1970. No. 143 **[NC]**

COMPENSATION AND PENSIONS

REGULATIONS, DATED 6TH MAY 1970, 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 Robert W. Porter, Q.C., 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) (No. 2) Regulations 1970 and shall be construed as one with the Ulster Special Constabulary Pensions Regulations 1950 to 1970 and shall be included in the Regulations which may be cited together as the Ulster Special Constabulary Pensions Regulations 1950 to 1970.

Commencement

2. These Regulations shall have effect as from 1st January 1970.

Amendments of the Ulster Special Constabulary Pensions Regulations 1950

3. The Ulster Special Constabulary Pensions Regulations 1950(c), as amended(d), shall be further amended as follows:—

(1) After Regulation 52B there shall be added the following Regulation:—

"Compensation in respect of disbandment of the Force

52C.—(1) Where the retirement of a member as described in paragraph 1 of the Sixth Schedule has become necessary because of the disbandment of the Force, he shall be entitled to have his case considered for the award of long-term compensation allowance, retirement compensation or related payments in accordance with the provisions of the said Schedule.

(2) The provisions of Parts I, II, III, IV, V, VII, IX, X and XI of these Regulations shall, in so far as they are applicable, have effect in relation to retirement compensation and related payments payable in accordance with the Sixth Schedule as they have effect in relation to other awards under these Regulations, except where the said Schedule otherwise provides."

(2) After the Fifth Schedule, there shall be added the following Schedule:—

(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. & O. (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.

"SIXTH SCHEDULE

Compensation for Loss or Diminution of Emoluments or of Pension Rights on Disbandment of the Force

Persons to whom the Schedule applies

1.—(1) Subject to the provisions of sub-paragraphs (2) and (3), this Schedule shall apply only to such a permanent member as is described in Parts I, II and III of the Fourth Schedule or a full-time member who has not attained the age of 65 years on 30th April 1970 (hereinafter in this Schedule referred to as the 'relevant date'):

Provided that the Ministry may apply any or all of the provisions of this Schedule to—

(*a*) any person who, not having died before the relevant date, had served as such a member and retired after 31st December 1969 but before the relevant date; and

(*b*) with the consent of the Ministry of Finance, any other member:

and provided further that the provisions in this Schedule relating to retirement compensation shall not apply to any person who becomes a member of the Royal Ulster Constabulary.

(2) Where the context so requires, the provisions of this Schedule shall apply to the widows, children and dependants of the persons specified in sub-paragraph (1) other than any who become members of the Royal Ulster Constabulary.

(3) The provisions of this Schedule relating to compensation for a widow, children or dependants shall apply also to the widow, children or dependants of a person who would have been included in provision (*a*) of sub-paragraph (1) had he not died before the relevant date.

Conditions for payment of long-term compensation

2.—(1) Without prejudice to any other requirement of this Schedule, the conditions for the payment of long-term compensation to any person are that—

(*a*) he has suffered loss of employment or loss or diminution of emoluments attributable solely to the disbandment of the Force; and

(*b*) he has made a claim for such compensation in accordance with paragraph 21 within 6 months (or such longer period as the Ministry may in special circumstances allow) from the commencement of the period in respect of which the claim is made.

(2) Claims for long-term compensation for loss of employment shall in all respects be treated as claims for such compensation for the loss of emoluments occasioned thereby and the provisions of this Schedule shall apply to all such claims accordingly.

Factors to be considered in determining payment of long-term compensation

3.—(1) For the purpose of determining whether long-term compensation for loss or diminution of emoluments should be paid to any person, and, if so, the amount of the compensation (subject to the limits set out in this Schedule) the Ministry shall have regard to the extent to which he has sought suitable employment and the emoluments which he might have acquired by accepting other suitable employment offered to him.

(2) No account shall be taken for the purposes of this paragraph of an offer of employment where the Ministry is satisfied—

(*a*) that acceptance would have involved undue hardship to the person claiming compensation; or

(*b*) that he was prevented from accepting the offer by reason of ill-health or other circumstances beyond his control; or

(*c*) that the offer is conditional on the claimant passing an examination or test.

Amount of long-term compensation payable for loss of emoluments

4.—(1) Long-term compensation for loss of emoluments shall, subject to the provisions of this Schedule, be payable until the person to whom it is payable attains the age of 65 years or until his death, whichever first occurs, and shall not exceed a maximum rate calculated in accordance with the provisions of sub-paragraph (2).

(2) Long-term compensation shall, in respect of a person to whom it applies, not exceed an annual rate equivalent to two-thirds of his annual emoluments in the Force and subject as aforesaid shall—

(*a*) where he is not in employment, be equivalent to the annual rate of two-thirds of his annual emoluments in the Force, abated by the annual rate of any unemployment, sickness or industrial injuries benefits or any training grant from public funds to which he may be entitled, excluding any National Insurance benefits claimable by him in respect of a dependant; or

(*b*) where he is in employment, be equivalent to the difference between the annual rate of his emoluments in the Force and the annual rate, where this is less, of his emoluments in his employment.

Intervals at which long-term compensation is payable

5. Long-term compensation shall, subject to the provisions of this Schedule, be paid to a person at intervals equivalent to those at which the emoluments of his employment in the Force were previously paid or at such other intervals as may be agreed between the person and the Ministry.

Termination of long-term compensation

6. Except for a person to whom paragraph 13(3) or (4) applies, the right to long-term compensation shall cease from the date from which a retirement award becomes payable.

Definition of emoluments

7. For the purpose of calculating the amount of long-term compensation awarded to a person—

(*a*) emoluments in the Force shall be deemed to be the sum of the annual rate of pay (advanced through the pay scale applicable on the relevant date) to which he would have been entitled had he continued to serve and the annual rent allowance, if any, to which he was entitled on the relevant date;

(*b*) emoluments in any subsequent employment shall be deemed to be the sum of his annual earnings and any rent allowance or the annual value of any accommodation attached to such employment;

so, however, that where a person had earned emoluments prior to the relevant date from a source other than the Ulster Special Constabulary an amount equal to the emoluments so earned in the year ending on the relevant date shall be excluded from the emoluments mentioned in (*b*) so long as he continues to earn from that source an equivalent annual amount, or if on continuing to earn emoluments from that source these are reduced, an amount equal to such reduced earnings.

Date from which long-term compensation is to be payable

8.—(1) Long-term compensation shall be payable with effect from the date of the claim or from any earlier date permitted by the succeeding provisions of this paragraph.

(2) Where a claim for long-term compensation is duly made within 13 weeks of the occurrence of the loss or diminution which is the subject of the claim, the award shall be made retrospective to the date on which the loss or diminution occurred.

(3) Where a claim for long-term compensation is made after the expiry of the period mentioned in sub-paragraph (2), the award may at the discretion of the Ministry be made retrospective to a date not earlier than 13 weeks prior to the date on which the claim was made:

Provided that if the Ministry is satisfied that the failure to make the claim within the period mentioned in sub-paragraph (2) was due to ill-health or other circumstances beyond the claimant's control, the award may be made retrospective to a date not earlier than that on which the loss or diminution occurred.

Advance payment of long-term compensation

9.—(1) Within 6 months of the relevant date a person to whom this Schedule applies, other than a person who elects to take premature payment of his lump sum retirement compensation award in accordance with paragraph 13(3) or (4) may elect to take an advance by way of lump sum of the long-term compensation payable in his case under either method 1, which shall be a repayable advance, as set out in sub-paragraph (2), or method 2, which shall be a non-repayable advance, as set out in sub-paragraph (3).

(2) The provisions of method 1 shall be as follows:—

(*a*) The person concerned may elect to receive a sum equal to one-quarter of the maximum annual rate of long-term compensation payable in his case, multiplied by a number not exceeding 6, or, in the case of a person who has attained the age of 59 years, a number not exceeding the number of years (including any fraction of a year) by which his age is less than 65 years.

(*b*) The Ministry shall pay the sum specified in sub-paragraph (*a*) provided it is satisfied, taking into account all the relevant circumstances, that the sum is likely to be repaid in accordance with the following provisions of this paragraph.

(*c*) Repayment to the Ministry of the sum specified in sub-paragraph (*a*) together with interest thereon shall be in accordance with and subject to the following provisions of this paragraph.

(*d*) Repayment shall be made—

(i) by equal instalments at the same intervals at which long-term compensation would be payable and over a number of years not exceeding 6 or the number of years (including any fraction of a year) until the person attains the age of 65, whichever is the less, commencing from the date of the payment; or

(ii) where a person is in receipt of long-term compensation, by instalments of such amount as, taken together with deductions from instalments of long-term compensation, will enable repayment of the sum specified in (*a*) to be effected within the number of years as is mentioned in (i).

(*e*) If a repayment instalment is not made by the due date the Ministry may, without prejudice to any other action open to it, take legal action for the recovery of any amount, including interest, outstanding.

(*f*) If a repayment instalment is outstanding at the date on which a retirement award is due to come into payment, the Ministry may deduct from moneys payable under such an award an amount equal to the outstanding instalment.

(*g*) No interest shall be charged in respect of the first year following the payment but thereafter interest shall be payable as follows on the amount of the sum outstanding from time to time—

(i) in respect of the second and remaining number of years in respect of which the sum was calculated, at 5% per annum; and

(ii) in respect of any subsequent period, at a rate to be determined by the Ministry with the consent of the Ministry of Finance.

(*h*) Where the death of a person to whom a sum was paid in accordance with sub-paragraph (*a*) occurs within the agreed period of repayment, repayment of the balance due, other than any arrears outstanding at the date of death, shall be waived.

(3) The provisions of method 2 shall be as follows:—

(*a*) The person concerned may elect to receive a sum equal to one-quarter of the maximum annual rate of long-term compensation payable in his case, multiplied by 6, or in the case of a person who has attained the age of 59 years the number of years (including any fraction of a year) by which his age is less than 65 years.

(*b*) Where a person elects to receive the sum referred to in sub-paragraph (*a*) the annual sum referred to in paragraph 4(2)—

(i) shall not exceed one-half of his annual emoluments in the Force;

(ii) where he is not in employment, be equal to one-half of his annual emoluments in the Force, abated by the annual rate of any unemployment, sickness or industrial injuries benefit or any training grant to which he might be entitled, excluding any National Insurance benefits claimable by him in respect of a dependant; or

(iii) where he is in employment, then, within the limitation imposed by (i), be equal to the difference between five-sixths of his annual emoluments in the Force and the annual amount, where this is less, of his emoluments in his employment.

Compounding of long-term compensation

10. A person entitled to long-term compensation under paragraph 4 may, with the approval of the Ministry, elect to receive in lieu of any future instalments of such compensation falling due a lump sum amount calculated by multiplying two-thirds of the annual rate of such compensation as then assessed by 9 or by the number of years (including any fraction of a year) remaining before he will attain the age of 65 years, whichever is the less.

Retirement Compensation, etc.

Entitlement to retirement compensation and related payments

11.—(1) The Ministry shall, subject to the provisions of this Schedule, pay retirement compensation to any person to whom it applies and shall make the other payments for which provision is made in paragraph 16.

(2) Paragraph 2 shall apply in relation to retirement compensation as it applies in relation to long-term compensation.

Additional factors governing payment of retirement compensation

12.—(1) Subject to the provisions of this Schedule, the Ministry, in calculating the annual rate of the retirement compensation payable to a person to whom the Schedule applies, shall credit him with additional pensionable service on the following basis, namely—

If on the relevant date—

(*a*) he has attained the age of 54 but not 55 years: 10 years;

(*b*) he is 55 years of age or older: such number of years and fraction of a year as he would have required to serve until he attained the age of 65; or

(*c*) he has not attained the age of 54: within a maximum of 10 years, one year in respect of each completed year of reckonable pensionable service; and, if his service includes a fraction of a year equal to or in excess of six months, one year in respect thereof.

(2) When retirement compension is awarded or when an award is reviewed under paragraph 19, the additional compensation payable in consequence of any pensionable service credited to a person under sub-paragraph (1) may be reduced or withheld to such extent as the Ministry may think reasonable, having regard to any pension in respect of any further employment obtained by him.