
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 68

The Police (Injury Benefit) (Scotland) Regulations 2007

PART 3

SUPPLEMENTARY PROVISIONS

Gratuity in lieu of adult survivor's special pension

24.—(1) Where on the death of the deceased officer before the officer attained state pensionable age an adult survivor became entitled to an adult survivor's special pension under regulation 13, the police authority may, subject to paragraph (2) and regulation 26, commute for a gratuity that special pension or so much of it as may be commuted without contravening regulation 26.

(2) A police authority shall not exercise their discretion under paragraph (1) unless—

(a) the adult survivor consents; and

(b) they are satisfied that there are sufficient reasons for so doing.

(3) Where the amount of any adult survivor's special pension together with any increase under the Pensions (Increase) Act 1971(1) does not exceed the commutation limit specified for the purposes of paragraph 7 of Part 1 of Schedule 29 to the Finance Act 2004(2), other than a pension which does not exceed that amount by reason of the commutation of part thereof under paragraph (1), the police authority may, at their discretion, commute it for a gratuity.

(4) The provisions of regulation 16, relating to the termination of an adult survivor's special award on remarriage or the formation of a civil partnership or cohabitation, shall apply in relation to a gratuity under this regulation as they apply in relation to a gratuity under regulation 13 or 14.

(5) A gratuity under this regulation shall be calculated in accordance with paragraph (7).

(6) Where an adult survivor is entitled to more than one adult survivor's pension, under these Regulations or the 1987 Regulations, in respect of the death of the same person but, in pursuance of regulation 27, is not entitled to receive, in respect of any particular period, payment on account of more than one of those pensions, those adult survivor's pensions shall be treated for the purposes of this regulation as a single adult survivor's pension and, where one of those pensions is an adult survivor's special pension under regulation 13 or 14, that single pension shall be treated for the purposes of paragraph (1) as if it were an adult survivor's special pension.

(7) A gratuity under this regulation shall be of an amount equal to 11 times the annual value of the special pension or, as the case may be, of that part thereof which is commuted or of such greater amount as may be agreed between the police authority and the adult survivor not exceeding the capitalised value of the pension or, as the case may be, that part thereof which is commuted, calculated in accordance with tables prepared from time to time for the purpose by the Scheme actuary.

(1) 1971 c. 56; relevantly amended by the Pensions (Increase) Act 1974 (c. 9), section 3(3)(a).

(2) 2004 c. 12; relevantly amended by the Finance Act 2005 (c. 7), Schedule 10, paragraphs 24, 30, 34 and 35 and the Finance Act 2006 (c. 25), section 159 and Schedule 23, paragraphs 22, 23, 27 and 28.

Gratuity in lieu of child's special allowance

25.—(1) Where a child is entitled to a child's special allowance, the police authority may, subject to paragraph (2) and regulation 26, commute it for a gratuity.

(2) A police authority shall not exercise their discretion under paragraph (1) unless—

(a) the child's surviving parent or guardian consents or, where the child has no such parent or guardian, the child consents; and

(b) they are satisfied that there are sufficient reasons for so doing.

(3) Where the police authority are precluded by regulation 26 from exercising their discretion under paragraph (1) but otherwise would exercise it, they may, subject to those provisions, exercise that discretion in relation to part only of the allowance.

(4) A gratuity under this regulation shall be of such amount as may be agreed between the police authority and the child's surviving parent or guardian, or between the police authority and the child where the child has no such parent or guardian, not exceeding the capitalised value of the special allowance or, as the case may be, that part thereof which is commuted, calculated in accordance with tables prepared from time to time for the purpose by the Scheme actuary.

Limitation on discretion to grant a gratuity in lieu of an adult survivor's special pension or a child's special allowance

26.—(1) This regulation applies in the case of a regular police officer who has died while in receipt of an ordinary, short service, ill health or deferred pension awarded under the 1987 Regulations ("the principal pension").

(2) The police authority shall not under regulation 24 or 25 substitute for the whole or any part of an adult survivor's special pension or child's special allowance payable in respect of such a police officer a gratuity the actuarial equivalent of which (within the meaning of paragraph (3)) when added to that of—

(a) any other gratuity so substituted under regulation 24 or 25; and

(b) any lump sum paid or payable under regulation B7 of the 1987 Regulations, where a portion of the principal pension has been commuted,

exceeds a $\frac{1}{4}$ of the capitalised value of the principal pension, any reduction therein under regulation B7 being ignored.

(3) For the purposes of this regulation the actuarial equivalent of a gratuity or lump sum and the capitalised value of the principal pension shall, in each case, be at the time of deceased officer's retirement, as calculated by the Scheme actuary.

Prevention of duplication

27.—(1) Subject to paragraph (2), where, but for this regulation, a person would be entitled to receive, in respect of any particular period, payments on account of more than one award in respect of the death of the same person—

(a) each of the awards being an adult survivor's special or augmented award under regulation 13 or 14 or an adult survivor's pension under Part C of the 1987 Regulations; or

(b) each of the awards being a child's special allowance under regulation 17 or a child's allowance under Part D of the 1987 Regulations or an adult dependent relative's special pension under regulation 20,

the person shall be entitled to receive, in respect of that period, payment on account of one only of those awards; and the award payable shall be that from time to time selected by the person concerned

or, in default of such selection where one award is for the time being greater than any other such award, the award which is for the time being the greater.

(2) Nothing in paragraph (1) shall prevent a person from being entitled to receive more than one such award as is mentioned in sub paragraph (a) or (b) of that paragraph if—

- (a) the awards in question are calculated, directly or indirectly, by reference to different periods of pensionable service; and
- (b) no award in question falls to be increased in accordance with regulation E8, or to be determined in accordance with regulation E10, of the 1987 Regulations.

Increase of adult survivor's special pension or child's special allowance during first 13 weeks

28.—(1) This regulation applies to an adult survivor's special pension or augmented pension under regulation 13 or 14 and to a child's special allowance under regulation 17 where the person in respect of whose death the award is payable was, immediately before their death—

- (a) serving as a member of a police force; or
- (b) in receipt of a pension under regulation 11 above or Part B of the 1987 Regulations (regulation A8 of the 1987 Regulations being disregarded).

(2) An adult survivor's special or augmented pension to which this regulation applies shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, the aggregate amount of the pension and of any children's special allowances under regulation 17 or children's allowances under Part D of the 1987 Regulations payable in respect of the same person's death is not less than—

- (a) in the case mentioned in paragraph (1)(a), the police officer's relevant emoluments for the week immediately before the officer died; or
- (b) in the case mentioned in paragraph (1)(b), the weekly amount of their pension together with any increase in that pension, immediately before the officer died, under the Pensions (Increase) Acts.

(3) For the purposes of paragraph (2)(a) a police officer's relevant emoluments for the week are—

- (a) their pensionable pay for the week; and
- (b) so much as is attributable to the week of any allowances to which the officer was entitled under regulation 38 of, and Schedule 3 to, the Police (Scotland) Regulations 2004(3).

(4) For the purposes of paragraph (2)(b)—

- (i) there shall be disregarded any reduction in the police officer's pension in consequence of paragraph 7 of Schedule 3, and
- (ii) where the police officer died while in receipt of both an ordinary, short service or ill health pension awarded under Part B of the 1987 Regulations and an injury pension under regulation 11, the reference therein to the weekly amount of their pension shall be construed as a reference to the aggregate weekly amount of those pensions.

(5) Where a child's special allowance to which this regulation applies is payable in respect of the death of a person who did not leave an adult survivor entitled to a special or augmented pension which was payable for a continuous period of 13 weeks the special allowance shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, it is not less than the amount specified in paragraph (2)(a) or (b) except that, where 2 or more such special allowances are payable in respect of the death of the same person, each allowance shall be so increased that it is of that amount divided by the number of such allowances:

Provided that where an adult survivor's special or augmented pension is payable in respect of any such week, a child's special allowance in respect of the death of the same person shall not be so increased in respect of that week.

Increase of awards by reference to the Pensions (Increase) Acts

29.—(1) Where it is provided that, for the purpose of calculating an award by way of periodical payments or a gratuity (“the relevant award”), an amount shall be increased in accordance with this regulation, it shall be increased by the amount, if any, by which a corresponding pension, within the meaning of the Pensions (Increase) Act 1971 (“the 1971 Act”), of the amount first mentioned would from time to time be increased under the Pensions (Increase) Acts if—

- (a) it were payable to the person entitled to the relevant award;
- (b) it were one of the pensions specified in paragraph 43 of Part II of Schedule 2 to the 1971 Act;
- (c) it were not a pension to which section 1(2)(a) of the Pensions (Increase) Act 1974(4) applies; and
- (d) it began, within the meaning of the 1971 Act, and became payable when the relevant award so began and became payable.

(2) Where the relevant award is a child's special allowance, the Pensions (Increase) Acts as applied by paragraph (1) shall have effect as if section 3 were omitted from the 1971 Act and, accordingly, the amount first mentioned in paragraph (1) were increased so long as the special allowance is payable.

(4) 1974 c. 9.