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."

(e) 1966. c. 6 (N.I.).

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.