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STATUTORY RULES OF NORTHERN IRELAND

2006 No. 268

POLICE

POLICE SERVICE OF NORTHERN IRELAND AND POLICE SERVICE OF NORTHERN IRELAND RESERVE (INJURY BENEFIT) REGULATIONS 2006

Made - - - -	*20th June 2006*
To be laid before Parliament	
Coming into operation	*25th July 2006*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 25 and 26 of the Police (Northern Ireland) Act 1998(**1**), read with Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972(**2**).

In accordance with section 72(2A)(**3**) of that Act, the Treasury has consented to the making of these Regulations and, in accordance with section 62(3) of the Police Act 1996(**4**), the Secretary of State has consulted with the Police Negotiating Board for the United Kingdom.

PART 1

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006 and shall come into operation on 25th July 2006 but have effect from 6th April 2006(**5**).

(**1**) 1998 c.32. Sections 25 and 26 are amended by section 78(1) of the Police (Northern Ireland) Act 2000. Section 25 is also amended by section 24(2) of the Police (Northern Ireland) Act 2003
(**2**) S.I. 1972/1073 (N.I. 10)
(**3**) Section 72(2A) was inserted by section 78 of and Schedule 6 to the Police (Northern Ireland) Act 2000
(**4**) 1996 c.16.
(**5**) Retrospective effect is permitted by Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972

Meaning of certain expressions and references - general provisions

2. 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 police officer, however expressed, includes a reference to a person who has been a police officer;

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

Pensionable and average pensionable pay and aggregate pension contributions

3.—(1) For the purposes of calculating an award to or in respect of a police officer his pensionable pay shall be calculated in the same way as if the award were one payable under the 1988 Regulations(**6**), in accordance with regulation G1(1) and (1A) of those Regulations.

(2) For the purposes of calculating an award to or in respect of a police officer his average pensionable pay shall be calculated in the same way as if it were an award payable under the 1988 Regulations, in accordance with regulation G1(2) to (9) of those Regulations, and as if—

(a) the relevant date for the purposes of the said regulation were the date of his last day of service as a police officer, and

(b) the provisions specified in paragraph 4(4) of Part VI of Schedule J (part-time service) to the 1988 Regulations included the following provisions of these Regulations, that is to say regulations 12(2) and (3) (amount of adult survivor's special award), 13(2)(a) (amount of adult survivor's augmented award), and 16(3), (4), (5) and (6) (amount of child's special allowance) and paragraphs 1, 2 and 4 of Schedule 5 (adult dependent relative's special pension).

(3) For the purposes of an award calculated in accordance with paragraphs (1) and (2), references in such provisions of the 1988 Regulations as are mentioned in those paragraphs to a person's pensionable service shall in the case of a police officer who has made an election under regulation G4(1) of those Regulations include references to the pensionable service which would have been reckonable by him if he had not made such an election.

(4) For the purposes of calculating an award to or in respect of a police officer his aggregate pension contributions shall be calculated in the same way as if it were an award payable under the 1988 Regulations, in accordance with regulation A9 of those Regulations.

Weekly rate of pensions and allowances

4.—(1) Where the rate at which a pension or allowance is payable or the amount thereof is expressed as an annual rate or amount then, for the purposes of these Regulations, the weekly rate or amount of that pension or allowance shall be determined as if there were 52 1/6 weeks in each year.

(2) Where for the purpose of calculating an award to an adult survivor, child or adult dependent relative it is necessary to determine average pensionable pay for a week, it shall be taken to be average pensionable pay divided by 52 1/6.

(**6**) S.R. 1988 No. 374; relevant amendments were made by S.R. 1989 No. 387, S.R. 1990 No. 411, S.R. 1993 No. 327, S.R. 1996 No. 4, S.R. 1997 No. 259, S.R. 1998 No. 240, S.R. 2002 No. 100, S.R. 2004 No. 384, S.R. 2006 No. 122, S.R 2006 No.123 and S.R. 2006 No. 152

Injury received in the execution of duty

5.—(1) A reference in these Regulations to an injury received in the execution of duty by a police officer means an injury received in the execution of that person's duty as a constable.

(2) For the purposes of these Regulations an injury shall be treated as received by a person in the execution of his duty as a constable if—

(a) the police officer concerned received the injury while on duty or while on a journey necessary to enable him to report for duty or return home after duty, or

(b) he would not have received the injury had he not been known to be a constable, or

(c) the Board is of the opinion that the preceding condition may be satisfied and that the injury should be treated as one received in the execution of duty.

(3) In the case of a person who is not a constable but is within the definition of "police officer" in the glossary set out in Schedule 1, paragraphs (1) and (2) shall have effect as if the references to a constable were references to such a person.

(4) For the purposes of these Regulations an injury shall be treated as received without the default of the police officer concerned unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

(5) Notwithstanding anything in the 1988 Regulations relating to a period of service in the armed forces, an injury received in the execution of duty as a member of the armed forces shall not be deemed to be an injury received in the execution of duty as a police officer.

Disablement

6.—(1) Subject to paragraph (2), 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) In the case of a person who is totally disabled, paragraph (1) shall have effect, for the purposes of regulations 11 and 20, as if the reference to "that disablement being at that time likely to be permanent" were a reference to the total disablement of that person being likely to be permanent.

(3) 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.

(4) Subject to paragraph (5), disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a police officer except that, in relation to the child or to the widower or surviving civil partner of a woman police officer, it means inability, occasioned as aforesaid, to earn a living.

(5) Where it is necessary to determine the degree of a person's disablement it shall be determined by reference to the degree to which his earning capacity has been affected as a result of an injury received without his own default in the execution of his duty as a police officer:

Provided that a person shall be deemed to be totally disabled if, as a result of such an injury, he is receiving treatment as an in-patient at a hospital.

(6) Notwithstanding paragraph (5), "totally disabled" means incapable by reason of the disablement in question of earning any money in any employment and "total disablement" shall be construed accordingly.

(7) Where a person has retired 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 known to the Board.

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

Disablement, death or treatment in hospital the result of an injury

7. For the purposes of these Regulations disablement or death or treatment at a hospital shall be deemed to be the result of an injury if the injury has caused or substantially contributed to the disablement or death or the condition for which treatment is being received.

Transitional provisions

8.—(1) These Regulations shall have effect as if anything done, or treated as done, under or for the purposes of the Royal Ulster Constabulary (Injury Benefit) Regulations 1988(**7**) or those provisions of the 1988 Regulations as are specified in paragraph (3) had been done under or for the purposes of the corresponding provision of these Regulations.

(2) Without prejudice to the generality of paragraph (1) references in that paragraph to anything done shall include—

(a) the determination of a question;

(b) the exercise of a discretion;

(c) the decision that a provision should apply;

(d) the making of a payment; and

(e) the giving of a notice.

(3) The provisions of the 1988 Regulations referred to in paragraph (1) are—

(a) regulation B4 (member's injury award);

(b) regulation C2 (widow's special award);

(c) regulation C3 (widow's augmented award);

(d) regulation D2 (child's special allowance);

(e) regulation D3 (child's special gratuity);

(f) regulation E1 (adult dependent relative's special pension);

(g) Part H (appeals and medical questions);

(h) regulation K2 (reassessment of injury pension);

(i) regulation K3 (reduction of pension in case of default);

(j) regulation K4 (withdrawal of pension during service as policeman); and

(k) regulation K5 (forfeiture of pension).

Revocations and amendments

9.—(1) The 1988 Regulations shall be amended in accordance with Part 1 of Schedule 2.

(2) The Regulations specified in Part 2 of Schedule 2 are hereby revoked to the extent there mentioned.

(**7**) S.R. 1988 No. 376

PART 2

AWARDS ON INJURY OR DEATH

Police officer's injury award

10.—(1) This regulation applies to a person who ceases or has ceased to be a police officer and is permanently disabled as a result of an injury received without his own default in the execution of his duty (in Schedule 3 referred to as the "relevant injury").

(2) A person to whom this regulation applies shall be entitled to a gratuity and, in addition, to an injury pension, in both cases calculated in accordance with Schedule 3; but payment of an injury pension shall be subject to the provisions of paragraph 5 of that Schedule and, where the person concerned ceased to serve before becoming disabled, no payment shall be made on account of the pension in respect of any period before he became disabled.

Disablement gratuity

11.—(1) This regulation applies to a person who—

(a) receives or received an injury without his own default in the execution of his duty,

(b) ceases or has ceased to be a police officer, and

(c) within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result of that injury.

(2) Subject to the provisions of regulations 21 and 22 (abatement), the Board shall pay to him a gratuity of an amount equal to whichever is the lesser of the following amounts, namely—

(a) five times the annual value of his pensionable pay on his last day of service as a police officer;

(b) the sum of four times his total remuneration during the 12 months ending with his last day of service as a police officer and the amount of his aggregate pension contributions in respect of the relevant period of service.

(3) For the purposes of paragraph (2)(b) the amount of aggregate pension contributions in respect of the relevant period of service shall be calculated in the case of a person by whom, immediately before his last day of service as a police officer, pension contributions were payable under regulation G2(1) of the 1988 Regulations or would have been so payable but for an election under regulation G4(1) of the 1988 Regulations, in the same way as if the award were one payable under those Regulations, calculated in accordance with regulation A9 of those Regulations.

Adult survivor's special award

12.—(1) This regulation applies to a surviving spouse or surviving civil partner ("an adult survivor") of a police officer who dies or has died as the result of an injury received without his own default in the execution of his duty ("the deceased officer").

(2) An adult survivor to whom this regulation applies shall, subject to paragraph (6) and regulation 14, be entitled to an award which shall comprise—

(a) an adult survivor's special pension calculated in accordance with paragraphs (3) to (5) subject, however, to regulation 27 (increase during first 13 weeks), and

(b) subject to paragraphs (7) and (8), a gratuity of an amount equal to 25% of the deceased officer's average pensionable pay together with, where he died while serving as a police officer, an amount equal to whichever is the greater of the following amounts—

(i) the deceased officer's average pensionable pay,