the later date, either actuarially or in proportion to any increase in the Index, and

L is, in the case of a participator with more than 40 years of relevant service, 1/60th of his final remuneration for each of up to 45 years of relevant service, excluding any years before his relevant birthday in excess of 40.

9.—(1) If the participator retires after having, before his relevant birthday, ceased to be in relevant service, the permitted amount is the greater of $(M + \frac{R}{P})$ and—

$$\frac{(N \times Q) + R}{P}$$

where—

M is 1/60th of his final remuneration for each of up to 40 years of relevant service,

N is the number of years on which M is calculated,

P is the number of years on which M would have been calculated if he had continued in relevant service up to his relevant birthday,

Q is an amount calculated in accordance with paragraph 7 as at his relevant birthday, and

R is the appropriate increase.

(2) For the purposes of sub-paragraph (1) the appropriate increase is an increase in the amount in question, either—

(a) in proportion to any increase in the Index, or

(b) if greater, at 5 per cent compound,

from the cessation of relevant service to the date of retirement.

PART III

LUMP SUMS ON DEATH

10.—(1) The aggregate of—

(a) the lump sum secured by any death benefit contributions, and

(b) any lump sum payable under regulation 14(2),

must not be such as to cause the total lump sum death benefits to exceed the permitted amount.

(2) The total lump sum death benefits are the total of—

(a) the lump sums mentioned in sub-paragraph (1)(a) and (b), and

(b) any similar benefits totalling £1,000 or more that are payable under relevant schemes.

(3) The relevant schemes are—

(a) other approved schemes,

(b) schemes approved under Chapter IV of Part XIV of the Taxes Act,

(c) free-standing additional voluntary contributions schemes,

(d) retirement annuity contracts approved under Chapter III of Part XIV of the Taxes Act, and

(e) the scheme constituted by the 1988 regulations.

(4) The permitted amount is £5,000 or, if greater, 4 times the death benefit contributor's remuneration.

(5) The death benefit contributor's remuneration is the greatest of S, T and U, where—

S is what his final remuneration would have been if the date of his death had been the material date,

T is his highest year's adjusted earnings for the purpose of calculating S, and

U is his total taxable earnings during any period of 12 months ending not more than 3 years before the date of his death, increased as mentioned in paragraph 3(1).

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision for the payment of additional voluntary contributions by members of the pension scheme ("the main scheme") constituted by the Royal Ulster Constabulary Pensions Regulations 1988 ("the 1988 Regulations") in order to secure additional benefits financed by investing the contributions.

The regulations provide for the making of elections of various kinds. Regulation 3 contains general provisions as to their making and acceptance; regulation 4 provides for elections to pay basic contributions so as to secure an additional retirement pension; regulation 5, for elections to pay death benefit contribution so as to secure a lump sum death benefit in the event of death while paying such contributions; regulation 6 allows elections made under regulations 4 and 5 to be varied or cancelled. While an election has effect and the person concerned is a member of the main scheme he remains a basic contributor or, as the case may be, a death benefit contributor for the purposes of these regulations (regulation 7).

Regulation 8 deals with the payment of contributions and imposes a limit on their total amount; regulation 9(1) and (2) require the Police Authority to invest basic contributions with Equitable Life, in one or more of the ways specified, in accordance with any wishes expressed by the contributor; regulation 9(3) requires death benefit contributions to be invested so as to secure the amount of cover specified. A transfer value accepted from another additional voluntary contributions scheme is to be invested as if it had consisted of basic contributions (regulation 10).

On retirement, investments (except those made with death benefit contributions) are to be realised and a retirement pension purchased with the proceeds from one of the insurers listed in Schedule 1, in accordance with any wishes expressed by the contributor in a pension election (regulation 11(1) to (6)). Regulation 11(7) makes default provision, and regulation 11(8) and (9) allow the proceeds of realisation to be paid as a lump sum in some circumstances.

Regulation 12 provides for the payment of death benefits secured by contributions under regulation 5.

Regulation 13, with Schedule 2, imposes limits on benefits of all kinds payable under the regulations; to the extent that a limit would otherwise be exceeded, a capital sum is payable, after deduction of tax (regulation 15(4) to (6)).

Regulation 14 provides for the realisable value of investments to be repaid where there is a right to repayment of contributions paid under the 1988 Regulations, and where a basic contributor or former basic contributor dies before retirement.

Benefit and other payments are to be made by the Police Authority in accordance with regulation 15. Regulation 16 requires them to be given information needed for the purposes of their functions under the regulations. Regulation 17 confers rights of appeal.

Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972 confer express power to make regulations retrospective in effect.

These regulations have effect on and after 6th April 1990, the beginning of the 1990-91 tax year. Regulation 18 makes incidental provision, including provision for payments made direct to Equitable Life before that date, in anticipation of these regulations, to be treated as basic contributions invested in the preceding tax year, for which the regulations are deemed to have had effect in that case.