

2002 No. 100

POLICE

Police Service of Northern Ireland Pensions Regulations 2002

Made 7th March 2002

Coming into operation 12th April 2002

To be laid before Parliament

The Secretary of State, in pursuance of section 25 of the Police (Northern Ireland) Act 1998(a), and after consulting, in accordance with section 25(8) of that Act, the Northern Ireland Policing Board and the Police Association and, in accordance with section 62(3) of the Police Act 1996(b), the Police Negotiating Board for the United Kingdom, hereby, with the concurrence of the Treasury, makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Police Service of Northern Ireland Pensions Regulations 2002 and shall come into operation on 12th April 2002, but—

- (a) regulation 4(1) to (8) (so far as those paragraphs relate to maternity leave) shall have effect as from 10th June 1994;
- (b) regulation 4(1) to (8) (so far as those paragraphs do not have effect in accordance with sub-paragraph (a) above) shall have effect as from 1st September 1995.

Amendment of the Royal Ulster Constabulary Pensions Regulations 1988

2. Subject to regulation 5, the Royal Ulster Constabulary Pensions Regulations 1988(c) (“the principal Regulations”) shall be amended in accordance with the provisions of regulations 3-4 and any reference in those provisions to a numbered regulation is a reference to the regulation so numbered in the principal Regulations.

Police Trainees

3.—(1) After regulation A13 there shall be inserted—

“*Service as a police trainee*

A13A.—(1) In the case of a member who became a member on completion of his period of service as a police trainee—

(a) 1998 c. 32

(b) 1996 c. 16

(c) S.R. 1988 No. 374 as amended by S.R. 1988 No. 438, S.R. 1989 No. 387, S.R. 1990 No. 411, S.R. 1993 No. 223, S.R. 1993 No. 327, S.R. 1996 No. 4, S.R. 1997 No. 259, S.R. 1998 No. 240 and S.R. 2001 No. 263

- (a) a reference in these regulations to a person becoming a member of the force whether by joining, re-joining or transferring to, the force, shall be construed as including a reference to a person becoming a police trainee;
- (b) any reference to an injury received in the execution of a person's duty as a member shall include a reference to an injury received as a consequence of a person's service as a police trainee;
- (c) for the purposes of sub-paragraph (b), an injury is received as a consequence of a person's service as a police trainee if—
 - (i) the police trainee concerned received the injury while attending training (within the meaning of the Police Trainee Regulations (Northern Ireland) 2001)(a) or while on a journey necessary to enable him to attend training or return home after training, or
 - (ii) he would not have received the injury had he not been known to be a police trainee, or
 - (iii) the Chief Constable is of the opinion that the preceding condition may be satisfied and that the injury should be treated as one received as aforesaid.”

(2) In regulation 2 of the Royal Ulster Constabulary Pensions (Additional Voluntary Contributions) Regulations 1993(b) (interpretation) after paragraph (2) there shall be added—

“(3) In the case of a member who became a member on completion of his period of service as a police trainee—

- (a) any reference to an injury received in the execution of a person's duty as a member shall include a reference to an injury received as a consequence of a person's service as a police trainee;
- (b) for the purposes of sub-paragraph (a), an injury is received as a consequence of a person's service as a police trainee if—
 - (i) the police trainee concerned received the injury while attending training (within the meaning of the Police Trainee Regulations (Northern Ireland) 2001) or while on a journey necessary to enable him to attend training or return home after training; or
 - (ii) he would not have received the injury had he not been known to be a police trainee, or
 - (iii) the Chief Constable is of the opinion that the preceding condition may be satisfied and that the injury should be treated as one received as aforesaid.”

Unpaid sick leave and maternity leave

4.—(1) In regulation F1(1), for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs:

(a) S.R. 2001 No. 369
 (b) S.R. 1993 No. 249, as amended by S.R. 1997 No. 464

- “(a) any period of unpaid maternity leave granted in the case of a woman which ended before 27th February 1986;
- (b) any period of unpaid maternity leave granted in the case of a woman falling on or after 27th February 1986 which ended before 10th June 1994 in respect of which the conditions specified in paragraph (2) are not satisfied;
- (c) any period of unpaid maternity leave falling on or after 10th June 1994 (not being a period which falls within the first 14 weeks of any period of maternity leave taken by a person in respect of whom no election under regulation G4 was effective immediately before the commencement of that period of unpaid maternity leave) in respect of which the conditions specified in paragraph (3) are not satisfied;
- (d) any period of unpaid sick leave taken after 31st August 1995 in respect of which the conditions specified in paragraph (4) are not satisfied;
- (e) any other period of unpaid leave falling on or after 27th February 1986 except such a period taken by a person who ceased to serve as a member before 1st November 1989.”.

(2) In regulation F1(2), for “(a)(ii)” there shall be substituted “(b)”.

(3) After regulation F1(2) there shall be inserted the following paragraphs:

“(3) The conditions referred to in sub-paragraph (c) of the provision to paragraph (1) are that the person concerned—

- (a) was serving as a member during the period immediately preceding a period of maternity leave which includes the period of unpaid maternity leave in question and no election under regulation G4 was effective in respect of that person immediately before the commencement of that period of unpaid leave;
- (b) in accordance with the provisions of paragraph (5) pays to the Northern Ireland Policing Board a sum equal to the sum of the pension contributions which would have been payable for the period of unpaid maternity leave in question if her notional pensionable pay during that period had been at the same rate as her pensionable pay (including any statutory maternity pay payable to her under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a)) immediately before the commencement of the period of unpaid maternity leave which constituted or included the period in question.

(4) The conditions referred to in sub-paragraph (d) of the proviso to paragraph (1) are that the person concerned—

- (a) was serving as a member during the period immediately preceding a period of sick leave which includes the period of unpaid sick leave in question and no election under regulation G4 was

(a) 1992 c. 7

effective in respect of that person immediately before the commencement of that period of unpaid leave;

- (b) in accordance with the provisions of paragraph (5) pays to the Northern Ireland Policing Board a sum equal to the sum of the pension contributions which would have been payable for the period of unpaid sick leave in question if his notional pensionable pay during that period had been at the same rate as his pensionable pay immediately before the commencement of the period of unpaid sick leave which constituted or included the period in question;
 - (c) that the period of unpaid sick leave in question—
 - (i) does not exceed six months; and
 - (ii) when aggregated with any other period or periods of unpaid sick leave which fulfils, or all of which fulfil, the conditions specified in sub-paragraphs (a) and (b), does not exceed twelve months.
- (5) (a) The person concerned shall, by notice in writing given to the Northern Ireland Policing Board within a period ending—
- (i) three months after the day on which the period of leave which includes the period of unpaid leave in question ended, or
 - (ii) on the day, if earlier, on which he last serves as a member,

inform the Northern Ireland Policing Board that he wishes to make the payment referred to in paragraph (3)(b) or (4)(b) and in respect of which period of leave, and which method of payment under sub-paragraph (c) he elects to use:

Provided that where the person concerned dies before the end of the period specified in this sub-paragraph without having given such notice, the condition so specified shall be deemed to have been satisfied in respect of any period of leave which would otherwise be reckonable by him under this regulation and the person concerned shall be deemed to have elected to make payment by way of instalments under sub-paragraph (c)(ii).

- (b) On receipt of the notice referred to in sub-paragraph (a), the Northern Ireland Policing Board shall calculate the amount due under paragraph (3)(b) or (4)(b) and give written notice of that amount to the person concerned.
- (c) Payment under paragraph (3)(b) or (4)(b) may be made by the person concerned either—
 - (i) by way of a lump sum; or
 - (ii) by instalments on the same dates as pension contributions are payable by him under regulation G2(1):

Provided that where the person concerned has elected to make payment by way of instalments under sub-paragraph (ii), the balance due after payment of any of those instalments may be paid

by way of a lump sum equal to that balance at any time before the due date.

- (d) The total amount due under paragraph (3)(b) or (4)(b) shall be paid no later than 6 months after the person concerned is notified by the Northern Ireland Policing Board as to the amount payable or, if he ceases to serve as a member before then, before the date on which he so ceases (“the due date”):

Provided that—

- (i) in a case where the person concerned ceases to serve as a member before the total amount due has been paid under this paragraph, any lump-sum payment made within two months of so ceasing or of receiving notification from the Northern Ireland Policing Board as to the amount payable, whichever is the later, shall be deemed to have been made by the due date;
- (ii) in a case where the person concerned has elected to pay the amount due by instalments and remains in service as a member throughout the period during which the instalments are paid any amount which remains due as at the due date may be paid by instalments after that date but no later than 30 months after the date to the extent necessary to ensure that the instalments paid, together with the total of any other contributions payable under regulations made under the Act other than the Royal Ulster Constabulary Pensions (Additional Voluntary Contributions) Regulations 1993(a), do not exceed 15% of the person’s emoluments in the tax year in which the election takes effect;

and in this sub-paragraph “emoluments” has the meaning given in regulation 2(2) of those Regulations of 1993.

- (e) Where the person concerned has not paid the full amount due in accordance with the foregoing provisions of this paragraph, the proportion of the unpaid leave in question which shall be reckonable as pensionable service shall be the same proportion as the amount which has been so paid bears to the total amount due:

Provided that where the person concerned dies before the due date there shall be reckonable the full period of unpaid leave in question notwithstanding that the amount due has, in full or in part, not been paid in accordance with the provisions of sub-paragraphs (c) and (d).

- (f) A member shall be treated, for the purposes of calculating any award under these Regulations as having made pension contributions throughout any period or periods of unpaid leave reckonable as pensionable service by virtue of payments made in accordance with this paragraph; and any such period or periods shall be treated for those purposes as part of a continuous period

ending with the last day of unpaid leave during the period of service as a member of the person concerned.”

(4) Regulation F2 shall be amended as follows:

(a) at the end of the proviso there shall be added the words “, F1(3) or F1(4)”.

(5) In regulation G1(3) after the words “by way of punishment” there shall be inserted the words “or by reason of a period of sick leave or maternity leave being taken”.

(6) After regulation G1(3), there shall be inserted the following paragraph:

“(3A) Where the period referred to in paragraph (2) includes a period of unpaid leave in respect of which payment has been made under regulation F1(3) or (4), the pensionable pay during that period shall, for the purposes of determining average pensionable pay, be taken to be the pay to which he would have been entitled had the period of unpaid leave in question not been taken; and accordingly the aggregate of his pensionable pay in respect of that period shall not be taken to exceed the amount which he would have received had the period of unpaid leave in question not been taken.”

(7) In regulation G1(5)(b), at the end there shall be added the words “or the last day in respect of which payment has been made under regulation F1(3) or (4), whichever is the later”.

(8) In Schedule A (glossary of expressions) there shall be inserted—

(a) after the definition of “inspector” the following definition:

““maternity leave” has the same meaning as in regulation 33 of the Royal Ulster Constabulary Regulations 1996”(a);

(b) after the definition of “serviceman” the following definition:

““sick leave” means leave taken in accordance with regulation 31 of the Royal Ulster Constabulary Regulations 1996;”; and

(c) after the definition of “transfer” the following definition:

““unpaid maternity leave” does not include any maternity leave in respect of which statutory maternity pay is payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”.

Transitional provisions

5.—(1) In a case where the period specified in sub-paragraph (a) of regulation F1(5) of the principal Regulations as amended by regulation 4(3) has ended before, or ends or will end within a period of 3 months beginning with the date on which these Regulations come into operation (“the commencement date”), that sub-paragraph shall have effect as if the period within which notice were required to be given was a period of 3 months beginning with the commencement date:

Provided that where the Northern Ireland Policing Board are satisfied that it was not reasonably practicable for notice to be given within that period they may in their discretion accept such notice at any time before the expiry of 12 months from the commencement date.

(2) In a case such as is mentioned in paragraph (1) in which notice is given in accordance with that paragraph, regulation F1(5)(d) of the principal Regulations as amended by regulation 4(3) shall have effect as if after the words "30 months" in paragraph (ii) there were inserted the words "or such longer period ending not later than 4 years and six months after the due date as the police authority in their discretion may allow".

Northern Ireland Office
7th March 2002

John Reid
One of Her Majesty's Principal
Secretaries of State

We concur
11th March 2002

John Happell
Nick Ainger
Two of the Lord Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Royal Ulster Constabulary Pensions Regulations 1988 (“the 1988 Regulations”) with respect to unpaid maternity and sick leave. Regulation 1 provides for the amendments relating to unpaid maternity leave to have effect as from 10th June 1994 and the amendments relating to unpaid sick leave to have effect from 1st September 1995.

Regulation 2 introduces the amendments and provides for their interpretation, regulation 3 incorporates Police Trainees as members and regulation 4 effects the necessary amendments to regulations F1, F2 and G1 of, and Schedule A to, the 1988 Regulations. The amendments—

- (a) make new arrangements for making contributions to enable periods of unpaid maternity leave to count as pensionable service, and
- (b) make new provision for enabling periods of unpaid sick leave to count as pensionable service.

Regulation 5 makes transitional provision relating to periods of unpaid leave which occurred before the commencement of these Regulations.