
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 79

**THE POLICE PENSION (NORTHERN
IRELAND) REGULATIONS 2009**

PART 8

TRANSFER VALUES, PAYMENT, ETC

Interpretation

Interpretation - transfers

72. In these Regulations—

- (a) a reference to a police officer transferring to a police force in Great Britain shall be construed as a reference to his leaving the police service and joining a police force in Great Britain as a regular police officer with—
 - (i) in the case of the Chief Constable, Deputy Chief Constable or an Assistant Chief Constable, the consent of the Board and the approval of the Secretary of State; and
 - (ii) in any other case, the consent of the Chief Constable and after having given a month's notice in writing to the Board, or such shorter period of notice as may have been accepted by the Board.
- (b) a reference to a regular police officer having transferred from a police force in Great Britain to the police service shall be construed as a reference to his leaving a police force in Great Britain and joining the police service as a police trainee or police officer, subject to—
 - (i) in the case of a Chief Officer of police, Deputy Chief Constable, or an Assistant Chief Constable, obtaining the consent of the police authority concerned; and
 - (ii) in any other case, obtaining the consent of the Chief Officer of police acting with the consent of the police authority concerned.

Certificates of pensionable service on transfer between forces or rejoining the police service

Certificates of pensionable service

73.—(1) This paragraph applies where a regular police officer transfers from a police force in Great Britain to the police service.

(2) In a case where paragraph (1) applies, the police authority of that force shall furnish the Board with a certificate stating—

- (a) the amount of the pensionable service which the regular police officer to whom this paragraph applies is entitled to reckon by reason of previous service in a police force in Great Britain in accordance with regulations 8 to 13;

- (b) whether or not that regular police officer has, at the time of leaving service in the force maintained by the police authority, made an election under regulation 7; and
 - (c) where that police officer is a pension debit member under Part 6, the appropriate percentage by which his future benefits are to be reduced under regulation 33.
- (3) On the acceptance of a certificate under paragraph (2) by the Board, any entitlement of a regular police officer to whom this regulation applies to an award from the police authority shall cease to have effect.
- (4) In a case where paragraph (1) applies, the police authority shall furnish the regular police officer with a copy of the certificate furnished under paragraph (2) together with a description of the effect of paragraph (2).
- (5) This paragraph applies where a police officer transfers from the police service to a police force in Great Britain.
- (6) In a case where paragraph (5) applies, the Board shall furnish the police authority of that force with a certificate stating—
- (a) the amount of the pensionable service which the police officer to whom this paragraph applies is entitled to reckon by reason of previous service in the police service in accordance with regulations 8 to 13;
 - (b) whether or not that police officer has, at the time of leaving service in the police service, made an election under regulation 7, and
 - (c) where that police officer is a pension debit member under Part 6, the appropriate percentage by which his future benefits are to be reduced under regulation 33.
- (7) On the acceptance of a certificate under paragraph (6) by the police authority, any entitlement of a police officer to whom this regulation applies to an award from the Board shall cease to have effect.
- (8) In a case where paragraph (5) applies, the Board shall furnish the police officer with a copy of the certificate furnished under paragraph (6), together with a description of the effect of paragraph (6).

Transfer values payable on leaving the police service or ceasing to make pension contributions

Transfer values payable on leaving the police service or ceasing to make pension contributions

74.—(1) Subject to paragraph (10), this regulation applies to a police officer who, before he attains the age of 64 years—

- (a) ceases to serve as a police officer; or
- (b) makes or has made an election under regulation 7,

and who, in either case, satisfies the conditions specified in paragraph (2).

(2) The conditions mentioned in paragraph (1) are—

- (a) that he subsequently becomes subject to new pension arrangements which are contained within—
 - (i) a public service pension scheme within the meaning of section 1 of the 1993 Act⁽¹⁾;

(1) Subsection (1) of section 1 was so numbered by the Pensions Act 2004 (c.35), section 293(1) and (2) and the definition of “public service pension scheme” was amended by the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820; article 4, Schedule 2, Part I, paragraph 113(a) and (b))

- (ii) any other pension scheme which is registered under section 153 of the Finance Act 2004⁽²⁾; or
- (iii) a qualifying recognised overseas pension scheme within the meaning of section 169 of the Finance Act 2004;
- (b) that his pensionable service satisfies the three month condition within the meaning of section 97AA(1) (b) (i) of the 1993 Act⁽³⁾;
- (c) that he is not entitled to a pension under Part 4 or, if he is so entitled, it is not yet payable;
- (d) that he has not received any award by way of repayment of his aggregate pension contributions; and
- (e) that he has, on or before the date on which he attains the age of 64 years, or within such longer period as the Board may allow in the circumstances of the particular case, given written notice to the Board of his desire that this regulation should apply in his case.

(3) A police officer who has given notice in accordance with paragraph (2)(e) may, without prejudice to the giving of another such notice, withdraw that notice by giving written notice to that effect to the Board under this paragraph; but withdrawal of notice under this paragraph shall be of no effect if it is given at a time when the Board have already entered into an agreement with a third party to pay a transfer value under paragraph (4) in respect of him.

(4) Subject to paragraphs (5) and (10), where this regulation applies the Board shall—

- (a) within 12 months of receipt of notice given in accordance with paragraph (2)(e); or
- (b) if earlier, by the date on which the police officer concerned attains the age of 65 years,

pay a transfer value calculated, (subject to paragraph (6)), in accordance with tables and guidance issued for the purpose by the Scheme actuary to the Board or person empowered to receive such payments for the purposes of the new pension arrangements to which the police officer becomes subject.

(5) If proceedings before a court have been commenced against the police officer concerned within 12 months of the date on which contributions under regulation 6 ceased to be payable in respect of him, and it appears to the Board that the proceedings may lead to the forfeiture of any pension, entitlement to which arises as a result of the payment of such contributions, the period within which payment under this paragraph is to be made shall be—

- (a) that specified in paragraph (4); or
- (b) three months from the conclusion of those proceedings (including any proceedings on appeal),

whichever ends later.

(6) In the case of a transfer value paid under the public sector transfer arrangements, paragraph (4) shall have effect as if, for the words from “subject to paragraph (6)” to “actuary” there were substituted the words “in accordance with the rules of the public sector transfer arrangements”; and for these purposes, “the public sector transfer arrangements” has the same meaning as that given in regulation 12(5).

(7) In the case of a police officer who has received such an award as is mentioned in paragraph (2) (d) but has, within six months of becoming subject to new pension arrangements, or within such longer period as the Board may allow in the circumstances of his case, paid to the Board an amount equal to that of the award, (plus interest, where payable in accordance with paragraph (9)) paragraph (2) shall have effect as if sub-paragraph (d) were omitted.

(2) 2004 c.12

(3) Section 97AA(1)(b) was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005

(8) In the case of a police officer who is becoming subject to new pension arrangements such as are specified in paragraph (2)(a)(i), paragraph (7) shall have effect as if for “six months” there were substituted “12 months”.

(9) For the purposes of paragraph (7) and (8)—

- (a) interest shall be payable where payment is made under that paragraph more than a year after receipt of the award as mentioned in paragraph (2)(d); and
- (b) any such interest shall be calculated at the rate of 5 per cent per year, compounded with yearly rests.

(10) Where a pension debit exists under Part 6, the amount of any transfer value payable under this regulation shall be decreased by the actuarial value of that debit.

Prohibition on accepting or paying transfer values for pension credit rights

75. A transfer value may not be accepted or paid in respect of any pension credit rights under Part 6.

Mis-sold pensions

Mis-sold pensions

76.—(1) This regulation applies to a police officer who—

- (a) opted or transferred out; and
- (b) has suffered loss as a result of a contravention which is actionable under section 150 of the Financial Services and Markets Act 2000(4).

(2) A police officer to whom this regulation applies may give notice in writing to the Board that he wishes the Board to accept payment of a transfer value in order to create or restore pensionable service, and such notice shall be treated as cancelling, with effect from the date on which an instalment of pay next falls due to him, any election that is in force under regulation 7 in respect of that police officer.

(3) Where a police officer has given notice under paragraph (2), but before the payment has been accepted and pensionable service created or restored he either—

- (a) dies while serving as a member of the police service; or
- (b) becomes entitled to an award under these Regulations,

paragraph (4) shall continue to apply in his case.

(4) Where a transfer value in relation to a police officer who has given notice under paragraph (2) is paid to the Board before the expiry of the period of 12 months beginning with the date on which the police officer gives such notice, or such longer period as the Board may allow, the Board—

- (a) shall, if satisfied that the transfer value has been calculated in a manner consistent with the methods adopted and assumptions made by them in determining the restitution payment, accept the payment and treat the relevant period as pensionable service reckonable by the officer concerned; and
- (b) may, if not so satisfied, but if satisfied that the transfer value represents, by reference to those methods and assumptions, a length of service not exceeding the relevant period, accept the payment and treat that length of service as pensionable service reckonable by the officer concerned,

and the police officer shall be treated for the purpose of calculating any award under these Regulations as having made pension contributions throughout the period of pensionable service credited under this paragraph.

(5) Where a police officer is credited under paragraph (4) with a period of pensionable service that is shorter than the relevant period, the period of service credited shall be treated for the purpose of any award under these Regulations as being a continuous period with the same concluding date as the relevant period.

(6) Where a police officer who is being credited under paragraph (4) with a period of pensionable service has previously been credited with an additional period of pensionable service calculated in accordance with regulation 12(2) and (3) or regulation 74(4) and (5) in respect of the relevant period, the Board may adjust the transfer value which they accept under this regulation to ensure that no part of the additional period of pensionable service which was previously credited is included in the period of pensionable service credited under paragraph (4).

(7) In this regulation—

“the assumed calculation date” means the date on which it is assumed, for the purpose of calculating a restitution payment, that a transfer value will be paid to the Board;

“the material date” means the date on which the Board is asked to provide the calculation of the restitution payment;

“personal pension scheme” and “public service pension scheme” have the meanings given by section 1(1) of the 1993 Act;

“the relevant period”, in relation to a police officer, means the total of any periods of opted out and transferred out service;

“restitution payment”, in relation to a police officer, means an amount equal to the sum of—

(a) the capitalised value at the material date, determined by the Board in accordance with methods and assumptions notified to them by the Scheme actuary for cash equivalent transfer values from occupational pension schemes (other than public service pension schemes), which would produce a service credit equal to his total period of opted out service, including the capitalised value of any rights under the Pensions (Increase) Acts(5); and

(b) the greater of—

(i) any transfer value paid to a personal pension scheme in respect of that police officer’s transferred out service by the Board under regulation 74(4) and (5), increased by interest calculated at a rate approved by the Scheme actuary over the period from the date of payment of that transfer value to the assumed calculation date; and

(ii) the cash equivalent transfer value which would be payable by the Board in respect of that transferred out service if the Board were to pay a cash equivalent transfer value in respect of that service determined in accordance with methods and assumptions, notified to them by the Scheme actuary, applicable immediately after the assumed calculation date.

(8) For the purposes of this regulation, a police officer shall be taken—

(a) to have opted out if, for any period during which he is a member of the police service, he does not make contributions (including any additional or further contributions which he had previously elected to make) in respect of police pension rights but instead makes contributions to a personal pension scheme; and

(b) to have transferred out if a transfer value is paid in respect of him by the Board to a personal pension scheme,

and “opted out service” and “transferred out service” are to be construed accordingly.

Payment of awards

Board responsibility for payment of awards

77.—(1) An award which is payable to or in respect of a person by reason of his having served as a police officer shall be payable by the Board.

(2) An award which is payable to or in respect of a pension credit member under Part 6, and any sum paid in commutation of such an award, is payable by the Board.

Payment and duration of awards

78.—(1) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 29(4) and (5);
- (b) regulation 30;
- (c) regulation 40; and
- (d) regulations 48 to 52,

the pension of a police officer shall be payable in respect of each month as from the date of his retirement.

(2) Subject to the provisions of these Regulations, a survivor’s pension shall be payable in respect of each month as from the death of the police officer in respect of whom the award is payable or, in the case of a posthumous child such as is mentioned in regulation 37(1)(b)(ii), as from the birth of the child, except where the police officer in respect of whom the award is payable was in receipt of a pension and dies during a period in respect of which he has already received his pension, in which case the survivor’s pension shall not be payable before the end of that period.

(3) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 39(7)(b) and (c);
- (b) regulation 40; and
- (c) regulations 48 to 52,

a pension shall be payable for life and shall be discharged by payments in advance at such reasonable intervals as the Board may, in their discretion, determine, except that payment on account of a pension may be delayed, in whole or in part, pending the determination of any question as to the liability of the Board in respect of the pension, including any question as to the continuance of that liability.

(4) Where a person dies after receiving a sum paid in advance on account of a pension, neither that sum nor any part of it shall be recoverable although referable to a period after his death.

(5) Subject to the provisions of these Regulations, a gratuity or award by way of repayment of aggregate pension contributions shall become payable as soon as the entitlement to it arises and shall be paid forthwith in one sum and a lump sum payable upon the retirement of a police officer shall be paid within three months from the date of retirement, except that—

- (a) any such payment on account may be delayed, in whole or in part, pending the determination of any question as to the liability of the Board to pay it; and

- (b) where the Board is satisfied that it would be for the advantage of the beneficiary to pay a gratuity in instalments, they may pay it in instalments of such reasonable amounts and over such reasonable period as they think fit.

Payment of awards otherwise than to beneficiary and application of payments

79.—(1) This regulation applies to the payment of any award to or in respect of a police officer or a pension credit member (whether a pension, gratuity or other award) and any reference in this regulation to the beneficiary is a reference to the person to whom, this regulation apart, the award is payable.

(2) Subject to the provisions of these Regulations, and in particular the following provisions of this regulation, an award shall be payable only to the beneficiary.

(3) Where the beneficiary is a minor the Board may if they think fit, in lieu of paying any sum on account of an award to the minor, pay it to such other person as they may determine; and a person who receives any sum in pursuance of this paragraph shall, subject to and in accordance with any directions of the Board, apply that sum for the benefit of the minor.

(4) On the death of the beneficiary to whom a sum is due on account of an award which does not exceed £5,000 or such higher amount as may from time to time be prescribed for the purposes of section 6 of the Administration of Estates (Small Payments) Act 1965⁽⁶⁾, the Board may, without probate, confirmation or any other formality or proof of title, pay the sum to the persons appearing to the Board to be beneficially entitled to the personal estate of the deceased or, as the Board think fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the Board may determine.

(5) Where it appears to the Board that a beneficiary is by reason of mental disorder or otherwise incapable of managing his affairs, in lieu of paying any sum on account of an award to that beneficiary—

- (a) they may, in their discretion, pay it in whole or in part to a person having the care of the beneficiary or such other person as they may determine; and
- (b) in so far as they do not so discharge their liability in respect of that sum, the Board shall apply it in such manner as they think fit for the benefit of the beneficiary or his dependants,

and a person who receives any sum in pursuance of sub-paragraph (a) shall, subject to and in accordance with any directions of the Board, apply it for the benefit of the beneficiary or his dependants.

(6) Where, as a result of any fraud, theft or negligence on the part of a police officer in connection with his service as such, a loss has occurred to the fund out of which an award is payable to him, in lieu of paying the whole or any part of any sum on account of the award to that beneficiary, the Board may, if they think fit but subject to paragraph (7), apply it in making good the loss by retaining it in that fund:

Provided that the aggregate amount retained in pursuance of this paragraph shall not exceed whichever is the less of the following amounts—

- (a) the amount which is the actuarial value, at the time of the first retention, of the sums then or prospectively due to the police officer on account of the award; and
- (b) the amount of the loss,

and, in the event of any dispute as to the amount of that loss, the power conferred by this paragraph shall not be exercisable save to the extent of any sum adjudged due to the Board in respect of the loss by an order of a competent court.

(6) 1965 c.32

(7) Where the Board exercise the power conferred by paragraph (6) they shall furnish the police officer concerned with a certificate showing the amount retained and the effect on the award; and, where the police officer is entitled to reckon pensionable service otherwise than by reason of service as a police officer in the police service, only the following proportion of any sum due on account of the award that may be so retained and applied, that is to say the proportion which his pensionable service reckonable by reason of service as a member of the police service bears to his total pensionable service.

(8) The Board shall obtain a good discharge by paying or applying any sum in the manner provided by this regulation.

Payment on behalf of officers of lifetime allowance charge

80.—(1) A police officer may request the Board to pay on his behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004⁽⁷⁾ when—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of that Act⁽⁸⁾ occurs in relation to him, and
 - (b) the officer and the authority are jointly and severally liable in relation to that event.
- (2) Such a request may only be made by notice in writing given before the event occurs.

(3) The authority may comply with such a request only if the officer pays the authority the amount in question on or before the date on which the event occurs.

Reduction of benefits where lifetime allowance charge payable

81.—(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 occurs in relation to a police officer;
- (b) the officer and Board are jointly and severally liable in relation to that event; and
- (c) no request has been duly made under regulation 80 in relation to the event or, if such a request has been made, the authority is prevented from complying with it by paragraph (3) of that regulation.

(2) Where this regulation applies—

- (a) the Board shall pay any of the tax payable on the event;
- (b) the benefits payable to or in respect of the officer, or the transfer payment in the case of event 8 in the table in section 216(1) of the Finance Act 2004, shall be reduced to reflect fully the amount of tax payable; and
- (c) the amount of the reduction shall be determined in accordance with guidance provided by the Secretary of State and, in the case of any reduction to pension benefits, consistent with normal actuarial practice.

⁽⁷⁾ 2004 c.12

⁽⁸⁾ Subsection (1) of section 216 was amended by the Finance Act 2005 (c.7), Schedule 10, paragraphs 1, 31 and 42, and Schedule 23, paragraphs 1 and 30