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STATUTORY RULES OF NORTHERN IRELAND

2013 No. 36

POLICE

**The Police Pension (Northern Ireland)
(Amendment) Regulations 2013**

Made - - - - 6th February 2013
Coming into force - - 1st April 2013

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 25(2)(k) and 26(2)(g) of the Police (Northern Ireland) Act 1998(1).

Those powers are now vested in the Department(2).

The Department of Finance and Personnel has consented to the making of these Regulations in accordance with section 72(2A)(3) of that Act.

The Department has consulted the Police Negotiating Board for the United Kingdom in accordance with section 62(3) of the Police Act 1996(4).

Citation and commencement

1.—(1) These Regulations may be cited as the Police Pension (Northern Ireland) (Amendment) Regulations 2013.

(2) These Regulations come into operation on 1st April 2013.

Interpretation

2. In these Regulations unless the context otherwise requires—

“the Pension Regulations” means the Police Pension (Northern Ireland) Regulations 2009(5).

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- (1) [1998 c.32](#). Relevant amendments are made by: section 78(1) of and paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000 (“the 2000 Act”). Section 26(2)(g) was amended by section 49(5)(a) of the 2000 Act.
- (2) Article 5 of and paragraphs 9 and 10 of Schedule 3 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 ([S.I. 2010/976](#)) transferred the regulation making powers of the Secretary of State to the Department of Justice.
- (3) This subsection was inserted by paragraph 23(6) of Schedule 6 to the 2000 Act. The consent function is now vested in the Department of Finance and Personnel by virtue of Article 5 of and paragraph 38 of Schedule 3 to [S.I. 2010/976](#).
- (4) [1996 c.16](#). Section 62(3) was amended by section 34(2) of the Police (Northern Ireland) Act 1998.
- (5) [S.R. 2009 No. 79](#) as amended by [S.R. 2010 No. 348](#) and [S.R. 2012 No. 64](#).

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Amendments of the Pension Regulations

3. The Pension Regulations are amended in accordance with the Schedule.

Sealed with the Official Seal of the Department of Justice on 6th February 2013



David Ford
Minister of Justice

Sealed with the Official Seal of the Department of Finance and Personnel on 6th February 2013



John McKibbin
A senior officer of the
Department of Finance and Personnel

SCHEDULE

Regulation 3

1. In regulation 4 (application of Regulations), in paragraph (4)—
 - (a) in sub-paragraph (b), omit “and”;
 - (b) in sub-paragraph (c), at the end, insert “and”;
 - (c) after sub-paragraph (c) insert—
 - “(d) his election shall otherwise be cancelled in accordance with regulation 7(6), and he shall then become eligible for awards to be payable to or in respect of him under these Regulations, subject to paragraph 9 of Schedule 2.”.
2. After regulation 6(1)(b) (eligibility for pension awards payable on the grounds of permanent disablement) insert—
 - “(c) a police officer who has been automatically enrolled or re-enrolled.”.
3. In regulation 7 (election not to pay pension contributions)—
 - (a) after paragraph (3) insert—
 - “(3A) In the case of a police officer who has given notice under paragraph (1) within three months of a relevant event, his election under that paragraph shall be deemed to have taken effect on the date of that relevant event.
 - (3B) A relevant event for the purposes of paragraph (3A) is—
 - (a) the automatic enrolment date;
 - (b) an automatic re-enrolment date;
 - (c) the police officer first becoming liable to pay pension contributions by reason of exercising the right afforded by section 7 of the Pensions (No. 2) Act (Northern Ireland) 2008⁽⁶⁾ (jobholder’s right to opt in).”;
 - (b) at the end of paragraph (5), insert “and the election shall cease to have effect as from the date on which an instalment of pay next falls due to him after the receipt of such notice”.
 - (c) For paragraphs (6) to (9) substitute—
 - “(6) An election made by a police officer under paragraph (1) shall, if it has not been cancelled under paragraph (5), be cancelled on the automatic enrolment date or (if that date has passed) on the next automatic re-enrolment date, and shall cease to have effect as from the date on which an instalment of pay next falls due to him after the date of cancellation.
 - (7) A written notice given under paragraph (1) or (5) shall be signed by the police officer or, where the notice is in electronic format it shall include a statement confirming that the notice is given by the police officer personally.”.
4. In regulation 18(2) (compulsory retirement on the ground of disablement) for “appeal board” substitute “independent medical referee”.
5. For regulation 40(9) (guaranteed minimum pension for the purposes of the Pension Schemes (Northern Ireland) Act 1993) substitute—
 - “(9) For the purposes of this regulation, “state pensionable age” means the pensionable age determined in accordance with the rules in Article 123 of and Schedule 2 to the Pensions (Northern Ireland) Order 1995⁽⁷⁾.”.

⁽⁶⁾ 2008 c.13 (N.I.).

⁽⁷⁾ S.I. 1995/3213 (N.I. 22). Article 123 and Schedule 2 were amended by section 11(1) of and Schedule 3 to the Pensions Act (Northern Ireland) 2008 (2008 c.1 (N.I.)).

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6. In regulation 69(4)(a) (further reference to medical authority) for “appeal board” substitute “IMR”.

7. After regulation 91 insert—

“Members of the Police Service of Northern Ireland Reserve.

91A.—(1) These Regulations shall apply to members of the Police Service of Northern Ireland Reserve subject to the modifications in Schedule 4A.

(2) Unless the context otherwise requires, in these Regulations a reference to—
“police officer” shall be read as a reference to a part-time reserve officer,”
“police service” shall be read as a reference to the Police Service of Northern Ireland Reserve.”.

8. In Schedule 1 (glossary of expressions) insert the following definitions at the appropriate places—

“automatic enrolment date” has the meaning given by section 3(7) (automatic enrolment) of the Pensions (No.2) Act (Northern Ireland) 2008.

“automatic re-enrolment date” means a date determined in accordance with regulation 12 of the Occupational and Personal Pensions schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010(8).

9. After Schedule 4 insert—

“SCHEDULE 4A

Regulation 91A

1. For regulation 4(1) substitute—

“(1) These Regulations shall apply to a part-time reserve officer who is a serving officer or first became such on or after 1st April 2013.”.

2. Regulation 4(2) to (9) shall not apply to a part-time reserve officer.

3. After regulation 6(1)(c) (eligibility for pension awards payable on the ground of permanent disablement) insert—

“(d) a candidate for appointment to the Police Service of Northern Ireland Reserve or a serving member of the Police Service of Northern Ireland Reserve as of 1st April 2013;”.

4. In regulation 9(4) (previous service reckonable without payment) after “regulation 22” insert “or regulation 11A”.

5. After regulation 11 (reckoning of part-time service) insert—

“Reckoning of service for a part-time reserve officer

11A. In the case of a part-time reserve officer the number of days of pensionable service shall be calculated by the application of the following fraction:

$$\frac{(A \times 365)}{(B \times C)}$$

Where—

(8) S.R. 2010 No. 122 to which these are amendments not relevant to these Regulations.

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A is the total number of hours worked as a part-time reserve officer;
B is the number of hours per week if service was on a full-time basis for an officer who meets definition (a) or (b) of “police officer”; and
C is the number of weeks’ service in a full year for an officer who meets definitions (a) or (b) of “police officer.”.

6. In regulation 16(2) (compulsory retirement on account of age) after sub-paragraph (b) insert—

“(c) if he is a part-time reserve officer, on attaining the age of 65 years.”

7. At the end of regulation 17(3) (compulsory retirement on the grounds of the efficiency of the police service) insert “or a part-time reserve officer”.

8. After regulation 18 (compulsory retirement on the grounds of disablement) insert—

“18A.—(1) The Chief Constable may require a part-time reserve officer to retire on the date on which, having considered all the relevant circumstances, advice and information available to him, he determines that he ought to retire on the grounds that he is permanently disabled for the performance of the ordinary duties of a member of the police service.

(2) A retirement under paragraph (1) shall be void if, after that date, on an appeal against the medical opinion on which the Chief Constable acted in determining that he ought to retire, the independent medical referee decides that the appellant is not permanently so disabled.

(3) This paragraph applies to a part-time reserve officer who is permanently disabled for the performance of the ordinary duties of a member of the police service but who, in accordance with a determination of the Chief Constable in the circumstances of his case, continues to serve as such.

(4) In respect of a part-time reserve officer to whom paragraph (3) applies, the Chief Constable may consider, at such times as he may in his discretion determine, whether the disablement has ceased, significantly worsened or significantly improved.

(5) If on any such consideration the Chief Constable, having considered all the relevant circumstances, advice and information available to him, determines that the part-time reserve officer ought to retire on the ground that he is permanently disabled for the performance of the ordinary duties of a member of the police service he shall require him to retire under paragraph (1) (subject to paragraph (2)).”.

9. In regulation 20 (pensionable pay) at the end insert—

“and during any period of service as a part-time reserve officer it means so much of his pay as is attributable to the hours of duty which he is required to perform under regulation 16(4) of the Police Service of Northern Ireland Reserve (Part-Time) “Regulations 2004(9), account being taken of any retrospective increase in that pay”.

10.—(1) For regulation 22(2) (average pensionable pay) substitute—

“(2) Where a police officer (other than a part-time reserve officer) is entitled to reckon less than twelve months’ pensionable service, that aggregate shall be multiplied by the reciprocal of the fraction of the twelve-month period during which he was entitled to pensionable pay.”.

(2) After paragraph (5) insert—

(9) S.R. 2004 No. 3 to which there are amendments not relevant to these Regulations.

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“(6) Where any period of twelve months mentioned in regulation 21(1) includes a period of service as a part-time reserve officer, for the purposes of determining average pensionable pay, the officer’s pensionable pay, shall be increased by the following fraction:

$$\frac{1 \times (B \times C)}{A}$$

Where—

A is the number of hours worked as a part-time reserve officer in the twelve month period;

B is the number of hours per week if service was on a full-time basis for an officer who meets definition (a) or (b) of “police officer”; and

C is the number of weeks’ service in a full year for an officer who meets definition (a) or (b) of “police officer”.”.

11.—(1) Regulation 28(6) (calculation of enhanced top-up ill-health pension) is renumbered as paragraph (6)(a)

(2) After sub-paragraph (6)(a) as so renumbered insert—

“(b) In the case of a part-time reserve officer at the date of his retirement, in determining the number of years of pensionable service that he is entitled to reckon as at the date of his retirement for the purposes of paragraphs (4) and (5), a period of service by virtue of which his pensionable service is reckonable as if it were a period of full-time service (but this paragraph does not apply so as to affect any other references to pensionable service in paragraphs (4), (5), and (7)).”.

(3) Regulation 28(7) is renumbered as paragraph (7)(a).

(4) After sub-paragraph (7)(a) so as renumbered insert—

“(b) In the case of a part-time reserve officer at the date of his retirement, the period of prospective service for the purposes of paragraph (4)(b) or (5), as the case may be shall be calculated using the formula in regulation 11A where A in that formula is the contracted annual hours for such an officer (and a proportion of those hours for each partial year) during the period beginning with the date of the officer’s retirement and ending on the day immediately before that on which he would attain the age of 55 years.”.

12. After regulation 35(4)(d) insert—

“(e) by regulation 5 of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(10) (which defines short service benefit in a lump sum form).”.

13. After regulation 48(17) (review and cancellation of pensions payable on the ground of permanent disablement) insert—

“(18) In its application to a part-time reserve office, any consideration by the Board under paragraph (1) shall be of whether the disablement of the person concerned has significantly worsened such that he has become permanently disabled for engaging in any regular employment (in the case of a person such as is mentioned in paragraph (1)(a)(i)) or improved such that his disablement for engaging in any regular employment has ceased (in the case of a person such as is mentioned in paragraph (1)(a)(ii)).”.

14.—(1) In regulation 53(2) (election to purchase increased benefits) at the end insert—

(10) S.R. 1991 No. 37. Regulation 5 was substituted by regulation 2 of S.R. 2009 No. 365.

“save that a part-time reserve officer may only make such an election on or after 1st April 2013”.

(2) After paragraph (4) insert—

“(4A) In the case of a part-time reserve officer, each added year which the officer elects to purchase shall be treated as one additional year of service as a part-time reserve officer.

As such the period of additional pensionable service reckonable will be calculated using the formula in regulation 11A, with the number of hours (A in this formula) being taken as the contracted annual hours for a part-time reserve officer for each added year.”.

15. After regulation 56(1) (payment by periodical contributions) insert—

“(1A) Where a part-time reserve officer becomes a constable of the Police Service of Northern Ireland as defined in section 1(2) of the Police (Northern Ireland) Act 2000 the periodical contributions made by him under this regulation shall cease.”.

16.—(1) After regulation 57(1) (reckoning of increased benefits) insert—

“(1A) In the case of a part-time reserve officer, subject to the following provisions of this regulation, for the purposes of calculating any award under Part 4 to or in respect of a police officer, added years purchased in pursuance of an election under regulation 53(2) shall be treated as one additional year of service as a part-time reserve officer and will be reckonable by him.

As such, the period of additional pensionable service reckonable will be calculated using the formula in regulation 11A, with the number of hours (A in this formula) being taken as the total contracted annual hours for a part-time reserve officer for each added year.

(1B) Every reference in this regulation to—

- (a) reckoning the number of added years specified in the notice of election under regulation 53(3)(a); or
- (b) reckoning the proportion of added years specified in the notice of election under regulation 53(3)(a);

shall be read as the pensionable service reckonable for the number of added years after the application of the calculation in paragraph (1A).”.

(2) In paragraph (6) after “regulation 53(3)(a)” insert “or, where he is a part-time reserve officer, service which would have been reckonable for the number of added years specified in the said notice of election”.

17. After regulation 71(b) (refusal to be medically examined) insert—

“(c) if the question arises for a part-time reserve officer otherwise than on an appeal under regulation 68 the Chief Constable may dismiss the member.”.

18. Regulations 76 and 82 to 90 shall not apply to a part-time reserve officer.

19. In Schedule 1 (glossary of expressions) insert the following definition at the appropriate place—

““part-time reserve officer” means a member of the Police Service of Northern Ireland Reserve appointed on a part-time basis and references to the Police Service of Northern Ireland Reserve appointed on a part-time basis shall be read in accordance with section 1(3) of the Police (Northern Ireland) Act 2000;”

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EXPLANATORY NOTE

(This note is not part of the Regulations)

The Police Pension (Northern Ireland) Regulations 2009 (“the 2009 Regulations”) provide for a defined benefits pension scheme for the members of the Police Service of Northern Ireland.

These Regulations amend the 2009 Regulations so as to ensure compliance with the requirements prescribed by the Pensions (No. 2) Act (Northern Ireland) 2009 (“the Pensions Act”) and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 with regard to arrangements the employer must make in respect of automatic enrolment and re-enrolment of a jobholder in a qualifying scheme. The amendments also ensure the Scheme complies with other arrangements prescribed by the Pensions Act and the 2010 Regulations by which a jobholder or worker may join and leave a qualifying pension scheme.

[A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.]