

1971. No. 405

[NC]

ULSTER SPECIAL CONSTABULARY**Pensions**

REGULATIONS, DATED 30TH DECEMBER 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER THE SPECIAL CONSTABLES ACT 1914 AND SECTION 8 OF THE CONSTABULARY ACT (NORTHERN IRELAND) 1922.

I, THE RIGHT HONOURABLE BRIAN FAULKNER, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by the Special Constables Act 1914(a) and section 8 of the Constabulary Act (Northern Ireland) 1922(b) and of all other powers enabling me in that behalf, do hereby make the following Regulations:—

Citation

1. These Regulations may be cited as the Ulster Special Constabulary Pensions (Amending) Regulations 1971.

Commencement

2. The amendments to the Ulster Special Constabulary Pensions Regulations 1950 made by Regulations 4 to 8 shall have effect as from 15th February 1971 and those made by Regulations 9 to 14 as from 20th September 1971.

Amendments to the Ulster Special Constabulary Pensions Regulations 1950

3.—(1) The Ulster Special Constabulary Pensions Regulations 1950(c), as amended(d), shall be further amended in accordance with the provisions of Regulations 4 to 14.

(2) Except where the context otherwise requires a reference herein to a Regulation or a Schedule shall be interpreted as a reference to a Regulation or a Schedule in or to the Ulster Special Constabulary Pensions Regulations 1950.

Amendments having effect as from 15th February 1971

4. For Regulation 16A there shall be substituted the following Regulation:—

“Widow's augmented award

16A.—(1) This Regulation 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 paragraph (5), one of the following conditions is satisfied, namely that—

(a) 4 & 5 Geo. 5. c. 61.

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

(c) S.R. & O. (N.I.) 1950, No. 97.

(d) By the following S.R. & Os. (N.I.):—1951, No. 123; 1952, No. 157; 1954, Nos. 30 and 119; 1955, No. 171; 1956, No. 75; 1958, No. 61; 1959, Nos. 52 and 89; 1960, No. 3; 1961, Nos. 94 and 177; 1963, No. 65; 1964, Nos. 49 and 159; 1965, No. 67; 1966, Nos. 69, 255 and 270; 1967, No. 305; 1968, No. 191; 1969, Nos. 64, 205 and 230; 1970, Nos. 99, 143 and 254.

- (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 Regulation 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 sub-paragraphs (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 Regulation applies shall be calculated in accordance with Parts VII and IX of the Second Schedule 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 the said Schedule.

(3) A widow to whom this Regulation 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 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 Royal Ulster Constabulary, and
- (b) entitled to reckon 30 years' service for the purposes of pay.

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

- (a) in sub-paragraph (a) thereof, after the word "which",
- (b) in sub-paragraph (b) thereof, after the word "performed", and
- (c) in sub-paragraph (c) thereof, after the word "performed",

and had sub-paragraph (d) thereof been omitted."

5. For Regulation 26A (which relates to a child's special gratuity) there shall be substituted the following Regulation:—

"26A.—(1) This Regulation 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 paragraph (4), one of the conditions set out in Regulation 16A(1) is satisfied and he does not leave a widow entitled to a gratuity under Regulation 16A(3):

Provided that this Regulation 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 Regulation applies shall be entitled to a gratuity, as hereinafter provided, in addition to a child's special allowance.

(3) The gratuity under paragraph (2) shall be of the like amount as a widow's gratuity under Regulation 16A(3) except that, where two or more gratuities are payable under 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 Regulation by virtue of 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 paragraph (1) had Regulation 16A been modified as provided in Regulation 16A(5)."

6. For Regulation 34 there shall be substituted the following Regulation:—

"34.—(1) A person who, but for this Regulation, would be entitled to receive two awards under this Part of these Regulations 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 Regulation a gratuity granted under Regulation 16A(3) or 26A(2) or substituted for part of a widow's pension or child's allowance under Regulation 18 or 28, as the case may be, shall be ignored."

7. In Regulation 35(1), proviso (b) is hereby revoked.

8. For paragraph 2 of Part IV of the Third Schedule (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(e) 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 Regulation 4(3) (payments which are taken into account for the purpose of a supplemental pension) there shall be substituted the following:—

“(3) The payments referred to in paragraph (1) are—

- (a) any injury benefit payable under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(f) 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(g);
- (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(h), and
- (d) any ordinary, short service or ill-health pension which first becomes or became payable under these Regulations after the time when he received the relevant injury,

and for the purposes of paragraphs (1) and (2) any such pension as is mentioned in sub-paragraph (d) which is reduced in accordance with the provisions of Regulation 13C, 13D or 53 or of Part V of the First Schedule shall be deemed not to have been so reduced.”

10. For paragraphs (3) and (4) of Regulation 15 (discretionary increase in a widow's ordinary pension) there shall be substituted the following paragraphs:—

“(3) The increase which may be granted in a pension to which this Regulation refers shall be determined in accordance with paragraphs 1 and 3 of Part VI of the Second Schedule for the first 26 weeks that the pension

(f) 1966. c. 9 (N.I.).
(g) 1966. c. 16 (N.I.).

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

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.

(4) In this Regulation 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(i) or by virtue of Article 5(1) of the Social Services (Parity) Order (Northern Ireland) 1971."

11. For paragraphs (4) and (5) of Regulation 17 (discretionary increase in a widow's special pension) there shall be substituted the following 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 paragraphs (4), (4A), (4D), (4F), (4H), (4L) and (4M) of Regulation 56, together with an increase determined in accordance with paragraphs 1 and 3 of Part VI of the Second Schedule 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) Paragraph (4) of Regulation 15 shall have effect for the purposes of this Regulation as it has for the purposes of Regulation 15."

12. Regulation 21 (awards to widows under former Orders and discretionary increases therein) shall be amended as follows:—

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

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

"Provided that if the pension referred to in 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 the Second Schedule."

(3) After paragraph 7 there shall be inserted the following paragraph:—

"(8) In this Regulation 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 or by virtue of Article 5(1) of the Social Services (Parity) Order (Northern Ireland) 1971."

13. Part II of the Second Schedule is hereby revoked.

14. For Part VI of the Second Schedule there shall be inserted the Part set out in the Schedule hereto.

Dated this 30th day of December 1971.

Brian Faulkner,
Minister of Home Affairs
for Northern Ireland.

SCHEDULE

PART SUBSTITUTED FOR PART VI OF THE SECOND SCHEDULE

"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 Regulations 15(3) and 17(4) 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 Regulations 15(3) and 17(4) 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% 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 period referred to in Regulations 15, 17 and 21 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 these Regulations, or
 - (iii) has a family within the meaning of the Family Allowances Act (Northern Ireland) 1966(j) or of the Family Allowances Act (Northern Ireland) 1945(k) which includes a child not resident with her who is entitled to an allowance under these Regulations 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;
- (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 Schedule any reference to a child being entitled to an allowance under these Regulations shall be construed as including a reference to a child who would be in receipt of an allowance but for the provisions of Regulation 27 or of the proviso to Regulation 30.

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⁽¹⁾ and the coming into operation of Section 1 of that Act, those conditions would have been fulfilled had that Section and these Regulations 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."

(1) 1964. c. 9 (N.I.).

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

1. These Regulations amend various provisions of the Ulster Special Constabulary Pensions Regulations 1950.

2. The amendments contained in Regulations 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. Regulations 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. (The Royal Ulster Constabulary pensions scheme provides that an award in respect of the ordinary service of an auxiliary member of the Royal Ulster Constabulary, that is to say, a former full-time member of the Ulster Special Constabulary, may be made under the Ulster Special Constabulary Pensions Regulations as if his service in the Royal Ulster Constabulary were continued service in the Ulster Special Constabulary). Regulation 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. Regulation 7 enables a period of suspension from duty always to be reckoned as pensionable service. Regulation 8 follows a change in the National Insurance Acts relating to a widowed mother's allowance.

3. The amendments contained in Regulations 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. Regulation 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. Regulations 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.