

1993 No. 327

POLICE

Royal Ulster Constabulary (Pensions and Injury Benefit) (Amendment) Regulations 1993

Made 2nd July 1993

Coming into operation 31st August 1993

To be laid before Parliament

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 concurrence of the Treasury, makes the following regulations:—

Citation, commencement and effect

1.—(1) These regulations may be cited as the Royal Ulster Constabulary (Pensions and Injury Benefit) (Amendment) Regulations 1993.

(2) These regulations shall come into operation on 31st August 1993, but—

- (a) regulations 10 and 18(2) shall have effect as from 31st May 1989,
- (b) regulations 4 to 6, 8, 9, 12 to 17 and 19 shall have effect as from 16th May 1990,
- (c) regulations 3 and 18(1) shall have effect as from 27th February 1991,
- (d) regulations 7, 11 and 20 shall have effect as from 31st August 1992.

Interpretation

2. In these regulations “the Pensions regulations” means the Royal Ulster Constabulary Pensions Regulations 1988(d) and “the Injury Benefit regulations” means the Royal Ulster Constabulary (Injury Benefit) Regulations 1988(e).

(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) S.R. 1988 No. 374; relevant amendments were made by S.R. 1989 No. 160 and S.R. 1990 No. 411

(e) S.R. 1988 No. 376 as amended by S.R. 1988 No. 440

Member's deferred pension

3. Regulation B5 of the Pensions regulations is amended by deleting paragraph (5).

Limitation on award to widow living apart from her husband and widow's requisite benefits pension

4. Regulation C8(1) of the Pensions regulations is amended by substituting for the word "woman" the word "widow".

Termination of widow's award on remarriage

5. Regulation C9(3) of the Pensions regulations is amended by substituting—

- (a) for the words "a woman and a man" the words "a widow and a person"; and
- (b) for the words "she were married to him" the words "the widow were married to that person".

Child's special gratuity

6. Regulation D3(1) of the Pensions regulations is amended by substituting for the words after "satisfied and" the words "he does not leave a widow entitled to a gratuity under regulations C2 and C3."

Lump sum death grant

7. The Pensions regulations are amended by inserting after regulation E3—

"Lump sum death grant — widows and widowers

E3A.—(1) On the death of a person while serving as a member a lump sum death grant becomes payable unless an election under regulation G4 not to pay pension contributions had effect at the time of the death.

(2) The grant is payable whether or not any pension or gratuity is payable under Part C.

(3) The amount of the grant is twice that of the deceased's pensionable pay, expressed as an annual rate—

(a) at the time of the death, or

(b) if he was then absent from duty without pay, immediately before that absence began.

(4) The grant is to be paid—

(a) to any widow who qualifies for it, or

(b) if there is no such widow, to the personal representatives.

(5) A widow qualifies for the grant unless at the time of the death—

(a) the widow and the deceased were separated by an order or decree of a competent court, and

- (b) the deceased was not required by such an order to contribute, and was not in fact regularly contributing, to the support of the widow or to the widow for the support of a child of the widow's.”

Gratuity in lieu of widow's pension

8. Regulation E4(2) of the Pensions regulations is amended by substituting for the word “woman” the word “widow”.

Increase of widow's pension or child's allowance during first 13 weeks

9. Regulation E8(3) of the Pensions regulations is amended by substituting for sub-paragraphs (a) and (b) the words “did not leave a widow entitled to a pension which was payable for a continuous period of 13 weeks”.

Pensionable pay and average pensionable pay

10. Regulation G1 of the Pensions regulations is amended—

(a) in paragraph (1), by substituting for the words “The pensionable pay” the words “Subject to paragraph (1A), the pensionable pay” and deleting the proviso; and

(b) by inserting after paragraph (1)—

“(1A) For the purposes of paragraph (1), in the case of a member by whom contributions became payable after 31st May 1989 either—

(a) for the first time, or

(b) following any period in respect of which they were not payable,

except where regulation 4 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990(a) applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(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).”.

Pension contributions payable by member

11. Regulation G2(1) of the Pensions regulations is amended by substituting for the words after “less than” the words “11% of his pensionable pay”.

Member with guaranteed minimum for the purposes of the Social Security Pensions (Northern Ireland) Order 1975

12. Regulation J1 of the Pensions regulations is amended—

(a) in paragraph (4A)(a), and

(b) in paragraph (5A),

(a) S.I. 1990/586

(b) 1988 c. 1; section 590C was inserted, and section 594 amended, by the Finance Act 1989 (c. 26), section 75 and Schedule 6 paragraphs 4 and 6

by inserting after the words “regulation E1(1)(c)” the words “or under Part C”.

Glossary of expressions

13. Schedule A to the Pensions regulations is amended—

- (a) by inserting after the definition of “guaranteed minimum”—
“ “husband” includes wife;”; and
- (b) by inserting after the definition of “transfer”—
“ “widow”, except in regulation J1, includes widower;”
“wife” includes husband.”.

Widow's ordinary pension

14.—(1) Paragraph 1 of Part I of Schedule C to the Pensions regulations is amended by inserting after sub-paragraph (2)—

“(2A) Where a pension becomes payable under regulation C1 to a man—

- (a) the pension or notional pension referred to in sub-paragraph (1)(a) shall be taken to be that which would be payable if no account were taken of any pensionable service before 17th May 1990, and
- (b) sub-paragraph (1)(b) has effect with the substitution for “5th April 1978” of “16th May 1990”.

(2) Paragraph 3 of Part I of Schedule C to the Pensions regulations is amended by inserting after the words “(flat rate award)” the words “; but a man may make an election under this paragraph only if the amount so determined would not exceed the amount calculated in accordance with paragraph 1”.

Widow's accrued pension

15.—(1) Paragraph 1 of Part III of Schedule C to the Pensions regulations is amended by inserting after sub-paragraph (1)—

“(1A) Where a pension becomes payable under regulation C4 to a man, the amount of the deceased's deferred pension shall for the purposes of sub-paragraph (1) be taken to be what it would be if no account were taken of any pensionable service before 17th May 1990.”.

(2) Paragraph 3 of Part III of Schedule C to the Pensions regulations is amended by inserting after sub-paragraph (3)—

“(4) A man may make an election under this paragraph only if the amount determined in accordance with regulation E10 would not exceed the amount calculated in accordance with paragraph 1.”.

Widow's pension in case of post-retirement marriage

16. Part IV of Schedule C to the Pensions regulations is amended by inserting after paragraph 3—

“4 Where a pension becomes payable under regulation C5(2) to a man, paragraphs 2(a)(ii) and 3 have effect with the substitution for “5th April 1978” of “16th May 1990”.”.

Widow's requisite benefit pension

17. Paragraph 1 of Part V of Schedule C to the Pensions regulations is amended by inserting after the words “5th April 1978” the words “; but where the pension is payable to a man this paragraph has effect with the substitution for “5th April 1978” of “16th May 1990” ”.

Special cases

18.—(1) Part I of Schedule J to the Pensions regulations (personal awards) is amended by deleting paragraph 7.

(2) Part VI of Schedule J to the Pensions regulations (pensionable pay and contributions etc.) is amended by inserting after paragraph 2—

“*Earnings cap: former members of police forces in Great Britain*

3.—(1) This paragraph applies in the case of a member by whom contributions were payable under the police pensions legislation applicable in Great Britain for a period that included 31st May 1989.

(2) For the purposes of regulation G1(1) (earnings cap) contributions that were payable as mentioned in sub-paragraph (1) shall be treated as having been payable under regulation G2.”.

Death gratuity

19. Regulation 3(2) of the Injury Benefit regulations is amended by inserting after sub-paragraph (a)(iii)—

“(iv) “widow” includes “widower”; and”.

Abatement of certain gratuities

20. Regulation 7(2)(a) of the Injury Benefit regulations is amended by inserting after the words “or E3” the words “and of any death grant paid under regulation E3A”.

Transitional provision

21.—(1) Regulations C1 to C4, C5(2), C6, C7 and C8(2) of the Pensions regulations apply to a widower only where the death occurred after 16th May 1990.

(2) Where before 31st August 1993 a widower both—

(a) was granted a special pension under regulation E1 of the Pensions regulations (“the dependant’s pension”), and

(b) became entitled by virtue of regulations 1(2) and 13 to a special award under regulation C2 of the Pensions regulations (“the special award”),

he shall be treated as not having become entitled to the special award until 31st August 1993 or until the end of the period for which the dependant’s pension was payable, whichever is the earlier.

(3) Where before 31st August 1993—

(a) a pension payable to a widower under regulation J1(4A) of the Pensions regulations (guaranteed minimum) was commuted for a gratuity under regulation J1(7) (“the gratuity”), and

(b) he became entitled by virtue of regulations 1(2) and 13 to an award under Part C of the Pensions regulations (“the Part C award”),

the Part C award shall be reduced by the amount of the gratuity.

(4) The reduction required by paragraph (3) shall be made—

(a) by deduction from any gratuity comprised in the Part C award, and

(b) if or to the extent that it cannot be made in that way, by deduction from the arrears of any pension comprised in the Part C award.

(5) Where—

(a) before 31st August 1993 a transfer value became payable under regulation F8 or F9 of the Pensions regulations, and

(b) its amount would have been greater if rights to awards to a widower arising by virtue of regulations 1(2) and 13 had been included in the accrued rights (within the meaning of section 1 of Part III of Schedule F to the Pensions regulations),

an additional transfer value of the appropriate amount is payable.

(6) The appropriate amount is the difference between the amount of the transfer value as originally calculated and the greater amount mentioned in paragraph (5)(b).

(7) Where before 31st August 1993—

(a) a widower became entitled by virtue of regulations 1(2) and 19 to a gratuity, and

(b) a gratuity was paid to a child or dependent relative,

under regulation 5(3) of the Injury Benefits Regulations, the widower shall be treated as not having become entitled to a gratuity.

Elections in respect of protected benefits

22.—(1) This regulation applies to a person—

(a) to whom a protected benefit is being paid or may become payable, and

(b) who is placed in a worse position than he would have been in if an amendment made to the Pensions regulations or to the Injury Benefit regulations by these regulations (“the relevant amendment”) had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable by the Police Authority, under the Pensions regulations or the Injury Benefit regulations, to or in respect of a person who, having served as a member, ceased to serve as one, or died, before 31st August 1993.

(3) A member to whom this regulation applies may, by giving written notice to the Police Authority within 3 months after 31st August 1993, elect that the relevant amendment is not to apply in relation to the protected benefit.

Northern Ireland Office
2nd July 1993

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

We concur
22nd July 1993

Tim Kirkhope
Andrew Mackay
Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Royal Ulster Constabulary Pensions Regulations 1988 ("the Pensions regulations") and the Royal Ulster Constabulary (Injury Benefit) Regulations 1988 ("the Injury Benefit regulations").

In conformity with the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 (S.R. 1991 No. 37), regulations 3 and 18(1) remove, for persons becoming entitled to deferred pensions after 27th February 1991, the option available in some cases to take a reduced pension and a refund of pre-April 1975 contributions.

Regulation 7 introduces a new lump sum death in service grant equivalent to 2 years' pensionable pay. The grant is payable (in addition to any other death benefits) on the death, after 31st August 1992, of a person while serving as a member. If the member leaves a widow (or widower) and they were not separated, the grant is payable to the widow (or widower); otherwise it is payable to the deceased's personal representatives. Regulation 20 amends regulation 7(2)(a) of the Injury Benefit regulations so that any benefit received thereunder is abated by the amount of death in service grant.

Regulations 13 and 19 introduce, for deaths in service occurring after 16th May 1990, widowers' benefits of the same kinds as those provided for widows. For benefits calculated by reference to service, only service after that date counts (regulations 14 to 17). Regulations 4 to 6, 8, 9 and 12 make related amendments. Regulation 11 raises female members' contributions to the same rate as male members' contributions with effect on and after 1st September 1992.

Regulation 10 relaxes the "earnings cap" imposed on pensionable pay by the proviso to regulation G1(1) of the Pensions regulations. It will, with effect on and after 1st June 1989, keep pace with the figure specified from time to time for tax purposes, and will not apply in cases where the "cap" is disappplied for those purposes. Regulation 18(2) protects the position of senior

officers who were serving in police forces in Great Britain when the "cap" was introduced and have since transferred to the Royal Ulster Constabulary.

Transitional provision is made by regulation 21.

Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972 confer express power to make regulations retrospective in effect and framed so as to apply in relation to pensions of, or in respect of, persons who left pensionable police service, or died, before the regulations come into operation. These amending regulations are to a large extent retrospective and so framed. Regulation 21 gives persons placed in a worse position the opportunity, required by Article 14(3) of the 1972 Order, to elect that the relevant amendment is not to apply.

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.