These Regulations supersede SR 2007/476 and are being issued free of charge to all known recipients of that Statutory Rule.

STATUTORY RULES OF NORTHERN IRELAND

2009 No. 79

POLICE

THE POLICE PENSION (NORTHERN IRELAND) REGULATIONS 2009

Made - - - -	*2nd March 2009*
Laid before Parliament	*12th March 2009*
Coming into operation	*6th April 2009*

The Secretary of State makes these Regulations, in exercise of the powers conferred on him by sections 25(2)(k) and 26(2)(g) of the Police (Northern Ireland) Act 1998(**1**) ("the 1998 Act"), with the consent of the Treasury in accordance with section 72(2A)(**2**) of that Act.

The Secretary of State has consulted with the Police Negotiating Board in accordance with section 62(3) of the Police Act 1996(**3**), and the Northern Ireland Policing Board and the Police Association in accordance with section 26(6) of the 1998 Act.

PART 1

GENERAL

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Police Pension (Northern Ireland) Regulations 2009.

(2) These Regulations come into operation on 6th April 2009 and have effect from 6th April 2006, subject to paragraph (3).

(3) The following regulations have effect from 31st December 2007—

(a) regulation 10(2)(c); and

(**1**) 1998 c.32. The powers conferred by sections 25 and 26 are extended by Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972 (S.I.1972/1073 (N.I.10)) which enable regulations to have retrospective effect. Both sections have been modified by section 49 of the Police (Northern Ireland) Act 2000 ("2000 Act") (c.32)

(**2**) This subsection was inserted by paragraph 23(6) of Schedule 6 to the 2000 Act

(**3**) 1996 c.16. Modified by Section 49 of the 2000 Act

(b) regulation 74(9).

(4) The Police Pension (Northern Ireland) Regulations 2007(**4**) are revoked.

Meaning of certain expressions and references – general provision

2.—(1) In these Regulations unless the context otherwise requires—

(a) the expressions contained in the glossary set out in Schedule 1 shall be construed as provided in that Schedule;

(b) any reference to a member of the police service, however expressed, includes a reference to a person who has been such a member;

(c) any reference to an award, however expressed, is a reference to an award under these Regulations.

(2) For the purposes of these Regulations, an inspector of constabulary, a specified employee of SOCA or a police officer engaged on relevant service shall be deemed to be a member of the police service.

(3) In relation to an inspector of constabulary or an officer engaged on relevant service, any reference in these Regulations to the Board shall be construed as a reference to the Secretary of State.

(4) In relation to a specified employee of SOCA—

(a) any reference in these Regulations to the Board shall be construed as a reference to SOCA; and

(b) any reference in these Regulations to the police service shall be construed as a reference to SOCA.

Disablement

3.—(1) 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) 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 his disablement, and in this paragraph "appropriate medical treatment" shall not include medical treatment that it is reasonable in the opinion of the Board for that person to refuse.

(3) Subject to paragraph (4), disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a member of the police service or, as the case may be, to engage in any regular employment otherwise than as a police officer, except that in relation to a child survivor or an adult survivor of a police officer it means inability, occasioned by infirmity of mind or body, to earn a living.

(4) Where a person has retired or otherwise ceased to serve as a police officer before becoming disabled and the date on which he becomes disabled cannot be ascertained, it shall be taken to be the date on which the claim that he is disabled is first made to the Board.

(5) In this regulation, "infirmity" means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

(**4**) S.R. (N.I) 2007 No. 476

PART 2

ELIGIBILITY FOR PENSION AWARDS, PENSIONABLE SERVICE AND RETIREMENT

Eligibility for pension awards

Application of Regulations

4.—(1) These Regulations shall apply to a police officer who first became such on or after 6th April 2006.

(2) These Regulations shall also apply, subject to and in accordance with the provisions of Schedule 2, to a police officer who—

(a) first became such before 6th April 2006 and retired or otherwise ceased to serve—

(i) with no entitlement to an award under the 1988 Regulations;

(ii) with an entitlement to an award by way of repayment of his aggregate pension contributions under regulation B6 of those Regulations;

(iii) with an entitlement to an ordinary pension under regulation B1 of those Regulations, a short service award under regulation B2 of those Regulations or an entitlement to a deferred pension under regulation B5 of those Regulations and, in any of those cases, the award is in payment (otherwise than where the deferred pension is in payment due to permanent disablement);

(iv) with an entitlement to an ordinary pension under regulation B1 of those Regulations, or a deferred pension under regulation B5 of those Regulations, and in either case the pension is not in payment; or

(v) with an entitlement to an ill-health award under regulation B3 of those Regulations or with an entitlement to a deferred pension under regulation B5 of those Regulations where the pension is in payment due to permanent disablement (whether the deferred pension came into payment immediately on retirement or ceasing to serve or on some later date).

(b) at the date of such retirement or otherwise ceasing to serve was entitled to reckon less than 30 years' pensionable service under the 1988 Regulations; and

(c) has, on or after 6th April 2006, rejoined the police service, otherwise than—

(i) pursuant to regulation K1 of the 1988 Regulations where he had not made an election under regulation G4(1) of those Regulations which was in effect immediately before his retirement;

(ii) pursuant to regulation K1 of those Regulations where he retired before 6th April 2006 and he had made an election under regulation G4(1) of those Regulations which had not been cancelled before his retirement; or

(iii) upon reinstatement following a successful appeal against dismissal or requirement to resign where he had not made an election under regulation G4(1) of those Regulations which was in effect immediately before his dismissal or requirement to resign.

(3) These Regulations shall also apply, subject to and in accordance with the provisions of paragraph (4), to a police officer who—

(a) first became such before 6th April 2006;

(b) was in service as such immediately before and on that date; and

(c) either—

(i) had made an election under regulation G4(1) of the 1988 Regulations which had not been cancelled before that date, or

(ii) on or after 6th April 2006 makes an election under that provision.

(4) In the case of an officer such as is mentioned in paragraph (3)—

(a) the election mentioned in paragraph (3)(c)(i) shall, as from 6th April 2006, continue to have effect as if it had been made on the said date under regulation 7(1) or, as the case may be;

(b) the election mentioned in paragraph (3)(c)(ii) shall have effect from the date on which it is made as if it had been made under regulation 7(1), and

(c) in either case, he may accordingly cancel his election in accordance with regulation 7(5), in which case he shall become eligible for awards to be payable to or in respect of him under these Regulations, subject to paragraph 9 of Schedule 2.

(5) This paragraph applies to a police officer who cancels an election in the circumstances mentioned in paragraph (4) and who has an entitlement to an ordinary pension under regulation B1 of the 1988 Regulations or a deferred pension under regulation B5 of those Regulations and in either case the pension is not in payment.

(6) This paragraph applies to a police officer—

(a) by whom pension contributions were payable under regulation G2 of the 1988 Regulations as at 6th April 2006 (or would have been payable but for his dismissal and subsequent reinstatement following a successful appeal against that dismissal);

(b) who continues to serve as such during the period beginning on the said date and ending on the date of his transfer election under paragraph (8) (or who would have continued to serve as such during that period but for his dismissal and subsequent reinstatement following a successful appeal against that dismissal); and

(c) who does not, during the period mentioned in sub-paragraph (b), make an election under regulation G4(1) of the 1988 Regulations.

(7) This paragraph applies to a police officer such as is mentioned in paragraph (5) who cancels an election in the circumstances mentioned in paragraph (4) on a date before the expiry of the period of three months determined by the Secretary of State under paragraph 1 of Schedule 3, or such longer period as the Board may, by reason of exceptional circumstances in that officer's case, in their discretion allow.

(8) A police officer—

(a) to whom these Regulations apply by virtue of paragraph (2)(a)(ii), (2)(a)(iv) or (2)(a)(v);

(b) to whom paragraph (6) or (7) applies; or

(c) who, on or after 6th April 2006, rejoined the police service immediately before his retirement pursuant to regulation K1 of the 1988 Regulations, and who either had not made an election under regulation G4(1) of the 1988 Regulations which was in effect immediately before his retirement or who retired before 6th April 2006 and had made an election under regulation G4(1) of the 1988 Regulations which had not been cancelled before his retirement,

may make an election for the pensionable service he is entitled to reckon under those Regulations to be reckoned as pensionable service for the purposes of these Regulations ("a transfer election") subject to and in accordance with the provisions of Schedule 3.

(9) Where a police officer to whom paragraph (6) applies or is such as is mentioned in paragraph 8(c) makes a transfer election, these Regulations shall apply to him and he shall become eligible for awards to be payable to or in respect of him under these Regulations.

Pension contributions payable by police officers

5.—(1) Subject to paragraph (3), a police officer shall pay to the Board pension contributions at the rate of —

(a) in a case where he is ineligible under regulation 6 for a pension award payable on the ground of permanent disablement, 6 per cent of his pensionable pay; and

(b) in any other case, 9.5 per cent of his pensionable pay.

(2) The pension contributions payable under paragraph (1) upon each instalment of pay shall fall due at the same time as the instalment and may, without prejudice to any other method of payment that may be agreed by the Board in exceptional circumstances, be discharged by way of a deduction of the appropriate amount made by the Board from the instalment.

(3) Paragraph (1) shall not apply in the case of a police officer who has made an election under Regulation 7 which is, for the time being, in effect.

Eligibility for pension awards payable on the ground of permanent disablement

6.—(1) This regulation applies to—

(a) a candidate for appointment to the police service; and

(b) a police officer who seeks under regulation 7(5) to cancel his election that regulation 5(1) shall not apply in his case.

(2) A person to whom this regulation applies shall, if required by the Board, submit to an examination by a duly qualified medical practitioner selected by the Board ("the selected medical practitioner") in accordance with regulation 65 in order that the Board may determine his eligibility to receive pension awards payable on the ground of permanent disablement.

(3) The Board shall determine, by applying the opinion of the selected medical practitioner as set out in his report, and advice from the Scheme actuary, whether the risk presented by that person that he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high.

(4) The determination of the Board under paragraph (3) shall be subject to appeal by that person in accordance with regulation 66; and upon receipt of the final revised report or written statement of opinion prepared in accordance with that regulation, the Board shall redetermine, by applying the opinion set out in the final revised report or written statement of opinion, and advice from the Scheme actuary, whether the risk presented by that person that he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high.

(5) The likely cost of providing a person with benefits under these Regulations shall be assessed as disproportionately high if it is more than 50 per cent greater than the likely cost of providing such benefits to a person who does not have an identified risk of retirement on that ground.

(6) A person who it is determined under paragraph (3) or (4) presents such a risk shall, in accordance with these Regulations, be ineligible for pension awards payable on the ground of permanent disablement.

(7) The Board may in accordance with this regulation determine the eligibility of a person—

to whom this regulation applies by virtue of paragraph 1(a) who was previously ineligible for pension awards payable on the ground of permanent disablement under this regulation or under regulation G7 of the 1988 Regulations; or

(a) to whom this regulation applies by virtue of paragraph 1(b) who was ineligible for pension awards payable on the ground of permanent disablement under regulation G7 of the 1988 Regulations on the date of the election which he is now seeking to cancel under regulation 7(5) of these Regulations,