
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 610

The Police (Injury Benefit) (Scotland) Regulations 2006

PART 2

AWARDS ON INJURY OR DEATH

Police officer's injury award

11.—(1) This regulation applies to a person who ceases or has ceased to be a member of a police force and is permanently disabled as a result of an injury received without their own default in the execution of their duty (in Schedule 3 referred to as the “relevant injury”).

(2) A person to whom this regulation applies shall be entitled to a gratuity and, in addition, to an injury pension, in both cases calculated in accordance with Schedule 3; but payment of an injury pension shall be subject to the provisions of paragraph 5 of that Schedule and, where the person concerned ceased to serve before becoming disabled, no payment shall be made on account of the pension in respect of any period before that person became disabled.

Disablement gratuity

12.—(1) This regulation applies to a person who—

- (a) receives or received an injury without their own default in the execution of their duty;
- (b) ceases or has ceased to be a member of a police force; and
- (c) within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result of that injury.

(2) Subject to the provisions of regulations 22 and 23, the police authority for the force in which a person to whom this regulation applies last served shall pay to that person a gratuity of an amount equal to whichever is the lesser of the following amounts, namely—

- (a) five times the annual value of their pensionable pay on their last day of service as a member of a police force; or
- (b) the sum of four times their total remuneration during the 12 months ending with their last day of service as a member of a police force and the amount of their aggregate pension contributions in respect of the relevant period of service.

(3) For the purposes of paragraph (2)(b) the amount of aggregate pension contributions in respect of the relevant period of service shall be calculated in the case of a person by whom, immediately before their last day of service as a member of a police force, pension contributions were payable under regulation G2(1) of the 1987 Regulations or would have been so payable but for an election under regulation G4(1) of the 1987 Regulations, in the same way as if the award were one payable under those Regulations, calculated in accordance with regulation A10 of those Regulations.

Adult survivor's special award

13.—(1) This regulation applies to a surviving spouse or surviving civil partner (“an adult survivor”) of a member of a police force who dies or has died as the result of an injury received without their own default in the execution of their duty (“the deceased officer”).

(2) An adult survivor to whom this regulation applies shall, subject to paragraph (6) and regulation 15, be entitled to an award which shall comprise—

- (a) an adult survivor's special pension calculated in accordance with paragraphs (3) to (5) subject, however, to regulation 28; and
- (b) subject to paragraphs (7) and (8), a gratuity of an amount equal to 25% of the deceased officer's average pensionable pay together with, where the officer died while serving as a member of a police force, an amount equal to whichever is the greater of the following amounts—
 - (i) the deceased officer's average pensionable pay,
 - (ii) 2¼ times the annual amount of the ill-health pension which would have been payable under regulation B3 of the 1987 Regulations to the deceased officer had they retired on the ground that they were permanently disabled on the day on which the officer died.

(3) Subject to paragraphs (4) and (5), the weekly amount of an adult survivor's special pension shall be equal to 45% of the deceased officer's average pensionable pay for a week.

(4) Where, in respect of any week, a pension is payable to the widow in pursuance of section 67 of the Social Security Act 1975(1) in consequence of her husband's death and the amount of that pension exceeds that of a widow's pension under section 26 of that Act as specified in Part I of Schedule 4 thereto at the time of the husband's death, then the amount of her special pension in respect of that week shall be reduced by that excess.

(5) Where the provisions governing the amount of pensions under section 67 of the Social Security Act 1975 have changed after the death of the husband, the reduction under sub paragraph (4) in respect of any week shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed.

(6) An adult survivor shall not be entitled to an adult survivor's special award unless the surviving spouse was married to the deceased officer or, as the case may be, the surviving civil partner and the deceased officer were civil partners, during a period—

- (a) before the deceased officer last ceased to be a regular police officer, if the officer received the injury while serving as such; or
- (b) before the end of the continuous period of service during which the officer received the injury, in any other case.

(7) An adult survivor who, but for paragraph (6)(a), would be entitled to an award under paragraph (2) shall, instead, be entitled to a pension calculated in accordance with the provisions of paragraphs (8) to (12); and such pension shall be treated for the purposes of paragraph (14) and regulation 28 (increase during first 13 weeks) as if it were a special award under this regulation.

(8) The annual amount of a pension under paragraph (7) shall be one half of the appropriate proportion of the ill health pension under regulation B3 of the 1987 Regulations to which the deceased officer would have been entitled had the officer, when they ceased to serve, retired because the officer was disabled in circumstances entitling them to such a pension.

(9) Subject to paragraphs (10), (11) and (12), for the purposes of paragraph (8) the appropriate proportion means the proportion which the deceased officer's pensionable service reckonable by reason of service or employment after 5th April 1978 bears to their total pensionable service; and for

(1) 1975 c. 14.

these purposes, in a case where the deceased officer had made an election under regulation G4 of the 1987 Regulations, their pensionable service shall be calculated as if such election had not been made.

(10) Where a pension becomes payable under paragraph (7) to a widower or to the surviving civil partner of a female police officer, paragraph (9) has effect with the substitution for “5th April 1978” of “16th May 1990” or, as the case may be, the day before the date from which service before 17th May 1990 counts in consequence of an election under regulation G6 of the 1987 Regulations (payments by women members to enhance widowers' and surviving civil partners' awards).

(11) But where a pension becomes payable under paragraph (7) to the surviving civil partner of a female police officer and as a consequence of an election under regulation G6 paragraph (9) would, but for this paragraph, have effect with the substitution for “5th April 1978” of a date before 6th April 1988, then paragraph (9) shall have effect with the substitution for “5th April 1978” of “5th April 1988”.

(12) Where a pension becomes payable under paragraph (7) to the surviving civil partner of a male police officer, paragraph (9) has effect with the substitution for “5th April 1978” of “5th April 1988”.

(13) Where the deceased officer was entitled to a gratuity under regulation 11 then—

- (a) if it equalled, or exceeded, the gratuity under paragraph (2)(b), the gratuity under paragraph (2)(b) shall not be payable; and
- (b) in any other case, the gratuity under paragraph (2)(b) shall be reduced by the amount of the deceased officer's gratuity.

(14) The amount of an adult survivor's special pension or gratuity determined in accordance with the preceding provisions of this regulation shall be increased in accordance with regulation 29 (increase by reference to the Pensions (Increase) Acts).

Adult survivor's augmented award

14.—(1) This regulation applies, subject to regulation 15, to an adult survivor of a member of a police force whose death is the result of an injury received without their own default in the execution of their duty where one of the following conditions is satisfied, namely that—

- (a) the officer was attacked by a person or persons in a manner which was intrinsically likely to cause death and death ensued as a result of the attack;
- (b) the injury was received in the course of duties performed for the immediate purpose of effecting an arrest or of preventing an escape or rescue from legal custody;
- (c) the injury was received in the course of duties performed—
 - (i) for the immediate purpose of saving the life of another person or of preventing loss of human life, and
 - (ii) in circumstances in which there was an intrinsic likelihood of their receiving a fatal injury;
- (d) the police authority are of the opinion that one of the preceding conditions may be satisfied and that this regulation should apply; or
- (e) the police authority are of the opinion that the injury was received otherwise than as aforesaid but in the course of duties performed in such circumstances that it would be inequitable if there were not payable in respect of that officer such an award as would have been payable had one of the conditions specified in sub paragraphs (a), (b) and (c) been satisfied.

(2) An award under regulation 13(2) to an adult survivor to whom this regulation applies shall comprise—

- (a) an adult survivor's special pension calculated as provided in regulation 13(3) to (5) but as if for the reference in regulation 13(3) to 45% of the deceased officer's average pensionable pay for a week there were substituted a reference to 50% of such pay; and
- (b) a gratuity of an amount equal to twice the annual pensionable pay, at the date of the deceased officer's death, of a person holding the rank of constable in the metropolitan police force and entitled to reckon 30 years' service for the purposes of pay; and the provisions of regulation 13(2)(b), (6) and (7) shall not apply except that where those provisions are more favourable in their case the gratuity shall be of an amount determined in accordance with those provisions.

Limitation on award to adult survivor living apart from the deceased officer

15. An adult survivor shall not be entitled to an award under regulation 13 or 14 if, at the time of the deceased officer's death—

- (a) they were separated from each other by an order or decree of a competent court; and
- (b) the deceased officer was not required by an order or decree of a competent court to contribute to the support of the adult survivor and was not in fact regularly contributing to their support;

and, for the purposes of this regulation, contributions to an adult survivor for the support of a child shall be treated as contributions for their support.

Termination of adult survivor's award on remarriage or other event

16.—(1) Where a widow entitled to a special pension under regulation 13 (including such a pension granted by way of an augmented award under regulation 14) was widowed before 5th December 2005 or was widowed after that date but their husband or wife had ceased to serve as a member of a police force before that date, and—

- (a) remarries or has remarried;
- (b) forms or has formed a civil partnership; or
- (c) with a person to whom they are not married, lives together as husband and wife,

that widow shall not be entitled to receive any payment on account of the pension in respect of any period after their marriage, or after the formation of their civil partnership, or after their cohabitation begins.

(2) Where the surviving civil partner of a member of a police force who had ceased to serve as a member of a police force by 5th December 2005 is entitled to a special pension under regulation 13 (including such a pension granted by way of an augmented award under regulation 14) and—

- (a) marries or has married;
- (b) forms or has formed a new civil partnership; or
- (c) with a person who is not their civil partner, lives together as if they were civil partners,

that surviving civil partner shall not be entitled to receive any payment on account of the pension in respect of any period after their marriage, or after the formation of their civil partnership, or after their cohabitation begins.

(3) Where a widow who does not fall within paragraph (1) or a surviving civil partner who does not fall within paragraph (2) is entitled to a special pension under regulation 13 (including such a pension granted by way of an augmented award under regulation 14) and—

- (a) marries or has married;
- (b) remarries or has remarried;

- (c) forms or has formed a civil partnership or new civil partnership;
- (d) with a person to whom they are not married, lives together as husband and wife; or
- (e) with a person who is not their civil partner, lives together as if they were civil partners,

that widow shall not be entitled to receive any payment on account of the pension in respect of any period after their marriage or remarriage, or after the formation of their civil partnership, or after their cohabitation begins.

(4) But if, at any time after their marriage, remarriage, the formation of their civil partnership or the beginning of their cohabitation, a person in any of paragraphs (1) to (3) has again become a widow or their civil partner dies, or that marriage or civil partnership has been dissolved or that cohabitation ceases, the police authority may, in their discretion, bring the pension into payment.

(5) Where a widow or widower entitled to a gratuity under regulation 13 or 14 was widowed before 5th December 2005 or was widowed after that date but their husband or wife had ceased to serve as a member of a police force before that date, and—

- (a) remarries or has remarried;
- (b) forms or has formed a civil partnership; or
- (c) with a person to whom they are not married, lives together as husband and wife,

so much of the gratuity as has not been paid before their remarriage or the formation of their civil partnership or the beginning of their cohabitation shall not be payable thereafter.

(6) Where the surviving civil partner of a member of a police force who had ceased to serve as a member of a police force by that date and—

- (a) marries or has married;
- (b) forms or has formed a new civil partnership; or
- (c) with a person who is not their civil partner, lives together as if they were civil partners,

so much of the gratuity as has not been paid before their marriage or remarriage or the formation of their civil partnership or the beginning of their cohabitation shall not be payable thereafter.

(7) Where a widow who does not fall within paragraph (5) or a surviving civil partner who does not fall within paragraph (6) is entitled to a gratuity under regulation 13 or 14 and—

- (a) marries or has married;
- (b) remarries or has remarried;
- (c) forms or has formed a civil partnership or new civil partnership;
- (d) with a person to whom they are not married, lives together as husband and wife; or
- (e) with a person who is not their civil partner, lives together as if they were civil partners,

so much of the gratuity as has not been paid before their remarriage or the formation of their civil partnership or the beginning of their cohabitation shall not be payable thereafter.

(8) But if, at any time after their marriage, remarriage, the formation of their civil partnership or the beginning of their cohabitation, a person in any of paragraphs (5) to (7) has again become a widow or their civil partner dies or that marriage or civil partnership has been dissolved or that cohabitation ceases, the police authority may, in their discretion, pay to that person the sums which they were actually or contingently liable to pay to them in respect of the gratuity immediately before their remarriage or the formation of their civil partnership or the beginning of their cohabitation.

Child's special allowance

17.—(1) This regulation shall apply to a child of a member of a police force who dies or has died as the result of an injury received without their own default in the execution of their duty.

(2) Subject to regulations 19 and 28, a child to whom this regulation applies shall be entitled to a special allowance calculated in accordance with the following provisions of this regulation.

(3) Where one of the child's parents is alive, the child's special allowance in respect of the death of a member of a police force ("the relevant parent") shall, subject to paragraphs (4) and (7), be of an amount equal to 10% of the average pensionable pay for a week of the relevant parent.

(4) Where five or more children's special allowances are payable in respect of the death of the same person, an allowance determined in accordance with paragraph (3) shall be of an amount equal to 40% of the average pensionable pay for a week of the relevant parent divided by the total number of allowances so payable.

(5) Where the relevant parent was the child's only surviving parent, or in respect of the period after the death of the child's other parent, the child's special allowance shall, subject to paragraphs (6) and (7), be of an amount equal to 20% of the average pensionable pay for a week of the relevant parent.

(6) Where five or more children's special allowances are payable in respect of the death of the same person, an allowance determined in accordance with paragraph (5) shall be of an amount equal to 80% of the average pensionable pay for a week of the relevant parent divided by the total number of allowances so payable.

(7) The amount of a child's special allowance determined in accordance with the preceding paragraphs of this regulation shall be increased in accordance with regulation 29 (increase by reference to the Pensions (Increase) Acts).

Child's special gratuity

18.—(1) This regulation applies to a child of a member of a police force who dies or has died as the result of an injury received without their own default in the execution of their duty where one of the conditions set out in regulation 14(1) is met and the member does not leave an adult survivor entitled to a gratuity under regulation 13 or 14.

(2) Subject to regulation 19 but without prejudice to the provisions of regulation 17, a child to whom this regulation applies shall be entitled to a gratuity as provided in this regulation.

(3) The gratuity under paragraph (2) shall be of the amount mentioned in paragraph (4) except that, where two or more such gratuities are payable in respect of the same person, each gratuity shall be of that amount divided by the number of such gratuities.

(4) That amount shall be an amount equal to twice the annual pensionable pay, at the date of that parent's death, of a person holding the rank of constable in the metropolitan police force and entitled to reckon 30 years' service for the purposes of pay.

Child's special allowance or special gratuity – limitations

19.—(1) A child's special allowance or special gratuity under regulation 17 or 18 shall not be granted—

- (a) to a child born on or after the relevant date specified in paragraph (3) otherwise than of a marriage which took place or of a civil partnership that was formed before the relevant date;
- (b) by reason of their being a step-child—
 - (i) to the child of a spouse whose marriage to the relevant parent took place on or after the relevant date, or
 - (ii) to the child of a civil partner whose civil partnership with the relevant parent was formed on or after the relevant date;

- (c) by reason of the child being substantially dependent on the relevant parent, to a child who was not so dependent before the relevant date;
 - (d) by reason of the child being an adopted child, to a child adopted on or after the relevant date; or
 - (e) except in the case of a legitimate or adopted child of the relevant parent, to a child who was not substantially dependent on that parent at the time of their death.
- (2) The reference in paragraph (1)(a) to a child born of a civil partnership means a child—
- (a) who is a child of a member of a civil partnership and has been adopted by the other member of that civil partnership; or
 - (b) who has been adopted by two persons who have formed a civil partnership.
- (3) For the purposes of paragraph (1) the relevant date—
- (a) if the relevant parent received the injury while serving as a regular police officer, is the date on which the officer last ceased to be a regular police officer; and
 - (b) if the officer received the injury while serving as a member of an overseas corps otherwise than as a regular police officer or while engaged on a period of relevant service, is the date of the end of the tour of overseas service or the period of relevant service during which they received the injury.
- (4) In the case of a child who has attained the age of 16 years but not that of 17 years, a special allowance shall not be payable in respect of any period for which the child is in full time employment unless that employment constitutes full time training, of at least a year's duration, for a trade, profession or calling.
- (5) In the case of a child who has attained the age of 17 years but not that of 19 years, a special allowance shall only be payable in respect of a period throughout which the child satisfies one of the conditions set out in paragraph (9).
- (6) Without prejudice to paragraph (1), in the case of a child who has attained the age of 19 years, a special allowance shall not be payable (and, where the child attained that age before the date of the relevant parent's death, shall not be granted) unless—
- (a) the child satisfies one of the conditions set out in paragraph (9); and
 - (b) in the case of condition (a), also satisfied that condition immediately before the child attained the age of 19 years and throughout the entire period thereafter,
- except that the payment (or granting) of a special allowance shall not be precluded by reason only of sub paragraph (b) if the police authority, having regard to all the circumstances of the case, in their discretion so decide:
- Provided that a special allowance shall not be payable after the date on which the child attains the age of 23 years unless he satisfies the conditions mentioned in paragraph (9)(b).
- (7) Without prejudice to paragraphs (4), (5) and (6), in the case of a child entitled to a special allowance who is—
- (a) in full-time training for a trade, profession or calling; and
 - (b) in receipt of remuneration in respect of such training,
- and in the case of any other child entitled to a special allowance in respect of the death of the same person, Schedule 4 shall have effect in relation to their allowances.
- (8) A special gratuity shall not be granted to a child who attained the age of 17 years before the date of the relevant parent's death unless at that date the child satisfied one of the conditions set out in paragraph (9) (disregarding conditions (b)(ii) and (iii)).
- (9) The conditions referred to in paragraphs (5), (6) and (8) are that the child—

- (a) is or was undergoing full-time education or in full-time training of at least a year's duration for a trade, profession or calling; or
- (b) is or was permanently disabled and either—
 - (i) was both so disabled and substantially dependent on the relevant parent at the time of their death;
 - (ii) became so disabled while in receipt of a special allowance; or
 - (iii) the police authority, having regard to all the circumstances of the case, in their discretion decide to pay (or grant) a special allowance to that child.

(10) Any reference in this regulation to the relevant parent is a reference to the parent in respect of whose death the special allowance or special gratuity is, or but for the provisions of this regulation would be, payable.

Adult dependent relative's special pension

20.—(1) This regulation applies in the case of a member of a police force who dies as the result of an injury received without their own default in the execution of their duty and, in such case, shall apply—

- (a) to a parent or (without prejudice to the following sub paragraph) to a brother or sister of the member who had attained the age of 19 years before the member's death;
- (b) subject to their having attained the age of 19 years, to any child of the member whether or nor they had attained that age before the member's death;
- (c) where the member was a married woman whose husband was permanently disabled at the time she died, to her widower; or
- (d) where the member was a woman in a civil partnership whose civil partner was permanently disabled at the time the member died, to the surviving civil partner,

subject, in each case, to the person in question being substantially dependent on the member immediately before the member's death.

(2) If the police authority, having regard to all the circumstances of the case, so determine, they may grant a special pension to any such dependent relative.

(3) A dependent relative's special pension shall be calculated in accordance with Schedule 5 and, subject to paragraph 4 of that Schedule, shall be payable for such period or periods as the police authority may, in their discretion, from time to time determine.

Death gratuity

21.—(1) Subject to paragraph (2), this regulation applies to a member of a police force who receives or received an injury without their own default in the execution of their duty and within 12 months of receiving that injury dies or has died as a result of it.

(2) In the case of a person who had ceased to serve as a member of a police force before their death, this regulation shall apply to him only if their death also occurred before any decision by a medical authority under regulation H1, H2 or H3 of the 1987 Regulations that the officer was totally and permanently disabled as a result of that injury; and where this regulation so applies it shall apply to the exclusion of regulation 12.

(3) Subject to the provisions of regulations 22 and 23, where a member to whom this regulation applies—

- (a) leaves an adult survivor (unless, by reason of regulation 15 or 16, he would not qualify for a special award under regulation 13);

- (b) does not leave any such adult survivor, but leaves a child (unless, by reason of regulation 19(1), (4), (5) or (6) that child would not qualify for a special allowance under regulation 17); or
- (c) does not leave any such adult survivor or child, but leaves a dependent relative to whom a special pension may be paid under regulation 20,

the police authority shall pay to their adult survivor or, as the case may be, to the child or dependent relative, a gratuity of an amount equal to whichever is the lesser of the following amounts, namely—

- (i) five times the annual value of their pensionable pay on their death or, if earlier, on their last day of service as a member of a police force; or
- (ii) the sum of four times their total remuneration during the 12 months ending with their death or, if earlier, with their last day of service as a member of a police force and the amount of their aggregate pension contributions in respect of the relevant period of service.

(4) Where a member of a police force to whom this regulation applies leaves two or more children or two or more dependent relatives, then the amount of the gratuity so payable shall be divided by the police authority among the children or dependent relatives (as the case may be) in their discretion.

Abatement of certain gratuities in respect of gratuities otherwise payable

22.—(1) The amount of any gratuity payable to a member of a police force under regulation 12 shall be reduced by deducting from it the amount of any gratuity paid, or treated as paid, to that member under regulation 11 or under regulation B2(4) or B3(4) of the 1987 Regulations.

(2) The amount of any gratuity payable to any person under regulation 21 in respect of the death of a member of a police force shall be reduced by deducting from it—

- (a) the amount of—
 - (i) any gratuities paid, or treated as paid, to the member or their estate under regulation 11 above or under regulation B2(4), B3(4) or E3 of the 1987 Regulations; and
 - (ii) any death grant paid under regulation E3A of the 1987 Regulations;
- (b) in the case of an adult survivor, where a gratuity under regulation 13(2) is payable to them or their estate—
 - (i) unless paragraph (ii) below applies, the amount of the gratuity;
 - (ii) where the said amount falls to be calculated in accordance with regulation 14(2), an amount equal to the amount of the gratuity which would be payable to them or their estate under regulation 13(2) if—
 - (A) regulation 14 had not applied;
 - (B) the deceased officer had died while serving as a member of a police force (whether or not the officer was in fact so serving when they died); and
 - (C) the deceased officer's average pensionable pay was greater than $2\frac{1}{4}$ times the annual amount of the ill health pension which would have been payable under regulation B3 of the 1987 Regulations to the deceased officer if the officer had retired on the grounds of permanent disability on the day on which they had died (whether or not it was in fact greater); and
- (c) in the case of any other person, the amount of any gratuity paid to that person or their estate in respect of the death of that member under regulation 18 above or regulation E2 of the 1987 Regulations.

(3) In any case where, by reason of regulation 21(4), a payment in respect of the death of a member of a police force falls to be divided among two or more persons, that payment shall, before

it is so divided, be reduced by deducting from it the amount of any gratuities paid as mentioned in paragraph (2).

Abatement of certain gratuities in respect of damages or compensation

23.—(1) The police authority shall take into account against any gratuity payable under regulation 12 or 21 any damages or compensation which are recovered by any person in respect of the death or disability to which the gratuity relates and the gratuity may be withheld or reduced accordingly.

(2) For the purposes of this regulation—

(a) a person shall be deemed to have recovered damages—

(i) whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of their claim and whether or not proceedings are instituted to enforce the claim, or

(ii) if they are recovered for that person's benefit in respect of a claim under the Fatal Accidents Act 1976(2);

(b) "compensation" does not include an award of compensation made to a person in accordance with the Criminal Injuries Compensation Scheme if the amount of the award was reduced by the amount of any gratuity paid or payable to him under regulations 12 or 21.

(3) No payment in respect of a gratuity under regulation 12 or 21 shall be made to a person unless the person has given to the police authority a written undertaking that if the person recovers any damages or compensation in respect of the death or disability to which the gratuity relates the person will inform the authority thereof and, unless the damages or compensation have been taken into account in pursuance of paragraph (1), will pay to the police authority such sum as they may demand not exceeding—

(a) where the amount of the payment made by the police authority is less than the net amount of the damages or compensation, the amount of that payment; or

(b) where the amount of that payment is not less than the net amount of the damages or compensation, an amount equal to the net amount of the damages or compensation,

and, in this paragraph, "the net amount" in relation to damages or compensation recovered by any person means the amount of the damages or compensation after deducting tax payable in the United Kingdom or elsewhere to which the damages or compensation are subject.

(4) The police authority shall not demand any payment in pursuance of such an undertaking as is mentioned in paragraph (3)—

(a) after the death of the person to whom the payment in respect of a gratuity under regulation 12 or 21 was made; or

(b) after the expiration of two years from the date on which the final determination of the amount of the damages or compensation first came to the knowledge of the police authority.