

1971. No. 404

[C]

ROYAL ULSTER CONSTABULARY

Pensions

ORDER, DATED 30TH DECEMBER 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 4 OF THE CONSTABULARY AND POLICE (IRELAND) ACT 1919, SECTION 2 OF THE CONSTABULARY ACT (NORTHERN IRELAND) 1922 AND THE CONSTABULARY (PENSIONS) ACT (NORTHERN IRELAND) 1949.

I, THE RIGHT HONOURABLE BRIAN FAULKNER, Minister of Home Affairs, in exercise of the powers conferred on me by Section 4 of the Constabulary and Police (Ireland) Act 1919(a), Section 2 of the Constabulary Act (Northern Ireland) 1922(b), the Constabulary (Pensions) Act (Northern Ireland) 1949(c) and of all other powers enabling me in that behalf, and after consulting the Police Council for the United Kingdom in accordance with the Police Act 1969(d) and considering any representations by the Police Association, do hereby order as follows:—

Citation

1. This Order may be cited as the Royal Ulster Constabulary Pensions (Amending) (No. 2) Order 1971.

Commencement

2. The amendments of the Royal Ulster Constabulary Pensions Order 1949 made by Articles 4 to 8 shall have effect as from 15th February 1971 and those made by Articles 9 to 14 as from 20th September 1971.

Amendments to the Royal Ulster Constabulary Pensions Order 1949

3.—(1) The Schedule to the Royal Ulster Constabulary Pensions Order 1949(e) (hereinafter referred to as the “principal Order”) as amended (f), shall be further amended in accordance with the provisions of Articles 4 to 14.

(2) Unless the context requires otherwise, a reference herein to a subparagraph, paragraph or appendix shall be deemed to be a reference to a subparagraph, paragraph or appendix in, or to, the aforesaid Schedule.

Amendments having effect as from 15th February 1971

4. For paragraph 13A there shall be substituted the following paragraph:—

(a) 9 & 10 Geo. 5 c. 68.

(b) 12 & 13 Geo. 5 c. 8 (N.I.).

(c) 1949, c. 9.

(d) 1969, c. 63.

(e) S.R. & O. (N.I.) 1949, No. 211.

(f) By the following S.R. & O.s (N.I.):—1950, No. 172; 1952, No. 89; 1953, No. 156; 1954, Nos. 98 and 118; 1955, No. 115; 1956, No. 49; 1957, No. 214; 1958, Nos. 81 and 184; 1959, No. 135; 1960, No. 13; 1961, Nos. 93 and 176; 1963, No. 64; 1964, Nos. 48 and 158; 1965, No. 66; 1966, Nos. 68 and 245; 1967, Nos. 18 and 277; 1968, No. 128; 1969, Nos. 39, 204 and 228; 1970, Nos. 98 and 203; 1971, No. 118.

"Widow's augmented award"

13A.—(1) This paragraph shall apply to the widow of a member whose death is the result of an injury received in the execution of his duty as a member which is not wholly or mainly due to his own serious and culpable negligence or misconduct and where, subject to sub-paragraph (5), one of the following conditions is satisfied, namely that—

- (a) he was attacked by a person or persons in a manner which was intrinsically likely to cause death and death ensued, on or after 5th July 1948, as a result of the attack, or
- (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 and death ensued on or after 1st August 1964, or
- (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 his receiving a fatal injury, and death ensued on or after 1st March 1970, or
- (d) the Ministry is of the opinion that one of the preceding conditions may be satisfied, and that this paragraph should apply, or
- (e) the Ministry is 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 him such an award as would have been payable had one of the conditions specified in (a), (b) and (c) been satisfied, and death ensued on or after 15th February 1971.

(2) A widow's special pension payable to a widow to whom this paragraph applies shall be calculated in accordance with Parts VII and IX of Appendix II in respect of any week for which the amount of the pension so calculated is greater than the amount calculated in accordance with Parts III and IX of Appendix II.

(3) A widow to whom this paragraph applies whose husband dies on or after 1st August 1964, shall be entitled to a gratuity, as hereinafter provided, in addition to a widow's special pension.

(4) The gratuity under sub-paragraph (3) shall be of an amount equal to twice the annual pensionable pay (at the date of the death of the person in respect of whom the gratuity is payable) of a man (a) holding the rank of Constable in the London Metropolitan Police or, where the death occurred before 15th February 1971, in the force, and (b) entitled to reckon 30 years' service for the purposes of pay.

(5) Without prejudice to the application of this paragraph by virtue of sub-paragraph (1), in the case of a widow of a member who died before 15th February 1971, this paragraph shall apply to such a widow if it would have applied by virtue of sub-paragraph (1) had the words "in the opinion of the Ministry" been inserted—

- (a) in (a) thereof, after the word "which",
- (b) in (b) thereof, after the word "performed", and
- (c) in (c) thereof, after the word "performed", and had (d) thereof been omitted."

5. For paragraph 22A (which relates to a child's special gratuity) there shall be substituted the following paragraph:—

“22A.—(1) This paragraph shall apply to a child of a member who dies or has died on or after 1st August 1964 as the result of an injury received in the execution of his duty as a member which is not wholly or mainly due to his own serious and culpable negligence or misconduct and where, subject to sub-paragraph (4), one of the conditions set out in paragraph 13A(1) is satisfied and—

(a) in the case of a man, does not leave a widow entitled to a gratuity under paragraph 13A(3), or

(b) in the case of a woman, was the child's only surviving parent:

Provided that this paragraph shall apply to a child who at the date of the parent's death has attained the age of 16 years only if at that date the child has not attained the age of 19 years and either is undergoing full-time education or is an apprentice.

(2) A child to whom this paragraph applies shall be entitled to a gratuity, as hereinafter provided, in addition to a child's special allowance.

(3) The gratuity under sub-paragraph (2) shall be of the like amount as a widow's gratuity under paragraph 13A(3) except that, where two or more gratuities are payable under sub-paragraph (2) in respect of the death of the same person, each gratuity shall be of the said amount divided by the number of such gratuities.

(4) Without prejudice to the application of this paragraph by virtue of sub-paragraph (1) in the case of a child of a member who died before 15th February 1971, this paragraph shall apply to such a child if it would have applied by virtue of sub-paragraph (1) had paragraph 13A been modified as provided in paragraph 13A(5).”

6. For paragraph 30 there shall be substituted the following paragraph:—

“30.—(1) A person who, but for this paragraph, would be entitled to receive two awards under this part of this Schedule in respect of any particular period shall be entitled to receive one only of those awards in respect of that period; and the award payable shall be that from time to time selected by the person or, in default of such selection, where one award is for the time being greater than the other, the award which is for the time being the greater.

(2) For the purposes of this paragraph a gratuity granted under paragraph 13A(3) or 22A(2) or substituted for part of a widow's pension or child's allowance under paragraph 14 or 24, as the case may be, shall be ignored.”

7. In paragraph 31(1), proviso (c) is hereby revoked.

8. For paragraph 2 of Part IV of Appendix III (which relates to the reduction in certain circumstances in a child's allowance) there shall be substituted the following paragraph:—

"2. Where a child who is entitled to an allowance is the only or eldest child in that family so entitled and the child's mother is in receipt under the National Insurance Act (Northern Ireland) 1966(g) of a widow's allowance, a retirement pension or a widowed mother's allowance, which allowance or pension is increased under section 39 of the said Act, then the appropriate reduction shall be 37p a week."

Amendments having effect as from 20th September, 1971

9. For sub-paragraph 6(3) (payments which are taken into account for the purpose of a supplemental pension) there shall be substituted the following sub-paragraph:—

"(3) The payments referred to in sub-paragraph (1) are—

(a) any injury benefit payable under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(h) which relates to the relevant injury, together with, where he ceases to be a member on or after 6th October 1966, any supplement payable therewith under Section 2 of the National Insurance (No. 2) Act (Northern Ireland) 1966(i);

(b) any disablement pension payable under Section 12 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 in respect of the relevant injury or so much of any such pension as relates to that injury, together with—

(i) any increase in such pension payable by way of unemployability supplement under Section 13 of the said Act or so much of any such increase as is proportionate to that part of the said pension which relates to that injury so, however, that where he is entitled to an unemployability supplement which is increased under Section 13A of the said Act the unemployability supplement shall be deemed not to have been so increased.

(ii) any increase in such pension payable under Section 14, 17 or 18 of the said Act or so much of any such increase as is proportionate to that part of the said pension which relates to that injury, and

(iii) so long as he is receiving treatment as an in-patient at a hospital as a result of that injury any increase in such pension payable under Section 16, 17 or 18 of the said Act;

(c) until the first day after his retirement which is not or is deemed not to be a day of incapacity for work under Section 19 of the National Insurance Act (Northern Ireland) 1966 or regulations made thereunder—

(i) any sickness benefit payable under the said Act, together with, where he ceases to be a member on or after 6th October 1966, any supplement thereto payable under Section 2 of the National Insurance (No. 2) Act (Northern Ireland) 1966, or

(ii) any invalidity pension payable by virtue of the Social Services (Parity) Order (Northern Ireland) 1971(j), and

(d) any pension (payable otherwise than under this paragraph) which first becomes or became payable under this Schedule or, as the case may be, the Royal Ulster Constabulary Pensions Orders, after the time when he received the relevant injury,

(g) 1966. c. 6 (N.I.).

(h) 1966. c. 9 (N.I.).

(i) 1966. c. 16 (N.I.).

(j) S.R. & O. (N.I.) 1971, No. 224.

and for the purposes of sub-paragraphs (1) and (2) any such pension as is mentioned in (d) of this sub-paragraph which is reduced in accordance with the provisions of paragraph 6A, 6B or 54 or of Part V of Appendix I shall be deemed not to have been so reduced."

10. For sub-paragraphs 12(3), (4) and (5) (discretionary increase in a widow's ordinary pension) there shall be substituted the following sub-paragraphs:—

"(3) The increase which may be granted in a pension to which this paragraph refers shall be determined in accordance with paragraphs 1 and 3 of Part VI of Appendix II for the first 26 weeks that the pension is payable and thereafter in accordance with paragraphs 2, 3 and 4 thereof during the periods and in the conditions set out in paragraph 5 thereof:

Provided that where a pension determined in accordance with Scheme II of Part I of Appendix II is increased under this paragraph the increased pension shall not be at a higher rate than it would have been if it had been determined in accordance with Scheme I of the said Part I and increased in accordance with the provisions of this paragraph.

(4) In this paragraph a reference to widow's benefit or a retirement pension under the National Insurance Act (Northern Ireland) 1966 does not include a reference to such benefit or pension payable by virtue of Section 1 of the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970(k) or by virtue of Article 5(1) of the Social Services (Parity) Order (Northern Ireland) 1971."

11. For sub-paragraphs 13B(4), (5) and (6) (discretionary increase in a widow's special pension) there shall be substituted the following sub-paragraphs:—

"(4) The weekly amount up to which the pension may be increased shall be a sixth of her husband's average pensionable pay for a week increased in accordance with sub-paragraphs (5), (5A), (5D), (5F), (5H), (5L) and (5M) of paragraph 57, together with an increase determined in accordance with paragraphs 1 and 3 of Part VI of Appendix II for the first 26 weeks that the pension is payable and thereafter in accordance with paragraphs 2, 3 and 4 thereof during the periods and in the conditions set out in paragraph 5 thereof.

(5) Sub paragraph (4) of paragraph 12 shall have effect for the purposes of this paragraph as it has for the purposes of paragraph 12."

12. Paragraph 17 (awards to widows under former Orders and discretionary increases therein) shall be amended as follows:—

(1) In sub-paragraph (5) the words "paragraph 5 of" shall be inserted before the words "Part VI".

(2) For the proviso to sub-paragraph (6) there shall be substituted the following proviso:—

"Provided that if the pension referred to in sub-paragraph (3) is a widow's special pension the increase may be determined in accordance with paragraphs 2, 3 and 4 of Part VI of Appendix II."

(3) In sub-paragraph (8) the following words shall be added at the end:—
“or by virtue of Article 5(1) of the Social Services (Parity) Order
(Northern Ireland) 1971”.

13. Part II of Appendix II is hereby revoked.

14. For Part VI of Appendix II there shall be substituted the Part set out
in the Schedule hereto.

Dated this 30th day of December 1971.

Brian Faulkner,
Minister of Home Affairs
for Northern Ireland

The Ministry of Finance hereby signifies its concurrence in the foregoing
Order.

Sealed with the Official Seal of the Ministry of Finance this 31st day of
December 1971.

(L.S.)

C. F. Darling,
Assistant Secretary.

SCHEDULE

PART SUBSTITUTED FOR PART VI OF APPENDIX II TO THE
SCHEDULE TO THE PRINCIPAL ORDER

"PART VI

DISCRETIONARY INCREASES IN WIDOWS' PENSIONS

1. In respect of the first 26 weeks that the pension is payable the increase referred to in paragraphs 12(3) and 13B(4) of the Schedule shall be a weekly rate not exceeding the weekly rate of a widow's allowance under the National Insurance Act (Northern Ireland) 1966 as from time to time specified in Part I of Schedule 3 thereto.

2. Except where paragraph 1 applies, during the periods and in the conditions set out in paragraph 5, the increase referred to in paragraphs 12(3) and 13B(4) of the Schedule shall, subject to paragraphs 3 and 4, be a weekly rate not exceeding the weekly rate of a widow's pension under the National Insurance Act (Northern Ireland) 1966 as from time to time specified in Part I of Schedule 3 thereto.

3. In the case of a person over the age of 80 years the weekly rate of a widow's allowance or pension as specified in paragraph 1 or 2 shall be increased by an addition at the weekly rate of an age addition under the National Insurance Act (Northern Ireland) 1966 as from time to time specified in Part I of Schedule 3 thereto.

4. In the case of a person to whom an increase would not be payable if in sub-paragraph 5(b) or (f) for the reference to the age of 40 years there were substituted a reference to the age of 50 years, the weekly rate determined in accordance with paragraph 2 shall be reduced by 7 per cent. for each year by which the widow's age at the time mentioned in sub-paragraph 5(b) or, as the case may be, in sub-paragraph 5(f) was less than 50 years (any part of a year being reckoned as a year) without prejudice, however, to any addition to the reduced weekly rate in accordance with paragraph 3.

5. The periods referred to in paragraphs 12, 13B and 17 of the Schedule and in paragraph 2 are as follows:—

- (a) where the husband died before 5th July 1948, the period after the widow has attained the age of 60 years;
- (b) where the husband died on or after the said date, the rest of the widow's life if at the date of the husband's death she had attained the age of 40 years;
- (c) any period during which the widow—
 - (i) is pregnant by her late husband,
 - (ii) has a child resident with her who is entitled to an allowance under this Schedule, or
 - (iii) has a family within the meaning of the Family Allowances Act (Northern Ireland) 1966(1) or of the Family Allowances Act (Northern Ireland) 1945(m) which includes

a child not resident with her who is entitled to an allowance under this Schedule and, where the child is not included in the family within the meaning of the said Act of 1945 as originally enacted, to the cost of providing for whom the widow is contributing at the rate of 82p a week or more;

(1) 1966. c. 8 (N.I.).

(m) 1945. c. 19.

- (d) any period during which the widow is incapable of self-support within the meaning of Section 34(7)(a) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 by reason of any infirmity which rendered her so incapable at the expiry of the period specified in sub-paragraph (c) or—
- (i) where the husband died before 5th July 1948, on that date;
 - (ii) where the husband died on or after 5th July 1948 but before 6th July 1966, at the expiry of the first 13 weeks that the pension is payable; or
 - (iii) where the husband died on or after 6th July 1966, at the expiry of the first 26 weeks that the pension is payable;
- (e) if the conditions specified in sub-paragraph (c) have been fulfilled in respect of a widow, the period of the rest of the widow's life after the expiry of the period mentioned in sub-paragraph (c) if at the expiry of that period the widow has attained the age of 40 years;
- (f) if the conditions specified in sub-paragraph (d) have been fulfilled in respect of a widow, the period of the rest of the widow's life after the expiry of any period of incapability of self-support within the meaning of sub-paragraph (d) which expires at a date when the widow has attained the age of 40 years.

6. In this part of this Appendix any reference to a child being entitled to an allowance under this Schedule shall be construed as including a reference to a child who would be in receipt of an allowance but for the provisions of paragraph 23 of this Schedule or of the proviso to paragraph 26 of this Schedule.

7. For the purposes of sub-paragraph (e) of paragraph 5 the conditions specified in sub-paragraph (c) thereof shall be treated as having been fulfilled if, on any day in the period between the passing of the Family Allowances and National Insurance Act (Northern Ireland) 1964⁽ⁿ⁾ and the coming into operation of Section 1 of that Act, those conditions would have been fulfilled had that Section and this Order come into operation at the passing of the said Act, and the reference in the said sub-paragraph (e) to the period mentioned in sub-paragraph (c) shall be construed accordingly."

(n) 1964. c. 9 (N.I.).

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

1. This Order amends various provisions of the Royal Ulster Constabulary Pensions Order 1949.
2. The amendments contained in Articles 4 to 8 have effect from 15th February 1971, the date on which corresponding changes were made in relation to Police Pensions in Great Britain. Articles 4 and 5 widen the circumstances in which an augmented award may be made to the widow or child of a member who dies as the result of an injury received in the execution of duty. Article 6 simplifies the procedure where a person satisfies the conditions for two awards. Hitherto such a person has had to choose which award he or she wished to receive; under the amendment the award which is for the time being the greater can be paid automatically. Article 7 enables a period of suspension from duty always to be reckoned as pensionable service. Article 8 follows a change in the National Insurance Acts relating to a widowed mother's allowance.
3. The amendments contained in Articles 9 to 14 are consequential on National Insurance benefit changes made by the Social Services (Parity) Order (Northern Ireland) 1971 and have effect from 20th September 1971. Article 9 relates to the National Insurance benefits to be taken into account in the calculation of a retired policeman's supplemental pension. It provides that an invalidity pension shall be taken into account to the like extent as the sickness benefit which that pension replaces, but that the new increase in the unemployability supplement to a disablement pension shall not be taken into account. Articles 10 to 14 relate to the discretionary increases based on National Insurance widows' benefit which may be paid to certain widows. They enable the increases to be based on the improved rates of National Insurance widows' benefit and provide that, while receipt of National Insurance widows' benefit is normally a barrier to the award of a discretionary increase in a police widow's pension, receipt of one of the reduced-rate pensions payable to certain elderly widows will not debar a widow from receiving a discretionary increase, the amount of which can then be appropriately adjusted.