

SCHEDULE 3

Regulation 38

REPLACEMENT ALLOWANCE

Interpretation

1.—(1) This paragraph has effect for defining expressions used in paragraphs 2 to 7.

(2) “Qualifying member” means a member of a police force who—

- (a) immediately before 1st September 1994 was a member of that or another police force;
- (b) was not then on unpaid leave;
- (c) has at all times after 31st August 1994 been a constable; and
- (d) has not after that date been on unpaid leave.

(3) Where a member of a police force in England and Wales or Northern Ireland in receipt of a replacement allowance under a corresponding regulation which has effect there transfers to a police force in Scotland that member shall be treated from the date of transfer as if that member were a qualifying member.

(4) Where a member of the British Transport Police Force in receipt of a housing allowance transfers on or after 1st September 1994 to a police force in Scotland that member shall be treated from the date of transfer as if that member were a qualifying member.

(5) “Re-joining member” means a member who by reason only of a relevant absence is not a qualifying member.

(6) “Relevant absence” means—

- (a) a period of central service or overseas service; or
- (b) a period of relevant service within the meaning of section 38A(1)(ba) or (bb) of the 1967 Act⁽¹⁾ or any corresponding provision for the time being in force in England and Wales or Northern Ireland; or
- (c) a period of unpaid leave,

ending after 31st August 1994.

(7) “Housing emoluments” means any one or more of the following kinds of payments under the provisions of the 1976 Regulations as they had effect before 1st September 1994—

- (a) a housing allowance under regulation 42;
- (b) a transitional rent allowance under regulation 42B;
- (c) a supplementary housing allowance under regulation 43; and
- (d) a compensatory grant under regulation 45,

and in relation to a re-joining member includes a rent allowance under regulation 42 of the 1976 Regulations as it had effect before 1st April 1990; and “housing allowance” and “transitional rent allowance” mean respectively the allowances mentioned in (a) and (b) above.

(8) “The 1976 Regulations” means the Police (Scotland) Regulations 1976⁽²⁾.

Qualifying member provided with accommodation

2.—(1) A qualifying member who ceases to occupy a house or quarters with which that member was provided free of rent becomes entitled to a replacement allowance.

(1) Sections 38A(1)(ba) and (bb) were inserted by the Police Act 1997 c. 50.

(2) S.I. 1976/1073. Regulations 42, 42B, 43 and 45 were revoked by S.I. 1994/2231.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) The replacement allowance is, subject to paragraph 7, an allowance at a rate equal to the total of—

- (a) the rate at which housing allowance, or as the case may be transitional rent allowance, was payable, or would have been payable if that member had not been occupying the house or quarters, immediately before 1st September 1994; and
- (b) the rate at which any allowance under regulation 42(11) or 43(3) was or would have been then payable.

Qualifying member with housing emoluments

3.—(1) A qualifying member who immediately before 1st September 1994 was in receipt of housing emoluments is entitled to a replacement allowance unless that member is provided with a house or quarters free of rent.

(2) The replacement allowance is, subject to paragraph 7, an allowance at the rate at which the housing emoluments were payable immediately before 1st September 1994.

Re-joining member previously provided with accommodation

4.—(1) A re-joining member who immediately before the relevant absence began was occupying a house or quarters with which that member was provided free of rent becomes entitled to a replacement allowance unless that member is again provided with a house or quarters free of rent.

(2) The replacement allowance is, subject to paragraph 7, an allowance at the rate at which, if that member had not been occupying the house or quarters, housing allowance, or as the case may be transitional rent allowance, would have been payable—

- (a) where the relevant absence began before 1st September 1994, immediately before it began; and
- (b) in any other case, immediately before 1st September 1994.

Re-joining member previously in receipt of housing payments

5.—(1) A re-joining member who immediately before the relevant absence began was in receipt—

- (a) of housing emoluments; or
- (b) of a replacement allowance under paragraph 2 or 3,

becomes entitled to a replacement allowance unless that member is provided with a house or quarters free of rent.

(2) The replacement allowance is, subject to paragraph 7, an allowance—

- (a) where sub-paragraph (1)(a) applies, at the rate at which the housing emoluments were payable; and
- (b) where sub-paragraph (1)(b) applies, at the rate at which the previous replacement allowance was payable,

immediately before the relevant absence began.

Members provided with house or quarters

6. A qualifying member or a re-joining member who—

- (a) is provided with a house or quarters free of rent; and
- (b) if the relevant provisions of the 1976 Regulations had continued in force would have been entitled to an allowance under regulation 42(11) or 43(3),

is, subject to paragraph 7, entitled to an equivalent replacement allowance.

Variation and termination of replacement allowances

7.—(1) Subject to sub-paragraph (2), in circumstances in which—

- (a) a housing allowance or transitional rent allowance payable as mentioned in paragraph 2(2) or 4(2); or
- (b) any of the housing emoluments mentioned in paragraphs 3(1), 5(1)(a) and 6,

would, if the relevant provision of the 1976 Regulations had continued in force, have fallen to be reduced or discontinued, the replacement allowance in question is reduced accordingly or, if the effect of discontinuance would have been that no housing emoluments remained payable, terminated.

(2) For the purposes of sub-paragraph (1) it is to be assumed that a housing allowance or transitional rent allowance would not have fallen to be reduced by reason of the member's being married to or sharing accommodation with another member appointed after 31st August 1994.

(3) In circumstances in which any allowance or housing emoluments mentioned in sub-paragraph (1) would, if the revoked provisions had continued in force, have fallen to be increased otherwise than under regulation 42A of the 1976 Regulations (which provided for biennial adjustment of housing allowances), or in which any new housing emoluments would in that case have become payable, the replacement allowance in question is increased accordingly.