

1988 No. 376

POLICE

Royal Ulster Constabulary (Injury Benefit) Regulations 1988

Made 3rd October 1988

Coming into operation 1st January 1989

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 for Northern Ireland and the Police Association for Northern Ireland, 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:—

PART I

PRELIMINARY

Citation

1. These regulations may be cited as the Royal Ulster Constabulary (Injury Benefit) Regulations 1988.

Commencement and effect

2. These regulations shall come into operation on 1st January 1989 and shall have effect as from 25th November 1982.

Interpretation

3.—(1) Subject to the following provisions of these regulations, these regulations shall be construed as one with the Royal Ulster Constabulary Pensions Regulations 1988(d) (hereinafter referred to as “the principal regulations”).

(2) Without prejudice to paragraph (1)—

(a) in these regulations—

(i) “taxable allowances” includes all taxable allowances payable by virtue of regulations from time to time in force under section 25 of the Police Act (Northern Ireland) 1970;

(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

- (ii) "total remuneration", in relation to a member, means the sum of his pensionable pay and taxable allowances payable to him;
 - (iii) notwithstanding regulation A11(3) of the principal regulations, "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; and
- (b) in the case of a person who is totally disabled, regulation A11(1) of the principal regulations shall have effect, for the purposes of these regulations, as if the reference to "that disablement being likely to be permanent" were a reference to the total disablement of that person being likely to be permanent.

PART II

BENEFIT ON DISABLEMENT OR DEATH

Disablement gratuity

4.—(1) This regulation shall apply to a person who—

- (a) receives or received an injury without his own default in the execution of his duty, whether before, on or after 25th November 1982; and
- (b) on or after that date ceases or has ceased to be a member; and
- (c) within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result thereof.

(2) Subject to the following provisions of these regulations, the Police Authority 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 member;
- (b) the sum of four times his total remuneration during the 12 months ending with his last day of service as a member and the amount of his aggregate pension contributions in respect of the relevant period of service.

Death gratuity

5.—(1) Subject to paragraph (2), this regulation shall apply to a member who—

- (a) receives or received an injury without his own default in the execution of his duty, whether before, on or after 25th November 1982; and
- (b) was serving as such a member on or after that date; and
- (c) within 12 months of so receiving that injury dies or has died as a result thereof.

(2) In the case of a person who had ceased to serve as a member before his death, this regulation shall only apply to him if his death also occurred before any decision by a medical authority under regulation H1, H2 or H3 of the principal regulations that he was totally and permanently disabled as a result of that injury and where this regulation applies it shall apply to the exclusion of regulation 4.

(3) Subject to the following provisions of these regulations, where a member to whom this regulation applies—

- (a) leaves a widow (unless, by reason of regulation C5 or C8 of the principal regulations, she would not qualify for a special award under regulation C2 thereof); or
- (b) does not leave any such widow, but leaves a child (unless, by reason of regulation D5(1), (3), (4) or (5) of the principal regulations, that child would not qualify for a special allowance under regulation D2 thereof); or
- (c) does not leave any such widow or child, but leaves a dependent relative to whom a special pension may be paid under regulation E1 of the principal regulations,

the Police Authority shall pay to his widow or, as the case may be, to the child or dependent relative a gratuity of an amount equal to whichever is the lesser of the following amounts, namely—

- (i) five times the annual value of his pensionable pay on his death or, if earlier, on his last day of service as a member;
- (ii) the sum of four times his total remuneration during the 12 months ending with his death, or, if earlier, with his last day of service as a member and the amount of his aggregate pension contributions in respect of the relevant period of service.

(4) Where a member to whom this regulation applies leaves two or more children or two or more dependent relatives, then the amount of the gratuity so payable shall be divided by the Police Authority among the children or dependent relatives (as the case may be) in their discretion.

PART III GENERAL

Gratuities paid in anticipation

6. Where, before 1st January 1989, the Police Authority pays to any person a gratuity in respect of the death or disablement of a member as the result of an injury received by him in the execution of his duty, and the gratuity is at any time thereafter certified by the Police Authority as having been so paid in anticipation of the coming into force of these regulations—

- (a) nothing in these regulations shall entitle that person to any further payment in respect of the death or disablement of the member in question; and
- (b) for the purposes of these regulations, the gratuity shall be treated as if it were a gratuity paid to that person under these regulations.

Abatement in respect of gratuities payable under the principal regulations

7.—(1) The amount of any gratuity payable to a member under regulation 4 shall be reduced by deducting therefrom the amount of any gratuity paid, or treated as paid, to him under regulation B2(4), B3(4) or B4 of the principal regulations.

(2) The amount of any gratuity payable to any person under regulation 5 in respect of the death of a member shall be reduced by deducting therefrom—

- (a) the amount of any gratuities paid, or treated as paid, to the member or his estate under regulation B2(4), B3(4), B4 or E3 of the principal regulations;
 - (b) in the case of a widow, where a gratuity under regulations C2(2) of the principal regulations is payable to her or her estate—
 - (i) unless sub-paragraph (ii) below applies, the amount of the gratuity;
 - (ii) where the said amount falls to be calculated in accordance with regulation C3(2) of the principal regulations, an amount equal to the amount of the gratuity which would be payable to her or her estate under the said regulation C2(2) if—
 - (A) the said regulation C3 had not applied;
 - (B) the husband had died while serving as a member (whether or not he was in fact so serving when he died); and
 - (C) the husband's average pensionable pay was greater than 2¼ times the annual amount of the ill-health pension which would have been payable under regulation B3 of the principal regulations to the husband if he had retired on the grounds of permanent disability on the day on which he had died (whether or not it was in fact greater); and
 - (c) in the case of any other person, the amount of any gratuity paid to that person or his estate in respect of the death of that member under regulation D3 or regulation E2 of the principal regulations.
- (3) In any case where, by reason of regulation 5(4) a payment in respect of the death of a member falls to be divided among two or more persons, that payment shall, before it is so divided, be reduced by deducting therefrom the amount of any gratuities paid as mentioned in paragraph (2).

Abatement in respect of damages or compensation

8.—(1) The Police Authority shall take into account against any gratuity payable under these regulations any damages or compensation which are recovered by any person in respect of the death or disability to which the gratuity relates and the gratuity may be withheld or reduced accordingly.

(2) For the purposes of this regulation—

(a) a person shall be deemed to have recovered damages—

(i) whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce the claim; or

(ii) if they are recovered for that person's benefit in respect of a claim under the Fatal Accidents (Northern Ireland) Order 1977(a);

(b) "compensation" does not include an award of compensation made to a person under the Criminal Injuries (Compensation) (Northern Ireland) Order 1977(b) if the amount of the award was reduced by the amount of any gratuity paid or payable to him under these regulations.

(a) S.I. 1977/1251 (N.I. 18)

(b) S.I. 1977/1248 (N.I. 15)

(3) No payment in respect of a gratuity under these regulations shall be made to a person unless he has given to the Police Authority a written undertaking that if he recovers any damages or compensation in respect of the death or disability to which the gratuity relates he will inform them thereof and, unless the damages or compensation have been taken into account in pursuance of paragraph (1), will pay to the Police Authority such sum as they may demand not exceeding—

- (a) where the amount of the payment made by the Police Authority is less than the net amount of the damages or compensation, the amount of that payment;
- (b) where the amount of that payment is not less than the net amount of the damages or compensation, an amount equal to the net amount of the damages or compensation;

and, in this paragraph, “the net amount” in relation to damages or compensation recovered by any person means the amount of the damages or compensation after deducting tax payable in the United Kingdom or elsewhere to which the damages or compensation are subject.

(4) The Police Authority shall not demand any payment in pursuance of such an undertaking as is mentioned in paragraph (3)—

- (a) after the death of the person to whom the payment in respect of a gratuity under these regulations was made; or
- (b) after the expiration of 2 years from the date on which the final determination of the amount of the damages or compensation first came to the knowledge of the Police Authority.

Application of principal regulations

9.—(1) Without prejudice to regulation 3(2), and subject to the preceding provisions of these regulations, the principal regulations shall apply, subject to the necessary modifications, in relation to awards under these regulations as they would apply in the circumstances of the case to the corresponding award under those regulations.

(2) For the purposes of this regulation, “the corresponding award” means—

- (a) in relation to a gratuity payable under regulation 4, a gratuity payable under regulation B4 of the principal regulations;
- (b) in relation to a gratuity payable under regulation 5—
 - (i) in the case of a widow, a gratuity payable under regulation C2 of those regulations;
 - (ii) in the case of a child, a gratuity payable under regulation D3 of those regulations;
 - (iii) in the case of a dependent relative, a gratuity payable under regulation E2 of those regulations.

(3) Without prejudice to the foregoing, Part H of the principal regulations (appeals and medical questions) shall apply for the purposes of determining eligibility for awards under these regulations as it applies to the determination of questions under those regulations, and as if the questions to be referred by

the Police Authority to a duly qualified medical practitioner under regulation H1(2) of those regulations were the following—

- (a) whether the person concerned is totally disabled;
- (b) whether that total disablement is likely to be permanent;
- (c) whether the disablement is the result of an injury received in the execution of duty; and
- (d) the date on which the person became totally disabled.

Northern Ireland Office
3rd October 1988

Tom King
One of Her Majesty's Principal
Secretaries of State

We concur,
19th October 1988

David Lightbown
Tony Durant
Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision for enhanced benefits in case of death or total disablement resulting from an injury received by a member of the Royal Ulster Constabulary in the execution of his duty. The benefit is in the form of a gratuity payable, in the case of death, to the widow, child or dependent relative of the member and, in the case of disablement, to the member himself. The gratuity is to be abated by the amount of any gratuity under regulation B2, B3, B4, C2, D3 or E2, as the case may be, of the Royal Ulster Constabulary Pensions Regulations 1988 (the principal regulations) and by the amount of any damages or compensation recovered in respect of the death or disability in question

The regulations are to be construed with the principal regulations, which are applied in relation to awards under these regulations with necessary modifications.

The regulations come into operation on 1st January 1989 and have effect as from 25th November 1982 (retrospection is authorised by Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972).