
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 79

THE POLICE PENSION (NORTHERN
IRELAND) REGULATIONS 2009

PART 4

PENSION AWARDS

Survivors' pensions

Survivors' pensions - general provision

36. Subject to and in accordance with the provisions of these Regulations, where a police officer dies or has died—

- (a) while he is in receipt of an ordinary pension, an ill-health pension or a deferred pension;
- (b) after he has ceased to serve as such in circumstances where no transfer value was paid in respect of his service and he is entitled to a deferred pension whether or not that pension has come into payment;
- (c) while he is serving as such and fulfils the qualifying service criterion and no election under regulation 7 has effect at the time of his death; or
- (d) while he is serving as such and, having made an election under regulation 7 which has effect at the time of his death, he is entitled to a deferred pension,

a survivor such as is mentioned in regulation 37 shall be entitled to a pension calculated in the case of an adult survivor in accordance with regulation 38, and in the case of a child survivor in accordance with regulation 39.

Survivors

37.—(1) For the purposes of regulation 36 a survivor shall mean—

- (a) a person who at the time of the death of the officer concerned was his spouse, civil partner or, subject to paragraph (2), other adult partner (“an adult survivor”); or
- (b) a child of the officer concerned (“a child survivor”) who is—
 - (i) a natural child, step-child or adopted child of the officer concerned;
 - (ii) a child conceived before death of the officer concerned and born after that death to a person mentioned in paragraph 1(a); or
 - (iii) any other child who at the time of the death of the officer concerned was substantially dependent, financially or by reason of permanent disablement, on him.

(2) An adult partner, other than a spouse or civil partner, shall not be entitled to a pension under these Regulations unless the following conditions are satisfied—

- (a) the police officer concerned had sent to the Board a declaration made and signed by the police officer and the adult partner concerned that—
 - (i) the police officer and the adult partner concerned were cohabiting as partners in an exclusive, committed and long-term relationship;
 - (ii) the adult partner was financially dependent on the officer or they were financially interdependent;
 - (iii) the police officer and the adult partner were both free to marry each other (where they are of opposite sexes) or to form a civil partnership with each other (where they are of the same sex); and
 - (iv) the police officer acknowledged an obligation to send to the Board a signed notice of revocation should the relationship terminate,
 and had not revoked that declaration before his death; and
 - (b) the surviving adult partner has submitted a claim in writing to the Board and satisfied the Board—
 - (i) that the circumstances mentioned in paragraphs (i), (ii) and (iii) of sub-paragraph (a) continued to subsist at the time of the officer's death, and
 - (ii) that the period of cohabitation mentioned in paragraph (i) of sub-paragraph (a) had been of at least two years' duration at the time of the officer's death.
- (3) The Board may in their discretion accept a shorter period of cohabitation than that mentioned in paragraph (2)(b)(ii) where they are satisfied that the police officer and the adult partner concerned would have cohabited as partners for at least two years had the police officer not died.
- (4) Upon receipt of a declaration or notice of revocation of such a declaration made in accordance with paragraph (2)(a), the Board shall forthwith send to the officer concerned a written notification of its receipt.

Calculation of adult survivors' pensions

- 38.**—(1) An adult survivor's pension shall be calculated in accordance with the provisions of this regulation, subject to regulations 30(5) and 34(6).
- (2) Subject to paragraphs (8) and (9), in a case where the police officer concerned died in the circumstances mentioned in regulation 36(a), (b) or (d), an adult survivor of that officer shall be entitled to an annual pension payable for life calculated in accordance with paragraph (3).
- (3) The annual pension shall be equivalent to half of the annual pension which—
- (a) was payable to the officer at the time of his death; or
 - (b) would have been payable to the officer if his deferred pension had come into payment immediately before his death.
- (4) Subject to paragraphs (8) and (9), in a case where the police officer concerned died in the circumstances mentioned in regulation 36(c), an adult survivor of that officer shall be entitled to an annual pension payable for life calculated in accordance with paragraph (5).
- (5) The annual pension shall be equivalent to half the annual sum that would have been payable to the officer if—
- (a) he had retired immediately before his death; and
 - (b) on retirement he had had an entitlement to both a standard and an enhanced top-up ill-health pension calculated in accordance with regulations 27 and 28.
- (6) Where the police officer concerned was a pension debit member, an adult survivor's pension is calculated—

- (a) by reference to the member's rights under these Regulations, as reduced by virtue of article 28 of the 1999 Order; and
- (b) in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary.

(7) An adult survivor's pension shall be calculated by reference to the annual pension which was payable or would have been payable to the police officer as mentioned in paragraph (3), or by reference to the annual sum that would have been payable to the police officer as mentioned in paragraph (5), without taking account of any increase of that annual pension or annual sum in accordance with the Pensions (Increase) Acts.

(8) In the case of an adult survivor who was more than twelve years younger than the police officer concerned at the date of his death—

- (a) the survivor's pension, as calculated in accordance with paragraph (2) to (6), as the case may require and paragraph (7) shall be reduced by 2.5 per cent in respect of each whole year and any additional part of a year in excess of twelve by which the survivor was younger than the officer; but
- (b) no reduction under sub-paragraph (a) shall exceed 50 per cent of the pension that would otherwise be payable.

(9) In any case where—

- (a) the adult survivor is a surviving spouse or surviving civil partner; and
- (b) the marriage of the spouse and the officer occurred, or the civil partnership was formed as the case may be, within the period of six months immediately preceding the officer's death,

the Board may, in their discretion, withhold the pension.

(10) The amount of an adult survivor's pension, calculated in accordance with the preceding provisions of this regulation, shall be increased in accordance with regulation 47.

Calculation of child survivors' pensions

39.—(1) Subject to regulations 30(5) and 34(6), a child survivor's pension shall be calculated in accordance with this regulation.

(2) A child survivor's pension shall be an annual amount equivalent to half of the pension which would be payable to any adult survivor as calculated in accordance with regulation 38(2) or (3), as the case may require, and regulation 38(5) subject to paragraph (3) below.

(3) Where three or more child survivors' pensions are for the time being payable in respect of the death of the same person, the pension payable to each child survivor shall be an annual amount equal to the pension which would be payable to an adult survivor as so calculated divided by the total number of child survivors' pensions so payable.

(4) Where a pension debit member dies, leaving a child survivor, the reduction in his rights under these Regulations by virtue of article 28 of the 1999 Order is disregarded for the purposes of calculating any child survivor's award payable to that child under these regulations.

(5) In a case where a child survivor is—

- (a) in full-time training for a trade, profession or calling or is employed; and
- (b) is in receipt of remuneration in respect of that training or employment,

his child survivor's pension shall be withdrawn or reduced in accordance with paragraph (6).

(6) In the case of a child survivor to whom paragraph (5) applies—

- (a) if the annual amount of his child survivor's pension is greater than the amount of his excess remuneration (within the meaning of paragraph (9)), his pension shall be reduced by the amount of that excess remuneration; or
 - (b) if the amount of that excess remuneration is equal to or greater than the annual amount of the child survivor's pension which, but for this sub-paragraph, would be payable to him, a child survivor's pension shall not be payable.
- (7) A child survivor's pension shall be payable—
- (a) in a case where the child survivor was, in the opinion of the Board, at the time of the police officer's death dependent on him by reason of permanent disablement, for life;
 - (b) in a case where the child is in full-time education on a course of at least one year's duration, until he ceases to be in full-time education or attains the age of 23 years, whichever first occurs;
 - (c) in any other case, until the child survivor attains the age of 19 years.
- (8) A child survivor's pension, calculated in accordance with this regulation, shall be increased in accordance with regulation 47.
- (9) In this regulation—
- “excess remuneration” means the annual amount by which the annual rate of the relevant child survivor's remuneration exceeds the specified rate.
- “specified rate” means a sum equivalent to the annual rate (rounded up to the nearest £1) of the applicable amount of personal allowance payable to a single claimant aged not less than 18 but less than 25 years, as specified in the Income Support (General) Regulations (Northern Ireland) 1987⁽¹⁾ as uprated from time to time in accordance with an order under section 132(1) of the Social Security Administration (Northern Ireland) Act 1992⁽²⁾.

(1) S.R. (N.I.) 1987 No.459
(2) 1992 c.8