
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 68

The Police (Injury Benefit) (Scotland) Regulations 2007

PART 1

GENERAL PROVISIONS

Citation, commencement, effect and extent

1.—(1) These Regulations may be cited as the Police (Injury Benefit) (Scotland) Regulations 2007 and come into force on 7th March 2007 but shall have effect from 6th April 2006⁽¹⁾.

(2) These Regulations extend to Scotland only.

Meaning of certain expressions and references - general provisions

2. In these Regulations, unless the context otherwise requires—

- (a) the expressions defined in the glossary set out in Schedule 1 shall have effect;
- (b) any reference to a member of a police force, however expressed, includes a reference to a person who has been such a member; and
- (c) any reference to an award, however expressed, is a reference to an award under these Regulations.

Meaning of certain expressions in relation to persons who are not members of a home police force

3.—(1) Except where the context otherwise requires, for the purposes of these Regulations an inspector of constabulary or a police officer engaged on relevant service shall be deemed to be a member of a home police force.

(2) In relation to an inspector of constabulary or a police officer engaged on relevant service, any reference in these Regulations to the police authority shall be construed as a reference to the Scottish Ministers.

Pensionable and average pensionable pay and aggregate pension contributions

4.—(1) For the purposes of calculating an award to or in respect of a member of a police force their pensionable pay shall be calculated in the same way as if the award were one payable under the 1987 Regulations⁽²⁾, in accordance with regulation G1(1) and (1A) of those Regulations.

(2) For the purposes of calculating an award to or in respect of a member of a police force their average pensionable pay shall be calculated in the same way as if it were an award payable under the 1987 Regulations, in accordance with regulation G1(2) to (9) of those Regulations, and as if—

⁽¹⁾ Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976 (c. 35).

⁽²⁾ S.I.1987/257; relevant amendments were made by S.I. 1988/1339, 1989/733, 1990/805, 1992/343 and 2349, 1994/641, 1996/867 and 1997/2852 and S.S.I. 2001/459, 2003/406, 2004/486, 2005/200 and 495 and 2006/285.

- (a) the relevant date for the purposes of that regulation were the date of their last day of service as a regular police officer in the force of the police authority by whom the award is payable; and
- (b) the provisions specified in paragraph 4(4) of Part VI of Schedule J to the 1987 Regulations included regulations 13(2) and (3), 14(2)(a) and 17(3) to (6) of, and paragraphs 1, 2 and 4 of Schedule 5 to, these Regulations.

(3) For the purposes of an award calculated in accordance with paragraphs (1) and (2), references in such provisions of the 1987 Regulations as are mentioned in those paragraphs to a person's pensionable service shall in the case of a regular police officer who has made an election under regulation G4(1) of those Regulations include references to the pensionable service which would have been reckonable by that officer if they had not made such an election.

(4) For the purposes of calculating an award to or in respect of a regular police officer their aggregate pension contributions shall be calculated in the same way as if it were an award payable under the 1987 Regulations, in accordance with regulation A10 of those Regulations.

Weekly rate of pensions and allowances

5.—(1) Where the rate at which a pension or allowance is payable or the amount thereof is expressed as an annual rate or amount then, for the purposes of these Regulations, the weekly rate or amount of that pension or allowance shall be determined as if there were 52# weeks in each year.

(2) Where for the purpose of calculating an award to an adult survivor, child or adult dependent relative it is necessary to determine average pensionable pay for a week, it shall be taken to be average pensionable pay divided by 52#.

Injury received in the execution of duty

6.—(1) A reference in these Regulations to an injury received in the execution of duty by a member of a police force means an injury received in the execution of that person's duty as a constable and, where the person concerned is an auxiliary police officer, during a period of active service as such.

(2) For the purposes of these Regulations, an injury shall be treated as received by a person in the execution of their duty as a constable if—

- (a) the member concerned received the injury while on duty or while on a journey necessary to enable that member to report for duty or return home after duty; or
- (b) the member would not have received the injury had they not been known to be a constable; or
- (c) the police authority is of the opinion that the preceding condition may be satisfied and that the injury should be treated as one received in the execution of duty.

(3) In the case of a person who is not a constable but is within the definition of "member of a police force" in Schedule 1, paragraphs (1) and (2) shall have effect as if the references to a constable were references to such an officer.

(4) For the purposes of these Regulations, an injury shall be treated as received without the default of the member concerned unless the injury is wholly or mainly due to their own serious and culpable negligence or misconduct.

(5) Notwithstanding anything in the 1987 Regulations relating to a period of service in the armed forces, an injury received in the execution of duty as a member of the armed forces shall not be deemed to be an injury received in the execution of duty as a member of a police force.

(6) In the case of a regular police officer who has served as a police cadet in relation to whom the Police Cadets (Pensions) (Scotland) Regulations 1973(3) had taken effect—

- (a) a qualifying injury within the meaning of those Regulations shall be treated for the purposes of these Regulations as if it had been received by that officer as mentioned in paragraph (1); and
- (b) where such a qualifying injury is so treated, any reference to duties in regulation 14(1) shall be construed as including a reference to duties as a police cadet,

and in this paragraph the reference to the Police Cadets (Pensions) (Scotland) Regulations 1973 is a reference to those Regulations from time to time in force made, or having effect as if made, under section 27 of the Police (Scotland) Act 1967(4).

Disablement

7.—(1) Subject to paragraph (2), a reference in these Regulations to a person being permanently disabled is to be taken as a reference to that person being disabled at the time when the question arises for decision and to that disablement being at that time likely to be permanent.

(2) In the case of a person who is totally disabled, paragraph (1) shall have effect, for the purposes of regulations 12 and 21 of these Regulations, as if the reference to “that disablement being at that time likely to be permanent” were a reference to the total disablement of that person being likely to be permanent.

(3) For the purposes of deciding if a person’s disablement is likely to be permanent, that person shall be assumed to receive normal appropriate medical treatment for their disablement, and in this paragraph “appropriate medical treatment” shall not include medical treatment that it is reasonable in the opinion of the police authority for that person to refuse.

(4) Subject to paragraph (5), disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a member of the police force except that, in relation to the child or to the widower or surviving civil partner of a woman member of a police force, it means inability to earn a living.

(5) Where it is necessary to determine the degree of a person’s disablement it shall be determined by reference to the degree to which their earning capacity has been affected as a result of an injury received without their own default in the execution of their duty as a member of a police force:

Provided that a person shall be deemed to be totally disabled if, as a result of such an injury, that person is receiving treatment as an in-patient at a hospital.

(6) Notwithstanding paragraph (5), “totally disabled” means incapable by reason of the disablement in question of earning any money in any employment and “total disablement” shall be construed accordingly.

(7) Where a person has retired before becoming disabled and the date on which that person becomes disabled cannot be ascertained, it shall be taken to be the date on which the claim that they are disabled is first made known to the police authority.

(8) In this regulation, “infirmity” means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

Disablement, death or treatment in hospital the result of an injury

8. For the purposes of these Regulations, disablement or death or treatment at a hospital shall be deemed to be the result of an injury if the injury has caused or substantially contributed to the disablement or death or the condition for which treatment is being received.

(3) S.I. 1973/434 amended by S.I. 1979/783, 1980/1410, 1982/1660, 1987/1699 and 1700.

(4) 1967 c. 77; relevantly amended by the Police Act 1997 (c. 50), section 134 and Schedule 9, paragraph 9.

Transitional provisions

9.—(1) These Regulations shall have effect as if anything done, or treated as done, under or for the purposes of the Police (Injury Benefit) Regulations 1987⁽⁵⁾ or those provisions of the 1987 Regulations as are specified in paragraph (3) had been done under or for the purposes of the corresponding provision of these Regulations.

(2) Without prejudice to the generality of paragraph (1) references in that paragraph to anything done shall include—

- (a) the determination of a question;
- (b) the exercise of a discretion;
- (c) the decision that a provision should apply;
- (d) the making of a payment; and
- (e) the giving of a notice.

(3) The provisions of the 1987 Regulations referred to in paragraph (1) are—

- (a) regulation B4 (policeman's injury award);
- (b) regulation C2 (widow's special award);
- (c) regulation C3 (widow's augmented award);
- (d) regulation D2 (child's special allowance);
- (e) regulation D3 (child's special gratuity);
- (f) regulation E1 (adult dependent relative's special pension);
- (g) Part H (appeals and medical questions);
- (h) regulation K2 (reassessment of injury pension);
- (i) regulation K3 (reduction of pension in case of default);
- (j) regulation K4 (withdrawal of pension during service as a regular policeman); and
- (k) regulation K5 (forfeiture of pension).

Revocations and amendments

10.—(1) The 1987 Regulations shall be amended in accordance with Part 1 of Schedule 2.

(2) The Police Pensions (Supplementary Provisions) Regulations 1987⁽⁶⁾ shall be amended in accordance with Part 2 of Schedule 2.

(3) The Regulations specified in column 1 of Part 3 of Schedule 2 are revoked to the extent specified in column 3 of that Part.

⁽⁵⁾ S.I. 1987/156; amended by S.I. 1987/256 and 341 and 1992/2349.

⁽⁶⁾ S.I. 1987/256.