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STATUTORY INSTRUMENTS

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**1990 No. 401**

**The Police (Amendment) Regulations 1990**

3. There shall be substituted for regulation 49 of the principal Regulations (rent allowance) the following provisions:

**“Housing allowance**

**49.—(1)** Subject to the provisions of regulation 49B, a member of a police force who is not provided with a house or quarters free of rent shall be paid a housing allowance which shall be either a standard-rate allowance or a half-rate allowance:

Provided that—

- (a) a member to whom regulation 50 applies who is so provided with quarters shall be paid a housing allowance in addition;
  - (b) a member of a police force shall not be paid a housing allowance if he is on unpaid leave;
  - (c) a member of a police force shall not be paid a housing allowance if he resides in a house or quarters provided free of rent to another member of a police force (except in the case of a member who so resided on 31st March 1990 for so long as he continues so to reside there).
- (2) Subject to paragraph (3), a standard-rate allowance—
- (a) shall be paid to a member married to (but not separated from) a person who either—
    - (i) is not a member of a police force, or
    - (ii) is such a member but is on unpaid leave;
  - (b) shall be paid to an unmarried member, or a member separated from his spouse, who—
    - (i) has attained the age of 30 years,
    - (ii) has served for 5 years as a member of that or any other police force, and
    - (iii) occupies as owner or tenant the accommodation in which he is living;
  - (c) may, if the police authority think fit, be paid to a member, not being a member to whom sub-paragraph (a) or (b) applies, who—
    - (i) has a dependent relative living with him, or
    - (ii) is separated from, or has divorced or been divorced by, his spouse, or
    - (iii) is a widower or widow;
- and in all other cases a half-rate allowance shall be paid.
- (3) A standard-rate allowance shall not be payable—
- (a) to a member who occupies otherwise than as owner accommodation in respect of which he makes no payment (by way of rent or mortgage interest), or

- (b) to a member who resides in accommodation which he shares with another member so, however, that this sub-paragraph shall not preclude the payment of a standard-rate allowance where that other member is on unpaid leave.

(4) A standard-rate allowance payable to a member shall be the standard rate for his rank determined in accordance with paragraphs (5), (6), (7), (8) and (9).

(5) The standard-rate housing allowance for a member holding a rank of constable, sergeant or inspector shall be such sum as represents

$$\frac{A-B}{C},$$

where—

- a A equals the total annual amount payable by way of rent allowance, calculated as at 31st March 1990, in respect of members of his force in receipt of such allowance on that date,
- b B equals such part of the amount mentioned in sub-paragraph (a) as would be attributable to amounts payable in rates by those members, and
- c C equals the number of members of that force, adjusted in accordance with paragraph (6), who were in receipt of rent allowance on 31st March 1990.

(6) The number of members of a police force in receipt of rent allowance on 31st March 1990 shall be adjusted as follows:

- (a) a member holding the rank of constable, sergeant or inspector in receipt on that date of a flat-rate rent allowance shall be reckoned as half a member;
- (b) a member holding the rank of constable, sergeant or inspector then in receipt of a maximum limit rent allowance shall be reckoned as one member;
- (c) a member holding the rank of superintendent then in receipt of a flat-rate rent allowance shall be reckoned as 0.58 of a member and such a member then in receipt of a maximum limit rent allowance shall be reckoned as 1.16 members;
- (d) a member holding the rank of assistant chief constable or deputy chief constable or, in the case of the City of London police force, commander or assistant commissioner, or in the case of the Metropolitan police force, commander or deputy assistant commissioner, then in receipt of a flat-rate rent allowance shall be reckoned as 0.675 of a member and such a member then in receipt of a maximum limit rent allowance shall be reckoned as 1.35 members; and
- (e) a member holding the rank of chief constable or, in the case of the City of London police force, commissioner, or in the case of the Metropolitan police force, deputy commissioner or assistant commissioner, then in receipt of a flat-rate rent allowance shall be reckoned as 0.78 of a member and such a member then in receipt of a maximum limit rent allowance shall be reckoned as 1.56 members.

(7) The standard-rate housing allowance for a member holding the rank of superintendent shall be the sum of the standard rate determined in accordance with paragraphs (5) and (6) and 16 per cent of that rate.

(8) The standard-rate housing allowance for a member holding the rank of assistant chief constable or deputy chief constable or, in the case of the City of London police force, commander or assistant commissioner, or in the case of the Metropolitan police force, commander or deputy assistant commissioner, shall be the sum of the standard rate determined in accordance with paragraphs (5) and (6) and 35 per cent of that rate.

(9) The standard-rate housing allowance for a member holding the rank of chief constable or, in the case of the City of London police force, commissioner, or in the case of the Metropolitan police force, deputy commissioner or assistant commissioner, shall be the sum of the standard rate determined in accordance with paragraphs (5) and (6) and 56 per cent of that rate.

(10) A half-rate allowance shall be equal to half the amount determined as the standard-rate allowance for members of the same rank.

(11) Except where the member's spouse or former spouse is a member of a police force, a married member who is separated from his spouse or a member who has divorced, or been divorced by, his spouse may, if he regularly makes periodic payments to or for the benefit of his spouse or former spouse, be granted—

(a) where he is in receipt of a housing allowance under paragraph (1) or, as the case may be, a transitional rent allowance under regulation 49B, an addition to that allowance, or

(b) where he is provided with a house or quarters free of rent, a housing allowance, equal to whichever is the lesser of the two following amounts, namely, the amount by which his former allowance exceeds his present allowance or the amount paid by him to or for the benefit of his spouse or former spouse.

(12) In this regulation—

(a) the expression “his former allowance” means—

(i) in relation to a member who, immediately before his spouse commenced to live apart from him, was being provided with a house or quarters free of rent, a sum fixed as the value for the time being of that house or those quarters;

(ii) in relation to any other member, the maximum limit rent allowance or housing allowance or, as the case may be, the transitional rent allowance which was payable to him immediately before his spouse commenced to live apart from him;

(b) the expression “his present allowance” means, as the case may be, the housing allowance which is being paid to the member under paragraph (1), the transitional rent allowance paid to him under regulation 49B, reduced in accordance with paragraph (5) of that regulation, or a sum fixed as the value for the time being of the house or quarters with which he is provided;

(c) the expressions “rent allowance” and “rates” have the same meanings as they had in regulation 49 of the principal Regulations as originally enacted;

(d) a reference to the provision of a house or quarters free of rent is a reference to such provision by a police authority.

### **Housing allowance: supplementary**

**49A.** Standard-rate and half-rate housing allowances determined in accordance with regulation 49 in relation to any police force shall be adjusted—

(a) on 1st April 1990, in the case of a police force whose maximum limit rent allowance payable under the principal Regulations, as originally enacted, would have fallen to be re-fixed by the police authority on a date during 1990, or

(b) on 1st April 1991, in the case of a police force whose maximum limit rent allowance so payable would have fallen to be so re-fixed on a date during 1991,

and thereafter on each biennial of the applicable date; and each such adjustment shall correspond to any movement in the retail prices index since the rent allowance or housing allowance, as the case may be, was last fixed in relation to that force.

### **Transitional rent allowance**

**49B.**—(1) This paragraph applies to a member of a police force to whom a rent allowance was payable on 31st March 1990 where the sum of the annual rent allowance (and, where appropriate, supplementary rent allowance) then payable to him and his compensatory grant in respect of the financial year ending on 5th April 1990 is greater than the standard-rate or half-rate housing allowance and any supplementary housing allowance to which he would be entitled under regulation 49, 50 or 51 for the year beginning on 1st April 1990.

(2) Subject to the provisions of this regulation, a member to whom paragraph (1) applies shall be entitled, for any part of the relevant period when he would be eligible to receive a housing allowance, to be paid, instead of a housing allowance, an allowance (“transitional rent allowance”) at an annual rate equal to the amount of rent allowance payable per annum at the rate applicable to him on 31st March 1990.

(3) A member to whom paragraph (1) applies who was in receipt of a supplementary rent allowance on 31st March 1990 shall be entitled, for any part of the relevant period when he would be eligible to receive a supplementary housing allowance, to be paid, instead of a supplementary housing allowance, an allowance (“transitional supplementary rent allowance”) at an annual rate equal to the amount of supplementary rent allowance payable per annum at the rate applicable to him on 31st March 1990.

(4) In relation to a member to whom paragraph (1) applies, the relevant period mentioned in paragraphs (2) and (3) shall—

- (a) begin on 1st April 1990, and
- (b) end on the day immediately preceding the date on which the standard-rate or flat-rate housing allowance and any supplementary housing allowance to which he would then be entitled under regulation 49, 50 or 51 first equals or exceeds the sum of his transitional rent allowance, any transitional supplementary rent allowance or any supplementary housing allowance then payable to him and the total amount of compensatory grant paid since 1st April 1990 in pursuance of regulation 49D in respect of his rent allowance for the financial year ending on 5th April 1990;

except that the relevant period shall terminate if a member resigns (otherwise than upon immediate transfer to another force) or retires, or is discharged or dismissed, from a police force and shall not recommence if he again becomes a member of a police force.

(5) Where a member in receipt of a transitional rent allowance was entitled on 31st March 1990 to a maximum limit rent allowance and thereafter, by reason of a change in his personal circumstances, he would be eligible only for a half-rate housing allowance, his transitional rent allowance shall, as long as he receives such allowance instead of a half-rate housing allowance, be equal to half the annual rate of rent allowance payable to him on 31st March 1990.

(6) Where a member in receipt of a transitional rent allowance transfers to another police force, the amount of his allowance from the date of his transfer shall be, where he would otherwise be eligible for a standard-rate housing allowance, a sum equivalent to the maximum limit rent allowance fixed on 31st March 1990 for members of his new force of the same rank and, where he would otherwise be eligible for a half-rate housing allowance, a sum equivalent to the flat-rate rent allowance payable to such members on 31st March 1990.

(7) Where a member of a police force in Scotland or Northern Ireland in receipt of a transitional rent allowance under a corresponding regulation which has effect there transfers

to a police force in England and Wales he shall be eligible from the date of his transfer to receive such an allowance under this regulation; and paragraph (6) shall have effect in relation to him accordingly.

(8) Where a member in receipt of a transitional rent allowance—

- (a) was on 31st March 1990 a member of a police force to whom regulation 51 applied,
- (b) was on that date in receipt of a rent allowance which, by virtue of paragraph (2) of that regulation, was less than that which would have been payable to him if he had not moved his home,
- (c) upon ceasing to be a member to whom regulation 51 applies again moves his home to the police area of the force of which he was a member immediately before his assignment to duty with a regional crime squad or a motorway patrol group,

the amount of his transitional rent allowance from the date when he again moves his home shall be that which would have been payable if he had not been assigned to that duty and had continued to occupy on 31st March 1990 the home from which he moved in accordance with regulation 51(2).

(9) In this and the next following regulation—

- (a) the expressions “rent allowance” and “supplementary rent allowance” mean allowances payable under regulations 49 and 50 respectively of the principal Regulations as they had effect on 31st March 1990;
- (b) “central service” means service within the meaning of section 43 of the Police Act 1964<sup>(1)</sup>, and “overseas service” means service within the meaning of the Police (Overseas Service) Act 1945<sup>(2)</sup> or section 11 of the Overseas Development and Co-operation Act 1980<sup>(3)</sup>.

#### **Application of regulation 49B to other members**

**49C.**—(1) Subject to the provisions of this regulation, paragraph (1) of the preceding regulation shall also apply to a member of a police force who, on or after 1st April 1990—

- (a) reverts to his police force at the end of a period of central service or overseas service on which he was engaged on 31st March 1990;
- (b) returns to duty at the end of a period of unpaid leave which included 31st March 1990;
- (c) acquires a new home having ceased to receive a rent allowance on or before 31st March 1990 by reason only that he had necessarily moved his home, either on transferring from one force to another or at the request of the chief officer of police in the interests of the efficiency of the force, and was on 31st March 1990 occupying a house or quarters with which he was provided free of rent and rates pending disposal of his former home and acquisition of that new home; or
- (d) at the conclusion of a period of duty with a regional crime squad or a motorway patrol group returns to his former home, or acquires a new home in the police area of the force of which he was a member immediately before his assignment to that duty, having ceased to receive a rent allowance on or before 31st March 1990 by reason only that he had necessarily moved his home in the circumstances

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(1) 1964 c. 48; section 43 was amended by the Police Pensions Act 1976 (c. 35), Schedule 2, paragraph 5 and Schedule 3, the Police and Criminal Evidence Act 1984 (c. 60), Schedule 6, paragraph 16, and the Police Officers (Central Service) Act 1989 (c. 11), section 1.

(2) 1945 c. 17.

(3) 1980 c. 63.

mentioned in regulation 51(2) and been provided with a house or quarters free of rent and rates which he was occupying on 31st March 1990; and who also fulfils the requirements of paragraph (2).

(2) The requirements referred to in the preceding paragraph are that:

- (a) the member was in receipt of a rent allowance immediately before his period of central service, overseas service or unpaid leave or immediately before moving his home, as the case may be; and
- (b) the rent allowance (and, where appropriate, supplementary rent allowance) which (but for his period of central service, overseas service or unpaid leave or his moving home) would have been payable to him on 31st March 1990 would have been greater than the standard-rate or half-rate housing allowance and any supplementary housing allowance to which he would then be entitled under regulation 49, 50 or 51.

(3) In their application to such a member as is mentioned in paragraph (1)(a), the provisions of regulation 49B shall have effect as if—

- (a) in each of paragraphs (2) and (3) there were inserted—
  - (i) before the word “payable” the words “which would have been”, and
  - (ii) at the end the words “if he had then been a member of his police force in the rank in which he was serving, and occupying the accommodation in which he was living, immediately before the commencement of his period of central service or overseas service”;
- (b) in paragraph (3) there were substituted for the word “was” the words “, had he remained a member of his police force during his period of central service or overseas service and continued to occupy the accommodation in which he was living immediately before the commencement of that period, would have been”;
- (c) in paragraph (4)(a) there were substituted for the words “1st April 1990” the words “the day on which he reverts to his police force at the end of his period of central service or overseas service”;
- (d) in paragraph (4)(b) there were substituted for the word “paid” the words “which would have been paid, had he remained a member of his police force during his period of central service or overseas service,”;
- (e) in paragraph (5), there were substituted for the word “was” the words “would (if he had then been a member of his police force) have been”, and there were inserted after the words “rent allowance” in the last place where they occur the words “which would have been”.

(4) In their application to such a member as is mentioned in paragraph (1)(b), the provisions of regulation 49B shall have effect as if—

- (a) in each of paragraphs (2) and (3) there were inserted—
  - (i) before the word “payable” the words “which would have been”, and
  - (ii) at the end the words “if he had not then been on unpaid leave but was serving in the rank he held, and occupying the accommodation in which he was living, immediately before the commencement of his period of unpaid leave”;
- (b) in paragraph (3) there were substituted for the word “was” the words “, had he not then been on unpaid leave and if he continued to occupy the accommodation in which he was living immediately before the commencement of that period of leave, would have been”;

- (c) in paragraph (4)(a) there were substituted for the words “1st April 1990” the words “the day on which he returns to duty at the end of the period of unpaid leave”;
  - (d) in paragraph (5), there were substituted for the word “was” the words “would (if he had not then been on unpaid leave) have been”, and there were inserted after the words “rent allowance” in the last place where they occur the words “which would have been”.
- (5) In their application to such a member as is mentioned in paragraph (1)(c) or (d), the provisions of regulation 49B shall have effect as if—
- (a) in each of paragraphs (2) and (3) there were inserted—
    - (i) before the word “payable” the words “which would have been”, and
    - (ii) at the end the words “if he had still been occupying his former home”;
  - (b) in paragraph (3) there were substituted for the word “was” the words “, had he still been occupying his former home, would have been”;
  - (c) in paragraph (4)(a) there were substituted for the words “1st April 1990” the words “the day on which he acquires his new home” or “the day on which he returns to his former home”, as the case may be;
  - (d) in paragraph (5), there were substituted for the word “was” the words “would (if he had still been occupying his former home) have been”, and there were inserted after the words “rent allowance” in the last place where they occur the words “which would have been”.

### **Application of regulation 52**

**49D.**—(1) Regulation 52 (compensatory grant) shall cease to have effect, except in relation to a member of a police force in receipt of a transitional rent allowance.

- (2) Where regulation 52 continues to have effect by virtue of paragraph (1)—
  - (a) subject to sub-paragraph (c), compensatory grant shall be payable as if the expression “rent allowance” included “transitional rent allowance”;
  - (b) no compensatory grant shall be payable after the end of the financial year ending on 5th April 1992 which would be attributable to the inclusion in the emoluments of the member in question of compensatory grant in respect of a rent allowance paid before 5th April 1990; but a member in receipt during that financial year of compensatory grant which is so attributable shall be paid in addition a sum equivalent to the amount of income tax which would be payable in respect of such compensatory grant at the basic rate of tax in force on 6th April 1991;
  - (c) no compensatory grant shall be payable to a member after the end of the relevant period, referred to in regulation 49B (2) and (3), applicable to him.”.