# 1990 No. 411

# POLICE

## Royal Ulster Constabulary Pensions (Amendment) Regulations 1990

*Made . . . . . 16th November 1990*

*Coming into operation . . 31st December 1990*

*To be laid before Parliament*

The Secretary of State, in pursuance of section 25 of the Police Act (Northern Ireland) 1970(**a**), read with Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972(**b**), and after consulting, in accordance with section 34(2) of the said Act of 1970, the Police Authority and the Police Association, and in accordance with section 2(3) of the Police Negotiating Board Act 1980(**c**), the Police Negotiating Board for the United Kingdom, hereby, with the concurrence of the Treasury, makes the following regulations:—

*Citation, commencement and effect*

**1.**—(1) These regulations may be cited as the Royal Ulster Constabulary Pensions (Amendment) Regulations 1990.

(2) These regulations shall come into operation on 31st December 1990 and shall have effect as on and from 6th April 1988.

*Interpretation*

**2.** In these regulations, any reference to the principal regulations is a reference to the Royal Ulster Constabulary Pensions Regulations 1988(**d**).

*Pensionable service and transfer values*

**3.**—(1) Part F of and Schedule F to the principal regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation F6—

(*a*) after paragraph (1) there shall be inserted the following paragraph:

"(1A) The reference in paragraph (1)(*a*) to service or employment by reason of which a member was subject to superannuation arrangements includes a reference to any occupation with respect to which he has accrued rights to benefits under a

(a) 1970 c. 9 (N.I.) as modified by S.I. 1973/2163 and S.I. 1981/1670
(b) S.I. 1972/1073 (N.I. 10)
(c) 1980 c. 10
(d) S.R. 1988 No. 374

personal pension scheme or any other superannuation arrangement, other than rights to benefits arising out of a free-standing additional voluntary contributions scheme; and references in this regulation to ''former service'' and ''former superannuation arrangements'' shall be construed accordingly.'';

(*b*) at the end of paragraph (3) there shall be added the following provision:

''Provided that, in the case of a member in respect of whom such a transfer value as is mentioned in paragraph (1)(*c*) was received on or after 6th April 1988, the period shall be calculated in accordance with section 2 of Part III of Schedule F''; and

(*c*) for paragraph (4)(*b*)(ii) there shall be substituted the following provision:

''(ii) the transfer value mentioned in paragraph (1)(*c*), were it to be paid, is at least as great as the product of:

(A) the annual amount of the pension to which he would, if that transfer value were paid, be entitled under regulation J1, and

(B) the factor specified in column 2 of the following table opposite his age, as set out in column 1 of that table, as at the date when the Police Authority is requested to accept that transfer value:

| *Age* | *Appropriate Factor* |
|---|---|
| 29 or under | 8 |
| 30 to 39 | 9 |
| 40 to 49 | 10 |
| 50 or over | 12.''. |

(3) In regulation F8—

(*a*) in paragraph (2)(*a*) there shall be inserted after the words ''regulation F7'', the words ''or regulation F9'';

(*b*) in paragraph (3), there shall be inserted, at the beginning, the words ''subject to paragraph (3A)'';

(*c*) after paragraph (3) there shall be inserted the following paragraph:

''(3A) In respect of service as a member on or after 6th April 1988, a transfer value payable under paragraph (3) shall be calculated in accordance with section 1 of Part III of Schedule F and paragraph (5) of regulation F9 shall have effect as if it were payable under that regulation.''; and

(*d*) in paragraph (5); the words from ''has — (*a*)'' to ''and (*b*)'' shall be omitted.

(4) After regulation F8 there shall be added the following regulation:

''*Transfer values payable following cessation of contributions*

**F9.**—(1) Subject to paragraphs (6) and (7), this regulation shall apply to a member who, not less than 12 months before attaining the age of 60 years or, if later, the age at which he may be required to retire under regulation A16(1) (*compulsory retirement on account of age*)—

(*a*) ceases or ceased on or after 1st January 1986 to serve as a member, or

(*b*) makes or has made an election under regulation G4(1) (*election not to pay pension contributions*),

and who, in either case, satisfies the conditions specified in paragraph (2).

(2) The conditions mentioned in paragraph (1) are—

(*a*) that he subsequently becomes subject to new superannuation arrangements;

(*b*) that, unless those new superannuation arrangements constitute an occupational pension scheme or personal pension scheme, he is entitled to reckon at least 2 years' pensionable service;

(*c*) that he is not entitled to a pension under Part B or, if so entitled, has neither received any payment in respect thereof nor given any notice of commutation relating thereto which has become effective;

(*d*) that he has not received any award by way of repayment of his aggregate pension contributions or a gratuity, and

(*e*) that he has, on or before the date falling—

(i) 12 months before he attains the age of 60 years,

(ii) 12 months before he attains the age at which he may be required to retire under regulation A16(1), or

(iii) 6 months after he ceased to serve as a member or, as the case may be, made an election under regulation G4(1),

whichever is the latest, or within such longer period as the Police Authority may allow in the circumstances of the particular case, given written notice to the Police Authority of his desire that this regulation should apply in his case:

Provided that in the case of a member who is becoming subject to new superannuation arrangements such as are specified in paragraph (3)(*a*), (*b*) or (*e*) of regulation F8, sub-paragraph (*e*)(iii) shall have effect, as if for "6 months" there were substituted "12 months".

(3) A member who has given notice in accordance with paragraph (2)(*e*) may, without prejudice to the giving of another such notice, withdraw that notice by giving written notice to that effect to the Police Authority under this paragraph:

Provided that notice under this paragraph shall be of no effect if it is given at a time when the Police Authority have already entered into an agreement with a third party to pay a transfer value under paragraph (4) in respect of him.

(4) Subject to paragraph (5), where this regulation applies the Police Authority shall, within 12 months of receipt of notice given in accordance with paragraph (2)(*e*) or, if earlier, the date on which the member concerned attains the age of 60 years, pay a transfer value calculated in accordance with section 1 of Part III of Schedule F to the authority or person empowered to receive such payments for the purposes of the new superannuation arrangements to which the member becomes subject:

Provided that if disciplinary proceedings or proceedings before a court have been commenced against the member concerned within 12 months of the date on which contributions under regulation G2(1) ceased to be payable in respect of him and it appears to the Police Authority that the proceedings may lead to the forfeiture of any pension, entitlement to which arises as a result of the payment of such contributions, the period within which payment under this paragraph is to be made shall be—

(*a*) that specified in the foregoing provisions of this paragraph, or

(*b*) 3 months from the conclusion of those proceedings (including any proceedings on appeal),

whichever ends later.

(5) Where the new superannuation arrangements to which the member concerned is becoming subject are not such as are specified in paragraph (3)(*a*), (*b*) or (*e*) of regulation F8, the transfer value payable under this regulation shall be—

(*a*) in the event of a failure, without reasonable excuse, on the part of the Police Authority to make payment within 6 months of the expiration of the period specified in paragraph (4), the greater of the following amounts:

(i) the sum of the amount calculated in accordance with Part III of Schedule F and the interest on that amount at the judgment debt rate, and

(ii) the amount calculated in accordance with the said Part III as at the date on which payment is in fact made; and

(*b*) in the event that a transfer value in respect of him has been paid to the Police Authority under regulation F6, the greater of the following amounts:

(i) the amount calculated in accordance with Part III of Schedule F, and

(ii) the sum of the transfer value paid under regulation F6 and any contributions paid in respect of him to the Police Authority under regulation G2(1).

(6) In the case of a member who has received such an award as is mentioned in paragraph (2)(*d*) but has, within 6 months of becoming subject to new superannuation arrangements, or within such longer period as the Police Authority may allow in the circumstances of his case, paid to the Police Authority an amount equal to that of the said award, paragraph (2) shall have effect as if sub-paragraph (*d*) were omitted:

Provided that, in the case of a member who is becoming subject to new superannuation arrangements such as are specified in paragraph (3)(*a*), (*b*) or (*e*) of regulation F8, this paragraph shall have effect as if for "6 months" there were substituted "12 months".

(7) In the case of a member who has made an election under regulation G4(1) and whose service as such last commenced at least 2 years before 6th April 1988, his reckonable service for the purposes of the pension benefits, the capitalised value of which is payable under paragraph (4), shall be deemed to have commenced on that date.

(8) In this regulation and elsewhere in this Part—

"occupational pension scheme" and "personal pension scheme" have the same meanings as in the Social Security (Northern Ireland) Order 1986(**a**).".

(5) After Part II of Schedule F there shall be added the following provisions:

"PART III Regulations F6, F8 and F9

CALCULATION OF TRANSFER VALUES AND RECKONABLE SERVICE BY REFERENCE TO ACCRUED RIGHTS

*Section 1 — Calculation of transfer values*

**1.** Subject to paragraphs 2 and 3, a transfer value payable in respect of a member by the Police Authority under regulation F8 or F9 which is to be calculated in accordance with this section shall be an amount equal to the capitalised value of his accrued rights and any associated rights under the Pensions (Increase) Acts, less the amount of any state scheme premium under Part IV of the Social Security Pensions (Northern Ireland) Order 1975(**b**) which the Police Authority has paid and not recovered included in the valuation of those rights.

**2.** Where the Police Authority has determined that any pension payable to or in respect of the member concerned shall be forfeited, in whole or in part, under regulation K5, the transfer value shall be reduced by an amount equal to the capitalised value of that pension, or of that part of the pension which is so forfeited, as the case may be.

**3.** Where the new superannuation arrangements to which the member concerned is becoming subject are not a contracted-out scheme and—

(*a*) the authority or person empowered to receive payments for the purposes of those arrangements is willing or able to have transferred to them only the liability for the member's accrued rights other than his and his widow's or widower's rights to guaranteed minimum pensions, and

(*b*) the member concerned does not require the Police Authority to use that portion of his transfer value which represents those guaranteed minimum pensions in one of the ways specified in paragraph 13(2)(*a*) to (*c*) of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975(**c**).

the transfer value payable in respect of him shall be reduced by an amount sufficient for the Police Authority to meet their liability in respect of the member's and his widow's or widower's guaranteed minimum pensions.

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(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) S.I. 1975/1503 (N.I. 15)
(**c**) Schedule 1A was inserted by paragraph 3 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and amended by paragraphs 23 and 24 of Schedule 9 to the Social Security (Northern Ireland) Order 1986