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STATUTORY RULES OF NORTHERN IRELAND

2006 No. 268

POLICE

**POLICE SERVICE OF NORTHERN IRELAND AND POLICE
SERVICE OF NORTHERN IRELAND RESERVE (INJURY
BENEFIT) REGULATIONS 2006**

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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 25 and 26 of the Police (Northern Ireland) Act 1998(a), read with Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972(b).

In accordance with section 72(2A)(c) of that Act, the Treasury has consented to the making of these Regulations and, in accordance with section 62(3) of the Police Act 1996(d), the Secretary of State has consulted with the Police Negotiating Board for the United Kingdom.

PART 1

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006 and shall come into operation on 25th July 2006 but have effect from 6th April 2006(e).

Meaning of certain expressions and references - general provisions

2. In these Regulations, unless the context otherwise requires—
- (a) the expressions contained in the glossary set out in Schedule 1 shall be construed as provided in that Schedule;
 - (b) any reference to a police officer, however expressed, includes a reference to a person who has been a police officer;
 - (c) any reference to an award, however expressed, is a reference to an award under these Regulations.

Pensionable and average pensionable pay and aggregate pension contributions

3.—(1) For the purposes of calculating an award to or in respect of a police officer his pensionable pay shall be calculated in the same way as if the award were one payable under the 1988 Regulations(f), in accordance with regulation G1(1) and (1A) of those Regulations.

(a) 1998 c.32. Sections 25 and 26 are amended by section 78(1) of the Police (Northern Ireland) Act 2000. Section 25 is also amended by section 24(2) of the Police (Northern Ireland) Act 2003

(b) S.I. 1972/1073 (N.I. 10)

(c) Section 72(2A) was inserted by section 78 of and Schedule 6 to the Police (Northern Ireland) Act 2000

(d) 1996 c.16.

(e) Retrospective effect is permitted by Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972

(f) S.R. 1988 No. 374; relevant amendments were made by S.R. 1989 No. 387, S.R. 1990 No. 411, S.R. 1993 No. 327, S.R. 1996 No. 4, S.R. 1997 No. 259, S.R. 1998 No. 240, S.R. 2002 No. 100, S.R. 2004 No. 384, S.R. 2006 No. 122, S.R. 2006 No.123 and S.R. 2006 No. 152

(2) For the purposes of calculating an award to or in respect of a police officer his average pensionable pay shall be calculated in the same way as if it were an award payable under the 1988 Regulations, in accordance with regulation G1(2) to (9) of those Regulations, and as if—

- (a) the relevant date for the purposes of the said regulation were the date of his last day of service as a police officer, and
- (b) the provisions specified in paragraph 4(4) of Part VI of Schedule J (part-time service) to the 1988 Regulations included the following provisions of these Regulations, that is to say regulations 12(2) and (3) (amount of adult survivor's special award), 13(2)(a) (amount of adult survivor's augmented award), and 16(3), (4), (5) and (6) (amount of child's special allowance) and paragraphs 1, 2 and 4 of Schedule 5 (adult dependent relative's special pension).

(3) For the purposes of an award calculated in accordance with paragraphs (1) and (2), references in such provisions of the 1988 Regulations as are mentioned in those paragraphs to a person's pensionable service shall in the case of a police officer who has made an election under regulation G4(1) of those Regulations include references to the pensionable service which would have been reckonable by him if he had not made such an election.

(4) For the purposes of calculating an award to or in respect of a police officer his aggregate pension contributions shall be calculated in the same way as if it were an award payable under the 1988 Regulations, in accordance with regulation A9 of those Regulations.

Weekly rate of pensions and allowances

4.—(1) Where the rate at which a pension or allowance is payable or the amount thereof is expressed as an annual rate or amount then, for the purposes of these Regulations, the weekly rate or amount of that pension or allowance shall be determined as if there were 52 1/6 weeks in each year.

(2) Where for the purpose of calculating an award to an adult survivor, child or adult dependent relative it is necessary to determine average pensionable pay for a week, it shall be taken to be average pensionable pay divided by 52 1/6.

Injury received in the execution of duty

5.—(1) A reference in these Regulations to an injury received in the execution of duty by a police officer means an injury received in the execution of that person's duty as a constable.

(2) For the purposes of these Regulations an injury shall be treated as received by a person in the execution of his duty as a constable if—

- (a) the police officer concerned received the injury while on duty or while on a journey necessary to enable him to report for duty or return home after duty, or
- (b) he would not have received the injury had he not been known to be a constable, or
- (c) the Board is of the opinion that the preceding condition may be satisfied and that the injury should be treated as one received in the execution of duty.

(3) In the case of a person who is not a constable but is within the definition of "police officer" in the glossary set out in Schedule 1, paragraphs (1) and (2) shall have effect as if the references to a constable were references to such a person.

(4) For the purposes of these Regulations an injury shall be treated as received without the default of the police officer concerned unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

(5) Notwithstanding anything in the 1988 Regulations relating to a period of service in the armed forces, an injury received in the execution of duty as a member of the armed forces shall not be deemed to be an injury received in the execution of duty as a police officer.

Disablement

6.—(1) Subject to paragraph (2), a reference in these Regulations to a person being permanently disabled is to be taken as a reference to that person being disabled at the time when the question arises for decision and to that disablement being at that time likely to be permanent.

(2) In the case of a person who is totally disabled, paragraph (1) shall have effect, for the purposes of regulations 11 and 20, as if the reference to “that disablement being at that time likely to be permanent” were a reference to the total disablement of that person being likely to be permanent.

(3) For the purposes of deciding if a person’s disablement is likely to be permanent, that person shall be assumed to receive normal appropriate medical treatment for his disablement, and in this paragraph “appropriate medical treatment” shall not include medical treatment that it is reasonable in the opinion of the Board for that person to refuse.

(4) Subject to paragraph (5), disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a police officer except that, in relation to the child or to the widower or surviving civil partner of a woman police officer, it means inability, occasioned as aforesaid, to earn a living.

(5) Where it is necessary to determine the degree of a person’s disablement it shall be determined by reference to the degree to which his earning capacity has been affected as a result of an injury received without his own default in the execution of his duty as a police officer:

Provided that a person shall be deemed to be totally disabled if, as a result of such an injury, he is receiving treatment as an in-patient at a hospital.

(6) Notwithstanding paragraph (5), “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.

(7) Where a person has retired before becoming disabled and the date on which he becomes disabled cannot be ascertained, it shall be taken to be the date on which the claim that he is disabled is first made known to the Board.

(8) In this regulation, “infirmity” means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

Disablement, death or treatment in hospital the result of an injury

7. For the purposes of these Regulations disablement or death or treatment at a hospital shall be deemed to be the result of an injury if the injury has caused or substantially contributed to the disablement or death or the condition for which treatment is being received.

Transitional provisions

8.—(1) These Regulations shall have effect as if anything done, or treated as done, under or for the purposes of the Royal Ulster Constabulary (Injury Benefit) Regulations 1988^(a) or those provisions of the 1988 Regulations as are specified in paragraph (3) had been done under or for the purposes of the corresponding provision of these Regulations.

(2) Without prejudice to the generality of paragraph (1) references in that paragraph to anything done shall include—

- (a) the determination of a question;
- (b) the exercise of a discretion;
- (c) the decision that a provision should apply;
- (d) the making of a payment; and
- (e) the giving of a notice.

(a) S.R. 1988 No. 376

- (3) The provisions of the 1988 Regulations referred to in paragraph (1) are—
- (a) regulation B4 (member’s injury award);
 - (b) regulation C2 (widow’s special award);
 - (c) regulation C3 (widow’s augmented award);
 - (d) regulation D2 (child’s special allowance);
 - (e) regulation D3 (child’s special gratuity);
 - (f) regulation E1 (adult dependent relative’s special pension);
 - (g) Part H (appeals and medical questions);
 - (h) regulation K2 (reassessment of injury pension);
 - (i) regulation K3 (reduction of pension in case of default);
 - (j) regulation K4 (withdrawal of pension during service as policeman); and
 - (k) regulation K5 (forfeiture of pension).

Revocations and amendments

- 9.—(1) The 1988 Regulations shall be amended in accordance with Part 1 of Schedule 2.
- (2) The Regulations specified in Part 2 of Schedule 2 are hereby revoked to the extent there mentioned.

PART 2

AWARDS ON INJURY OR DEATH

Police officer’s injury award

10.—(1) This regulation applies to a person who ceases or has ceased to be a police officer and is permanently disabled as a result of an injury received without his own default in the execution of his duty (in Schedule 3 referred to as the “relevant injury”).

(2) A person to whom this regulation applies shall be entitled to a gratuity and, in addition, to an injury pension, in both cases calculated in accordance with Schedule 3; but payment of an injury pension shall be subject to the provisions of paragraph 5 of that Schedule and, where the person concerned ceased to serve before becoming disabled, no payment shall be made on account of the pension in respect of any period before he became disabled.

Disablement gratuity

- 11.—(1) This regulation applies to a person who—
- (a) receives or received an injury without his own default in the execution of his duty,
 - (b) ceases or has ceased to be a police officer, and
 - (c) within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result of that injury.

(2) Subject to the provisions of regulations 21 and 22 (abatement), the Board 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 police officer;
- (b) the sum of four times his total remuneration during the 12 months ending with his last day of service as a police officer and the amount of his aggregate pension contributions in respect of the relevant period of service.

(3) For the purposes of paragraph (2)(b) the amount of aggregate pension contributions in respect of the relevant period of service shall be calculated in the case of a person by whom,

immediately before his last day of service as a police officer, pension contributions were payable under regulation G2(1) of the 1988 Regulations or would have been so payable but for an election under regulation G4(1) of the 1988 Regulations, in the same way as if the award were one payable under those Regulations, calculated in accordance with regulation A9 of those Regulations.

Adult survivor's special award

12.—(1) This regulation applies to a surviving spouse or surviving civil partner (“an adult survivor”) of a police officer who dies or has died as the result of an injury received without his own default in the execution of his duty (“the deceased officer”).

(2) An adult survivor to whom this regulation applies shall, subject to paragraph (6) and regulation 14, be entitled to an award which shall comprise—

- (a) an adult survivor's special pension calculated in accordance with paragraphs (3) to (5) subject, however, to regulation 27 (increase during first 13 weeks), and
- (b) subject to paragraphs (7) and (8), a gratuity of an amount equal to 25% of the deceased officer's average pensionable pay together with, where he died while serving as a police officer, an amount equal to whichever is the greater of the following amounts—
 - (i) the deceased officer's average pensionable pay,
 - (ii) $2\frac{1}{4}$ times the annual amount of the ill-health pension which would have been payable under regulation B3 of the 1988 Regulations to the deceased officer had he retired on the ground that he was permanently disabled on the day on which he died.

(3) Subject to paragraphs (4) and (5), the weekly amount of an adult survivor's special pension shall be equal to 45% of the deceased officer's average pensionable pay for a week.

(4) Where, in respect of any week, a pension is payable to the widow in pursuance of section 67 of the Social Security (Northern Ireland) Act 1975^(a) in consequence of her husband's death and the amount of that pension exceeds that of a widow's pension under section 26 of that Act as specified in Part I of Schedule 4 thereto at the time of the husband's death, then the amount of her special pension in respect of that week shall be reduced by that excess.

(5) Where the provisions governing the amount of pensions under section 67 of the Social Security (Northern Ireland) Act 1975 have changed after the death of the husband, the reduction under sub-paragraph (4) in respect of any week shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed.

(6) An adult survivor shall not be entitled to an adult survivor's special award unless the surviving spouse was married to the deceased officer or, as the case may be, the surviving civil partner and the deceased officer were civil partners, during a period—

- (a) before the deceased officer last ceased to be a police officer, if he received the injury while serving as such;
- (b) before the end of the continuous period of service during which he received the injury, in any other case.

(7) An adult survivor who, but for paragraph (6)(a), would be entitled to an award under paragraph (2) shall, instead, be entitled to a pension calculated in accordance with the provisions of paragraphs (8) to (12); and such pension shall be treated for the purposes of paragraph (14) and regulation 27 (increase during first 13 weeks) as if it were a special award under this regulation.

(8) The annual amount of a pension under paragraph (7) shall be one half of the appropriate proportion of the ill-health pension under regulation B3 of the 1988 Regulations to which the deceased officer would have been entitled had he, when he ceased to serve, retired because he was disabled in circumstances entitling him to such a pension.

(9) Subject to paragraphs (10), (11) and (12), for the purposes of paragraph (8) the appropriate proportion means the proportion which the deceased officer's pensionable service reckonable by reason of service or employment after 5th April 1978 bears to his total pensionable service; and

(a) 1975 c.15

for these purposes, in a case where the deceased officer had made an election under regulation G4 of the 1988 Regulations, his pensionable service shall be calculated as if such election had not been made.

(10) Where a pension becomes payable under paragraph (7) to a widower or to the surviving civil partner of a female police officer, paragraph (9) has effect with the substitution for “5th April 1978” of “16th May 1990” or, as the case may be, the day before the date from which service before 17th May 1990 counts in consequence of an election under regulation G6 of the 1988 Regulations (payments by women to enhance widowers’ and surviving civil partners’ awards).

(11) But where a pension becomes payable under paragraph (7) to the surviving civil partner of a female police officer and as a consequence of an election under the said regulation G6 paragraph (9) would, but for this paragraph, have effect with the substitution for “5th April 1978” of a date before 6th April 1988, then paragraph (9) shall have effect with the substitution for “5th April 1978” of “5th April 1988”.

(12) Where a pension becomes payable under paragraph (7) to the surviving civil partner of a male police officer, paragraph (9) has effect with the substitution for “5th April 1978” of “5th April 1988”.

(13) Where the deceased officer was entitled to an injury gratuity under regulation 10 then—

- (a) if it equalled, or exceeded, the gratuity under paragraph (2)(b), the gratuity under paragraph (2)(b) shall not be payable, and
- (b) in any other case, the gratuity under paragraph (2)(b) shall be reduced by the amount of the deceased officer’s gratuity.

(14) The amount of an adult survivor’s special pension or gratuity determined in accordance with the preceding provisions of this regulation shall be increased in accordance with regulation 28 (increase by reference to the Pensions (Increase) Acts).

Adult survivor’s augmented award

13.—(1) This regulation applies, subject to regulation 14, to an adult survivor of a police officer whose death is the result of an injury received without his own default in the execution of his duty where one of the following conditions is satisfied, namely that—

- (a) he was attacked by a person or persons in a manner which was intrinsically likely to cause death and death ensued 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, 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, or
- (d) the Board is of the opinion that one of the preceding conditions may be satisfied and that this regulation should apply, or
- (e) the Board 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.

(2) An award under regulation 12(2) to an adult survivor to whom this regulation applies shall comprise—

- (a) an adult survivor’s special pension calculated as provided in regulation 12(3) to (5) but as if for the reference in regulation 12(3) to 45% of the deceased officer’s average pensionable pay for a week there were substituted a reference to 50% of such pay, and
- (b) a gratuity of an amount equal to twice the annual pensionable pay, at the date of the deceased officer’s death, of a person holding the rank of constable and entitled to reckon

30 years' service for the purposes of pay; and the provisions of regulation 12(2)(b), (6) and (7) shall not apply except that where those provisions are more favourable in his case the gratuity shall be of an amount determined in accordance with those provisions.

Limitation on award to adult survivor living apart from the deceased officer

14. An adult survivor shall not be entitled to an award under regulation 12 or 13 if, at the time of the deceased officer's death—

- (a) they were separated from each other by an order or decree of a competent court, and
- (b) the deceased officer was not required by an order or decree of a competent court to contribute to the support of the adult survivor and was not in fact regularly contributing to his support;

and, for the purposes of this regulation, contributions to an adult survivor for the support of his child shall be treated as contributions for his support.

Termination of adult survivor's award on remarriage or other event

15.—(1) Where a widow entitled to a special pension under regulation 12 (including such a pension granted by way of an augmented award under regulation 13) was widowed before 5th December 2005 or was widowed after that date but her husband had ceased to serve as a police officer before that date, and—

- (a) remarries or has remarried,
- (b) forms or has formed a civil partnership, or
- (c) with a person to whom she is not married lives together as husband and wife,

she shall not be entitled to receive any payment on account of the pension in respect of any period after her marriage, or after the formation of her civil partnership, or after her cohabitation begins.

(2) Where the surviving civil partner of a police officer who had ceased to serve as a police officer by 5th December 2005 is entitled to a special pension under regulation 12 (including such a pension granted by way of an augmented award under regulation 13) and—

- (a) marries or has married,
- (b) forms or has formed a new civil partnership, or
- (c) with a person who is not her civil partner lives together as if they were civil partners,

she shall not be entitled to receive any payment on account of the pension in respect of any period after her marriage, or after the formation of her civil partnership, or after her cohabitation begins.

(3) Where a widow who does not fall within paragraph (1) or a surviving civil partner who does not fall within paragraph (2) is entitled to a special pension under regulation 12 (including such a pension granted by way of an augmented award under regulation 13) and—

- (a) marries or has married,
- (b) remarries or has remarried,
- (c) forms or has formed a civil partnership or new civil partnership,
- (d) with a person to whom she is not married lives together as husband and wife, or
- (e) with a person who is not her civil partner lives together as if they were civil partners,

she shall not be entitled to receive any payment on account of the pension in respect of any period after her marriage or remarriage, or after the formation of her civil partnership, or after her cohabitation begins.

(4) But if, at any time after her marriage, remarriage, the formation of her civil partnership or the beginning of her cohabitation, a person in any of paragraphs (1) to (3) has again become a widow or her civil partner dies or that marriage or civil partnership has been dissolved or that cohabitation ceases, the Board may, in its discretion, bring the pension into payment.

(5) Where a widow entitled to a gratuity under regulation 12 or 13 was widowed before 5th December 2005 or was widowed after that date but her husband had ceased to serve as a police officer before that date, and—

- (a) remarries or has remarried,
- (b) forms or has formed a civil partnership, or
- (c) with a person to whom she is not married lives together as husband and wife,

so much of the gratuity as has not been paid before her remarriage or the formation of her civil partnership or the beginning of her cohabitation shall not be payable thereafter.

(6) Where the surviving civil partner of a police officer who had ceased to serve as a police officer by that date—

- (a) marries or has married,
- (b) forms or has formed a new civil partnership, or
- (c) with a person who is not her civil partner lives together as if they were civil partners,

so much of the gratuity as has not been paid before her marriage or remarriage or the formation of her civil partnership or the beginning of her cohabitation shall not be payable thereafter.

(7) Where a widow who does not fall within paragraph (5) or a surviving civil partner who does not fall within paragraph (6) is entitled to a gratuity under regulation 12 or 13 and—

- (a) marries or has married,
- (b) remarries or has remarried,
- (c) forms or has formed a civil partnership or new civil partnership,
- (d) with a person to whom she is not married lives together as husband and wife, or
- (e) with a person who is not her civil partner lives together as if they were civil partners,

so much of the gratuity as has not been paid before her remarriage or the formation of her civil partnership or the beginning of her cohabitation shall not be payable thereafter.

(8) But if, at any time after her marriage, remarriage, the formation of her civil partnership or the beginning of her cohabitation, a person in any of paragraphs (5) to (7) has again become a widow or her civil partner dies or that marriage or civil partnership has been dissolved or that cohabitation ceases, the Board may, in its discretion, pay to her the sums which it was actually or contingently liable to pay to her in respect of the gratuity immediately before her remarriage or the formation of her civil partnership or the beginning of her cohabitation.

Child's special allowance

16.—(1) This regulation shall apply to a child of a police officer who dies or has died as the result of an injury received without his own default in the execution of his duty.

(2) Subject to regulations 18 (limitations) and 27 (increase during first 13 weeks), a child to whom this regulation applies shall be entitled to a special allowance calculated in accordance with the following provisions of this regulation.

(3) Where one of the child's parents is alive, the child's special allowance in respect of the death of a police officer ("the relevant parent") shall, subject to paragraphs (4) and (7), be of an amount equal to 10% of the average pensionable pay for a week of the relevant parent.

(4) Where five or more children's special allowances are payable in respect of the death of the same person, an allowance determined in accordance with paragraph (3) shall be of an amount equal to 40% of the average pensionable pay for a week of the relevant parent divided by the total number of allowances so payable.

(5) Where the relevant parent was the child's only surviving parent, or in respect of the period after the death of the child's other parent, the child's special allowance shall, subject to paragraphs (6) and (7), be of an amount equal to 20% of the average pensionable pay for a week of the relevant parent.

(6) Where five or more children's special allowances are payable in respect of the death of the same person, an allowance determined in accordance with paragraph (5) shall be of an amount equal to 80% of the average pensionable pay for a week of the relevant parent divided by the total number of allowances so payable.

(7) The amount of a child's special allowance determined in accordance with the preceding paragraphs of this regulation shall be increased in accordance with regulation 28 (increase by reference to the Pensions (Increase) Acts).

Child's special gratuity

17.—(1) This regulation applies to a child of a police officer who dies or has died as the result of an injury received without his own default in the execution of his duty where one of the conditions set out in regulation 13(1) is met and he does not leave an adult survivor entitled to a gratuity under regulation 12 or 13.

(2) Subject to regulation 18 (limitations) but without prejudice to the provisions of regulation 16 (child's special allowance), a child to whom this regulation applies shall be entitled to a gratuity as provided in this regulation.

(3) The gratuity under paragraph (2) shall be of the amount mentioned in paragraph (4) except that, where two or more such gratuities are payable in respect of the same person, each gratuity shall be of that amount divided by the number of such gratuities.

(4) That amount shall be an amount equal to twice the annual pensionable pay, at the date of that parent's death, of a person holding the rank of constable and entitled to reckon 30 years' service for the purposes of pay.

Child's special allowance or special gratuity - limitations

18.—(1) A child's special allowance or special gratuity under regulation 16 or 17 shall not be granted—

- (a) to a child born on or after the relevant date specified in paragraph (3) otherwise than of a marriage which took place or of a civil partnership that was formed before the relevant date;
- (b) by reason of his being a step-child,—
 - (i) to the child of a spouse whose marriage to the relevant parent took place on or after the relevant date, or
 - (ii) to the child of a civil partner whose civil partnership with the relevant parent was formed on or after the relevant date;
- (c) by reason of his being substantially dependent on the relevant parent, to a child who was not so dependent before the relevant date;
- (d) by reason of his being an adopted child, to a child adopted on or after the relevant date;
- (e) except in the case of a legitimate or adopted child of the relevant parent, to a child who was not substantially dependent on that parent at the time of his death.

(2) The reference in paragraph (1)(a) to a child born of a civil partnership means a child who is a child of a member of a civil partnership and has been adopted by the other member of that civil partnership.

(3) For the purposes of paragraph (1) the relevant date if the relevant parent received the injury while serving as a police officer, is the date on which he last ceased to be a police officer.

(4) In the case of a child who has attained the age of 16 years but not that of 17 years, a special allowance shall not be payable in respect of any period for which he is in full-time employment unless that employment constitutes full-time training, of at least a year's duration, for a trade, profession or calling.

(5) In the case of a child who has attained the age of 17 years but not that of 19 years, a special allowance shall only be payable in respect of a period throughout which he satisfies one of the conditions set out in paragraph (9).

(6) Without prejudice to paragraph (1), in the case of a child who has attained the age of 19 years, a special allowance shall not be payable (and, where he attained that age before the date of the relevant parent's death, shall not be granted) unless—

- (a) he satisfies one of the conditions set out in paragraph (9), and
- (b) in the case of condition (a), also satisfied that condition immediately before he attained the age of 19 years and throughout the entire period thereafter,

except that the payment (or granting) of a special allowance shall not be precluded by reason only of sub-paragraph (b) if the Board, having regard to all the circumstances of the case, in its discretion so decides:

Provided that a special allowance shall not be payable after the date on which the child attains the age of 23 years unless he satisfies the conditions mentioned in paragraph (9)(b).

(7) Without prejudice to paragraphs (4), (5) and (6), in the case of a child entitled to a special allowance who is—

- (a) in full-time training for a trade, profession or calling, and
- (b) in receipt of remuneration in respect of such training,

and in the case of any other child entitled to a special allowance in respect of the death of the same person, Schedule 4 shall have effect in relation to their allowances.

(8) A special gratuity shall not be granted to a child who attained the age of 17 years before the date of the relevant parent's death unless at that date he satisfied one of the conditions set out in paragraph (9) (disregarding conditions (b)(ii) and (iii)).

(9) The conditions referred to in paragraphs (5), (6) and (8) are that the child—

- (a) is or was undergoing full-time education or in full-time training of at least a year's duration for a trade, profession or calling, or
- (b) is or was permanently disabled and either—
 - (i) was both so disabled and substantially dependent on the relevant parent at the time of his death,
 - (ii) became so disabled while in receipt of a special allowance, or
 - (iii) the Board, having regard to all the circumstances of the case, in its discretion decides to pay (or grant) a special allowance to him.

(10) Any reference in this regulation to the relevant parent is a reference to the parent in respect of whose death the special allowance or special gratuity is, or but for the provisions of this regulation would be, payable.

Adult dependent relative's special pension

19.—(1) This regulation applies in the case of a police officer who dies as the result of an injury received without his own default in the execution of his duty and, in such case, shall apply—

- (a) to a parent or (without prejudice to the following sub-paragraph) to a brother or sister of the police officer who had attained the age of 19 years before the police officer's death,
- (b) subject to his having attained the age of 19 years, to any child of the police officer whether or nor he had attained that age before the police officer's death,
- (c) where the police officer was a married woman whose husband was permanently disabled at the time she died, to her widower, or
- (d) where the police officer was a woman in a civil partnership whose civil partner was permanently disabled at the time the police officer died, to the surviving civil partner,

subject, in each case, to the person in question being substantially dependent on the police officer immediately before the member's death.

(2) If the Board, having regard to all the circumstances of the case, so determine, it may grant a special pension to any such dependent relative.

(3) A dependent relative's special pension shall be calculated in accordance with Schedule 5 and, subject to paragraph 4 of that Schedule, shall be payable for such period or periods as the Board may, in its discretion, from time to time determine.

Death gratuity

20.—(1) Subject to paragraph (2), this regulation applies to a police officer who receives or received an injury without his own default in the execution of his duty and within 12 months of receiving that injury dies or has died as a result of it.

(2) In the case of a person who had ceased to serve as a police officer before his death, this regulation shall apply to him only if his death also occurred before any decision by a medical authority under regulation H1, H2 or H3 of the 1988 Regulations that he was totally and permanently disabled as a result of that injury; and where this regulation so applies it shall apply to the exclusion of regulation 11.

(3) Subject to the provisions of regulations 21 and 22, where a member to whom this regulation applies—

- (a) leaves an adult survivor (unless, by reason of regulation 14 or 15, he would not qualify for a special award under regulation 12);
- (b) does not leave any such adult survivor, but leaves a child (unless, by reason of regulation 18(1), (4), (5) or (6) that child would not qualify for a special allowance under regulation 16); or
- (c) does not leave any such adult survivor or child, but leaves a dependent relative to whom a special pension may be paid under regulation 19;

the Board shall pay to his adult survivor 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 police officer;
- (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 police officer and the amount of his aggregate pension contributions in respect of the relevant period of service.

(4) Where a police officer 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 Board among the children or dependent relatives (as the case may be) in its discretion.

Abatement of certain gratuities in respect of gratuities otherwise payable

21.—(1) The amount of any gratuity payable to a police officer under regulation 11 shall be reduced by deducting from it the amount of any gratuity paid, or treated as paid, to him under regulation 10 or under regulation B2(4) or B3(4) of the 1988 Regulations.

(2) The amount of any gratuity payable to any person under regulation 20 in respect of the death of a police officer shall be reduced by deducting from it—

- (a) the amount of—
 - (i) any gratuities paid, or treated as paid, to the police officer or his estate under regulation 10 or under regulation B2(4), B3(4) or E3 of the 1988 Regulations; and
 - (ii) any death grant paid under regulation E3A of the 1988 Regulations;
- (b) in the case of an adult survivor, where a gratuity under regulation 12(2) is payable to him or his estate—
 - (i) unless sub-paragraph (ii) applies, the amount of the gratuity;

- (ii) where the said amount falls to be calculated in accordance with regulation 13(2), an amount equal to the amount of the gratuity which would be payable to him or his estate under regulation 12(2) if—

- (A) regulation 13 had not applied;

- (B) the deceased officer had died while serving as a police officer (whether or not he was in fact so serving when he died); and

- (C) the deceased officer's average pensionable pay was greater than 2 ¼ times the annual amount of the ill-health pension which would have been payable under regulation B3 of the 1988 Regulations to the deceased officer 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 17 or regulation E2 of the 1988 Regulations.

(3) In any case where, by reason of regulation 20(4), a payment in respect of the death of a police officer falls to be divided among two or more persons, that payment shall, before it is so divided, be reduced by deducting from it the amount of any gratuities paid as mentioned in paragraph (2).

Abatement of certain gratuities in respect of damages or compensation

22.—(1) The Board shall take into account against any gratuity payable under regulation 11 or 20 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 in accordance with the Northern Ireland Criminal Injuries Compensation Scheme if the amount of the award was reduced by the amount of any gratuity paid or payable to him under regulations 11 or 20.

(3) No payment in respect of a gratuity under regulation 11 or 20 shall be made to a person unless he has given to the Board 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 it thereof and, unless the damages or compensation have been taken into account in pursuance of paragraph (1), will pay to the Board such sum as it may demand not exceeding—

- (a) where the amount of the payment made by the Board 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 Board shall not demand any payment in pursuance of such an undertaking as is mentioned in paragraph (3)—

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

- (a) after the death of the person to whom the payment in respect of a gratuity under regulation 11 or 20 was made, or
- (b) after the expiration of two years from the date on which the final determination of the amount of the damages or compensation first came to the knowledge of the Board.

PART 3

SUPPLEMENTARY PROVISIONS

Gratuity in lieu of adult survivor's special pension

23.—(1) Where on the death of the deceased officer before he attained state pensionable age an adult survivor became entitled to an adult survivor's special pension under regulation 12, the Board may, subject to regulation 25, commute for a gratuity that special pension or so much of it as may be commuted without contravening regulation 25:

Provided that the Board shall not exercise its discretion under this paragraph unless—

- (a) the adult survivor consents, and
- (b) it is satisfied that there are sufficient reasons for so doing.

(2) Where the annual amount of any adult survivor's special pension does not exceed £260, or any greater amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973^(a) (other than a pension which does not exceed that amount by reason of the commutation of part thereof under paragraph (1)), the Board may, at its discretion, commute it for a gratuity.

(3) The provisions of regulation 15, relating to the termination of an adult survivor's special award on remarriage or the formation of a civil partnership or cohabitation, shall apply in relation to a gratuity under this regulation as they apply in relation to a gratuity under regulation 12 or 13.

(4) A gratuity under this regulation shall be calculated in accordance with paragraph (6).

(5) Where an adult survivor is entitled to more than one adult survivor's pension, under these Regulations or the 1988 Regulations, in respect of the death of the same person but, in pursuance of regulation 26, is not entitled to receive, in respect of any particular period, payment on account of more than one of those pensions, those adult survivor's pensions shall be treated for the purposes of this regulation as a single adult survivor's pension and, where one of those pensions is an adult survivor's special pension under regulation 12 or 13, that single pension shall be treated for the purposes of paragraph (1) as if it were an adult survivor's special pension.

(6) A gratuity under this regulation shall be of an amount equal to 11 times the annual value of the special pension or, as the case may be, of that part thereof which is commuted or of such greater amount as may be agreed between the Board and the adult survivor not exceeding the capitalised value of the pension or, as the case may be, that part thereof which is commuted, calculated in accordance with tables prepared from time to time for the purpose by the Scheme actuary.

Gratuity in lieu of child's special allowance

24.—(1) Where a child is entitled to a child's special allowance, the Board may, subject to regulation 25, commute it for a gratuity:

Provided that the Board shall not exercise its discretion under this paragraph unless—

- (a) the child's surviving parent or guardian consents or, where he has no such parent or guardian, the child himself consents, and
- (b) it is satisfied that there are sufficient reasons for so doing.

(a) 1973 c.38

(2) Where the Board is precluded by reason of the provisions of regulation 25 from exercising its discretion under paragraph (1) but otherwise would exercise it, it may, subject to those provisions, exercise that discretion in relation to part only of the allowance.

(3) A gratuity under this regulation shall be of such amount as may be agreed between the Board and the child's surviving parent or guardian, or between the Board and the child where he has no such parent or guardian, not exceeding the capitalised value of the special allowance or, as the case may be, that part thereof which is commuted, calculated in accordance with tables prepared from time to time for the purpose by the Scheme actuary.

Limitation on discretion to grant a gratuity in lieu of an adult survivor's special pension or a child's special allowance

25.—(1) This regulation applies in the case of a police officer who has died while in receipt of an ordinary, short service, ill-health or deferred pension awarded under the 1988 Regulations ("the principal pension").

(2) The Board shall not under regulation 23 or 24 substitute for the whole or any part of an adult survivor's special pension or child's special allowance payable in respect of such a police officer a gratuity the actuarial equivalent of which (within the meaning of paragraph (3)) when added to that of—

- (a) any other gratuity so substituted under regulation 23 or 24, and
- (b) any lump sum paid or payable under regulation B7 of the 1988 Regulations, where a portion of the principal pension has been commuted,

exceeds a quarter of the capitalised value of the principal pension, any reduction therein under the said regulation B7 being ignored.

(3) For the purposes of this regulation the actuarial equivalent of a gratuity or lump sum and the capitalised value of the principal pension shall, in each case, be at the time of the deceased officer's retirement, as calculated by the Scheme actuary.

Prevention of duplication

26.—(1) Subject to paragraph (2), where, but for this regulation, a person would be entitled to receive, in respect of any particular period, payments on account of more than one award in respect of the death of the same person—

- (a) each of the awards being an adult survivor's special or augmented award under regulation 12 or 13 or an adult survivor's pension under Part C of the 1988 Regulations, or
- (b) each of the awards being a child's special allowance under regulation 16 or a child's allowance under Part D of the 1988 Regulations or an adult dependent relative's special pension under regulation 19,

he shall be entitled to receive, in respect of that period, payment on account of one only of those awards; and the award payable shall be that from time to time selected by the person concerned or, in default of such selection where one award is for the time being greater than any other such award, the award which is for the time being the greater.

(2) Nothing in paragraph (1) shall prevent a person from being entitled to receive more than one such award as is mentioned in sub-paragraph (a) or (b) thereof if—

- (a) the awards in question are calculated, directly or indirectly, by reference to different periods of pensionable service, and
- (b) no award in question falls to be increased in accordance with regulation E8, or to be determined in accordance with regulation E10, of the 1988 Regulations.

Increase of adult survivor's special pension or child's special allowance during first 13 weeks

27.—(1) This regulation applies to an adult survivor's special pension or augmented pension under regulation 12 or 13 and to a child's special allowance under regulation 16 where the person in respect of whose death the award is payable was, immediately before his death—

- (a) serving as a police officer, or
- (b) in receipt of a pension under regulation 10 or Part B of the 1988 Regulations,

and, for the purposes of sub-paragraph (b), the provisions of regulation A7 of the 1988 Regulations shall be disregarded.

(2) An adult survivor's special or augmented pension to which this regulation applies shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, the aggregate amount of the pension and of any children's special allowances under regulation 16 or children's allowances under Part D of the 1988 Regulations payable in respect of the same person's death is not less than—

- (a) in the case mentioned in paragraph (1)(a), the police officer's relevant emoluments for a week immediately before he died, or
- (b) in the case mentioned in paragraph (1)(b), the weekly amount of his pension together with any increase therein, immediately before he died, under the Pensions (Increase) Acts;

and, for the purposes of sub-paragraph (b)—

- (i) there shall be disregarded any reduction in the police officer's pension in consequence of paragraph 7 of Schedule 3, and
- (ii) where the police officer died while in receipt of both an ordinary, short service or ill-health pension awarded under Part B of the 1988 Regulations and an injury pension under regulation 10, the reference therein to the weekly amount of his pension shall be construed as a reference to the aggregate weekly amount of those pensions.

(3) For the purposes of paragraph (2)(a) a police officer's relevant emoluments for a week are—

- (a) his pensionable pay for the week, and
- (b) so much as is attributable to the week of any allowances to which he was entitled under regulation 37 of and Schedule 4 to the Police Service of Northern Ireland Regulations 2005(a).

(4) Where a child's special allowance to which this regulation applies is payable in respect of the death of a person who did not leave an adult survivor entitled to a special or augmented pension which was payable for a continuous period of 13 weeks the special allowance shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, it is not less than the amount specified in paragraph (2)(a) or (b) except that, where two or more such special allowances are payable in respect of the death of the same person, each allowance shall be so increased that it is of that amount divided by the number of such allowances:

Provided that where an adult survivor's special or augmented pension is payable in respect of any such week, a child's special allowance in respect of the death of the same person shall not be so increased in respect of that week.

Increase of awards by reference to the Pensions (Increase) Acts

28.—(1) Where it is provided that, for the purpose of calculating an award by way of periodical payments or a gratuity ("the relevant award"), an amount shall be increased in accordance with this regulation, it shall be increased by the amount, if any, by which a corresponding pension, within the meaning of the Pensions (Increase) Act 1971(b), of the amount first mentioned would from time to time be increased under the Pensions (Increase) Acts if—

(a) S.R. 2005 No. 547
(b) 1971 c. 56

- (a) it were payable to the person entitled to the relevant award;
- (b) it were one of the pensions specified in paragraph 43 of Part II of Schedule 2 to the Pensions (Increase) Act 1971;
- (c) it were not a pension to which section 1(2)(a) of the Pensions (Increase) Act 1974(a) applies, and
- (d) it began, within the meaning of the Pensions (Increase) Act 1971, and became payable when the relevant award so began and became payable.

(2) Where the relevant award is a child's special allowance, the Pensions (Increase) Acts as applied by paragraph (1) shall have effect as if section 3 were omitted from the Pensions (Increase) Act 1971 and, accordingly, the amount first mentioned in paragraph (1) shall be increased so long as the special allowance is payable.

PART 4

APPEALS AND MEDICAL QUESTIONS

Reference of medical questions

29.—(1) Subject to the provisions of this Part, the question whether a person is entitled to any, and if so what, awards under these Regulations shall be determined in the first instance by the Board.

(2) Subject to paragraph (3), where the Board is considering whether a person is permanently disabled, it shall refer for decision to a duly qualified medical practitioner selected by it the following questions—

- (a) whether the person concerned is disabled;
- (b) whether the disablement is likely to be permanent,

except that, in a case where the said questions have been referred for decision to a duly qualified medical practitioner under regulation H1(2) of the 1988 Regulations, a final decision of a medical authority on the said questions under Part H of the 1988 Regulations shall be binding for the purposes of these Regulations;

and, if it is further considering whether to grant an injury pension, shall so refer the following questions—

- (c) whether the disablement is the result of an injury received in the execution of duty, and
- (d) the degree of the person's disablement;

and, if it is considering whether to revise an injury pension, shall so refer question (d) above.

(3) Where the Board is considering eligibility for an award under regulation 11, paragraph (2) shall have effect as if the questions to be referred by it to a duly qualified medical practitioner 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.

(4) The Board, if it is considering exercising its powers under regulation 36 (reduction of pension in case of default), shall refer for decision to a duly qualified medical practitioner selected by it the question whether the person concerned has brought about or substantially contributed to the disablement by his own default.

(a) 1974 c. 9

(5) The decision of the selected medical practitioner on the question or questions referred to him under this regulation shall be expressed in the form of a report and a certificate and shall, subject to regulations 30 and 31, be final.

(6) A copy of any such report and certificate shall be supplied to the person who is the subject of that report.

Appeal to independent medical referee

30.—(1) Where a person is dissatisfied with the decision of the selected medical practitioner as set out in a report and certificate under regulation 29(5), he may, within 28 days after he has received a copy of that report and certificate or such longer period as the Board may allow, and subject to and in accordance with the provisions of Schedule 6, give notice to the Board that he appeals against that decision.

(2) In any case where within a further 28 days of that notice being received (or such longer period as the Board may allow) that person has supplied to the Board a statement of the grounds of his appeal, the Board shall notify the Secretary of State accordingly and the Secretary of State shall appoint an independent medical referee to decide.

(3) The decision of the independent medical referee shall, if he disagrees with any part of the report and certificate of the selected medical practitioner, be expressed in the form of a report and certificate of his decision on any of the questions referred to the selected medical practitioner on which he disagrees with the latter's decision, and the decision of the independent medical referee shall, subject to the provisions of regulation 31, be final.

Further reference to medical authority

31.—(1) A tribunal hearing an appeal under regulation 33 may, if they consider that the evidence before the medical authority who has given the final decision was inaccurate or inadequate, refer the decision of that authority to him for reconsideration in the light of such facts as the tribunal may direct, and the medical authority shall accordingly reconsider his decision and, if necessary, issue a fresh report and certificate which, subject to any further reconsideration under this paragraph, shall be final.

(2) The Board and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him for reconsideration, and he shall accordingly reconsider his decision and, if necessary, issue a fresh report and certificate, which, subject to any further reconsideration under this paragraph or paragraph (1) or an appeal, where the claimant requests that an appeal of which he has given notice (before referral of the decision under this paragraph) be notified to the Secretary of State, under regulation 30, shall be final.

(3) If a tribunal decide, or a claimant and the Board agree, to refer a decision to the medical authority for reconsideration under this regulation and that medical authority is unable or unwilling to act, the decision may be referred to a duly qualified medical practitioner selected by the tribunal or, as the case may be, agreed upon by the claimant and the Board, and his decision shall have effect as if it were that of the medical authority who gave the decision which is to be reconsidered.

(4) In this regulation a medical authority who has given a final decision means the selected medical practitioner, if the time for appeal from his decision has expired without an appeal to an independent medical referee being made, or if, following a notice of appeal to the Board, the Board has not yet notified the Secretary of State of the appeal, if there has been such an appeal.

Refusal to be medically examined

32. If a question is referred to a medical authority under regulation 29, 30 or 31 and the person concerned wilfully or negligently fails to submit himself to such medical examination or to attend such interviews as the medical authority may consider necessary in order to enable him to make his decision, then—

- (a) if the question arises otherwise than on an appeal to an independent medical referee, the Board may make its determination on such evidence and medical advice as it in its discretion thinks necessary;
- (b) if the question arises on an appeal to an independent medical referee, the appeal shall be deemed to be withdrawn.

Appeals

33.—(1) Where a police officer, or a person claiming an award in respect of such a police officer, is aggrieved by the refusal of the Board to admit a claim to receive as of right an award or a larger award than that granted, or by a decision of the Board as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 6(3), or by the forfeiture under regulation 38 by the Board of any award granted to or in respect of such a member, he may, subject to regulation 34, appeal to the Secretary of State.

(2) The Secretary of State, on receiving such notice of appeal, shall appoint an appeal tribunal (in paragraphs (3) to (8) referred to as the tribunal), consisting of three persons, including a barrister or solicitor of not less than seven years' standing and a retired police officer or retired member of a police force in Great Britain who, before he retired, held a rank not lower than that of superintendent.

(3) The time and place for the hearing, or any postponed or adjourned hearing, of the appeal shall be determined by the tribunal, which shall give reasonable notice thereof to the appellant and to the Board (in paragraphs (4) and (7) referred to as the parties).

(4) Either party may be represented before the tribunal by counsel, by a solicitor or by such other person as appears to him appropriate, adduce evidence and cross-examine witnesses.

(5) The rules of evidence applicable in the case of an appeal to a county court under Article 28 of the County Courts (Northern Ireland) Order 1980(a) shall apply in the case of an appeal under this regulation.

(6) Subject to the preceding provisions of this regulation, the tribunal shall determine its own procedure.

(7) The tribunal, after enquiring into the case and arriving at a decision thereon, may make such order in the matter as appears to it just, which order shall state the reasons for the decision; and each of the parties shall be entitled to a copy of any such order.

(8) An appeal shall lie on a point of law from any decision of a tribunal under this regulation to the High Court in accordance with rules of court.

Limitations on appeals

34.—(1) An appeal shall not lie under regulation 33 against anything done by the Board in the exercise of a power conferred by these Regulations which is expressly declared thereby to be a power which it is to exercise in its discretion.

(2) Subject to regulation 31(1), in any proceedings under regulation 33 the tribunal shall be bound by any final decision of a medical authority within the meaning of regulation 31.

PART 5

REVISION AND WITHDRAWAL OR FORFEITURE OF AWARDS

Reassessment of injury pension

35.—(1) Subject to the provisions of this Part, where an injury pension is payable under these Regulations, the Board shall, at such intervals as may be suitable, consider whether the degree of

(a) S.I. 1980/397 (N.I. 3)

the pensioner's disablement has altered; and if after such consideration the Board find that the degree of the pensioner's disablement has substantially altered, the pension shall be revised accordingly.

(2) Where the person concerned is not also in receipt of an ordinary, ill-health or short-service pension under the 1988 Regulations, if on any such reconsideration it is found that his disability has ceased, his injury pension shall be terminated.

(3) Where payment of an ill-health pension is terminated in pursuance of regulation K1(4) of the 1988 Regulations, there shall also be terminated any injury pension under regulation 10 payable to the person concerned.

(4) Where early payment of a deferred pension ceases in pursuance of regulation K1(7)(a) of the 1988 Regulations, then any injury pension under regulation 10 payable to the person concerned shall also be terminated.

Reduction of pension in case of default

36. Where a police officer or a person who has been a police officer becomes permanently disabled and has brought about or substantially contributed to the disablement by his own default, the Board may reduce the amount of any injury award payable to him by it by an amount not exceeding a half of that to which he would otherwise be entitled :

Provided that—

- (a) this regulation shall not apply where the person concerned has been a police officer and is in receipt of an ill-health pension under regulation B3 of the 1988 Regulations and would, if he had continued to serve instead of retiring with that pension, have been entitled to reckon for the purposes of those Regulations 25 years' pensionable service (and, for the purposes of this proviso, in the case of a police officer who has spent one or more periods in part-time service, in determining the number of years of pensionable service he would have been entitled to reckon a period of service by virtue of which his pensionable service is reckonable as if it were a period of full-time service); and
- (b) where the injury pension of a police officer by whom pension contributions were payable under regulation G2 of the 1988 Regulations has been reduced under this regulation, then if when he attains the age of 60 years the reduced pension is less than the amount of the deferred pension which would have been payable had he been granted such a pension under regulation B5 of the 1988 Regulations on the date of his ceasing to serve it shall be increased to that amount.

Withdrawal of pension during service as a police officer

37.—(1) Subject to paragraph (2), in paying an injury pension under regulation 10 (police officer's injury award) or under regulation 19 (adult dependent relative's special pension) the Board may, in its discretion, withdraw the whole or any part of the pension for any period during which the pensioner is serving as a police officer; and, where it has done so, it shall be discharged from all actual or contingent liability in respect of the pension or the part thereof withdrawn for the period in question.

(2) This regulation does not apply to a pension under regulation B9(7)(b) of the 1988 Regulations (allocation).

Forfeiture

38.—(1) This regulation applies to a pension payable to or in respect of a police officer under regulation 10, regulation 12 or regulation 19.

(2) The Board may determine that a pension to which this regulation applies be forfeited, in whole or in part and permanently or temporarily as it may specify, if the pensioner has been

(a) Paragraph (7) was inserted by S.R. 1990 No. 411

convicted of an offence mentioned in paragraph (3) and, in the case of an adult survivor's pension, that offence was committed after the death of the pensioner's spouse or, as the case may be, civil partner.

(3) The offences referred to in paragraph (2) are—

- (a) an offence of treason;
- (b) one or more offences under the Official Secrets Acts 1911 to 1989 for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least ten years.

(4) The Board may determine that a pension to which this regulation applies be forfeited, in whole or in part and permanently or temporarily as it may specify, if the grantee has been convicted of an offence committed in connection with his service as a police officer which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(5) To the extent to which a pension is forfeited under this regulation, the Board shall be discharged from all actual or contingent liability in respect of that pension.

Payments by and to the Board

39.—(1) Awards under these regulations shall be paid by the Board as part of the cost of carrying out its functions under the 2000 Act.

(2) Pension contributions and other payments to the Board by way of contributions or lump sum under these Regulations shall for the purposes of section 10(4) of the 2000 Act be deemed to be receipts by the Board which are not required to be applied in a particular manner or for a particular purpose.

Payment and duration of awards

40.—(1) Subject to the provisions of these Regulations, in particular of regulation 10(2) (limitation on payment of an injury pension to a person who ceased to serve before becoming disabled) and Part 5 (revision and withdrawal or forfeiture of awards), the pension of a police officer under these Regulations shall be payable in respect of each year as from the date of his retirement.

(2) Subject to the provisions of these Regulations, in particular of regulation 18 (limitations on child's special allowance), an adult survivor's special pension or child's special allowance shall be payable in respect of each week as from the death of the spouse or, as the case may be, the deceased civil partner or parent or, in the case of a special allowance payable to a posthumous child, as from the birth of the child.

(3) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 15 (termination of adult survivor's award on remarriage or other event);
- (b) regulation 18 (limitations on child's special allowance);
- (c) regulation 19(3) (adult dependent relative's special pension); and
- (d) Part 5 (revision and withdrawal or forfeiture of awards),

a pension or allowance shall be payable for life and shall be discharged by payments in advance at such reasonable intervals as the Board may, in its discretion, determine except that payment on account of a pension or allowance may be delayed, in whole or in part, pending the determination of any question as to the liability of the Board in respect thereof, including any question as to the continuance of that liability.

(4) Where a person dies after receiving a sum paid in advance on account of a pension or allowance, neither that sum nor any part of it shall be recoverable although referable to a period after his death.

(5) Where an adult survivor remarries or enters into a civil partnership after receiving a sum paid in advance on account of a pension, neither that sum nor any part of it shall be recoverable although referable to a period after his remarriage or civil partnership.

(6) Subject to the provisions of these Regulations, a gratuity under these Regulations shall become payable as soon as the entitlement to it arises and shall be paid forthwith in one sum except that—

- (a) payment on account thereof may be delayed, in whole or in part, pending the determination of any question as to the liability of the Board in respect thereof, and
- (b) where the Board is satisfied that it would be for the advantage of the beneficiary to pay a gratuity in instalments, it may pay it in instalments of such reasonable amounts and over such reasonable period as it thinks fit.

Payment of awards otherwise than to beneficiary and application of payments

41.—(1) This regulation applies to the payment of any award under these regulations to or in respect of a police officer, and any reference in it to the beneficiary is a reference to the person to whom, this regulation apart, the award is payable.

(2) Where the beneficiary is a minor, the Board may, if it thinks fit, in lieu of paying any sum on account of an award to the minor, pay it to such other person as it may determine.

A person who receives any sum in pursuance of this paragraph shall, subject to and in accordance with any directions of the Board, apply the said sum for the benefit of the minor.

(3) On the death of the beneficiary to whom a sum is due on account of an award which does not exceed £5,000 or such higher amount as may from time to time be prescribed for the purposes of section 6 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967^(a), the Board may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the Board to be beneficially entitled to the personal estate of the deceased or, as the Board thinks fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the Board may determine.

(4) Where it appears to the Board that the beneficiary is by reason of mental disorder or otherwise incapable of managing his affairs, in lieu of paying any sum on account of an award to that beneficiary—

- (a) it may, in its discretion, pay it in whole or in part to a person having the care of the beneficiary or such other person as it may determine, and
- (b) in so far as it does not so discharge its liability in respect thereof, the Board shall apply it in such manner as it thinks fit for the benefit of the beneficiary or his dependants.

A person who receives any sum in pursuance of sub-paragraph (a) shall, subject to and in accordance with any directions of the Board, apply the said sum for the benefit of the beneficiary or his dependants.

(5) Where, as a result of any fraud, theft or negligence on the part of a police officer in connection with his service as such, a loss has occurred to the fund out of which an award is payable to him under these regulations, in lieu of paying the whole or any part of any sum on account of the award to that beneficiary, the Board may, if it thinks fit but subject to paragraph (6), apply it in making good the loss by retaining it in that fund:

Provided that the aggregate amount retained in pursuance of this paragraph shall not exceed whichever is the lesser of the following amounts, namely—

- (a) the amount which is the actuarial value, at the time of the first retention, of the sums then or prospectively due to the police officer on account of the award, and
- (b) the amount of the said loss,

(a) 1967 c.35

and, in the event of any dispute as to the amount of that loss, the power conferred by this paragraph shall not be exercisable save to the extent of any sum adjudged due to the Board by an order of a competent court.

(6) Where the Board exercises the power conferred by paragraph (5) it shall furnish the police officer concerned with a certificate showing the amount retained and the effect on the award.

(7) The Board shall obtain a good discharge by paying or applying any sum in the manner provided by this regulation.

PART 7

POLICE SERVICE OF NORTHERN IRELAND RESERVE

Members of the Police Service Northern Ireland Reserve

42.—(1) Subject to paragraph (2) these Regulations shall apply to members of the Police Service of Northern Ireland Reserve.

(2) Unless the context otherwise requires, in these Regulations a reference to:

- (a) a police officer shall be read as a reference to a person who is a member of the Police Service of Northern Ireland Reserve as defined in section 1(3) of the 2000 Act;
- (b) the Police Service, and service shall be read as references to the Police Service of Northern Ireland Reserve;
- (c) the 1988 Regulations shall be read as a reference to those Regulations as applied to the Police Service of Northern Ireland Reserve by the Royal Ulster Constabulary Reserve (Full-time) Pensions Regulations 2004(a).

Northern Ireland Office
26th May 2006

Peter Hain
One of Her Majesty's Principal Secretaries of State

We consent to the making of these Regulations

Northern Ireland Office
20th June 2006

Frank Roy
Dave Watts
Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

Regulation 2(a)

GLOSSARY OF EXPRESSIONS

In these Regulations, unless the context otherwise requires, the following expressions shall be construed as follows —

“the 1988 Regulations” means the Royal Ulster Constabulary Pensions Regulations 1988;

“the 2000 Act” means the Police (Northern Ireland) Act 2000(b);

“aggregate pension contributions”, for the purpose of calculating an award, has the meaning assigned to it by regulation 3(4);

“average pensionable pay” has the meaning assigned to it by regulation 3(2);

(a) S.R. 1994 No. 197
(b) 2000 c.32

“the Board” means the Northern Ireland Policing Board as established by section 2 of the 2000 Act;

“child” means (without regard to age) legitimate or illegitimate child, step-child or adopted child and any other child who is substantially dependent on the police officer concerned and either is related to him or is the child of his spouse or civil partner; and “parent” shall be construed accordingly;

“disablement” and cognate expressions have the meanings assigned to them by regulation 6;

“husband” includes wife;

“infirmity” has the meaning assigned to it by regulation 6;

“injury” includes any injury or disease, whether of body or of mind;

“injury received in the execution of duty” has the meaning assigned to it by regulation 5 and

“the result of an injury” shall be construed in accordance with regulation 7;

“medical referee” has the meaning assigned to it by regulation H2(3) of the 1988 Regulations;

“Northern Ireland Criminal Injuries Compensation Scheme” means the scheme referred to in Article 3 of the Criminal Injuries Compensation (Northern Ireland) Order 2002(a).

“pensionable pay” has the meaning assigned to it by regulation 3(1);

“the Pensions (Increase) Acts” means the Pensions (Increase) Act 1971(b) and the Pensions (Increase) Act 1974(c);

“police officer” means a person who is:

(a) a constable of the Police Service of Northern Ireland as defined in section 1(2) of the 2000 Act; or

(b) a Police Service of Northern Ireland trainee as defined in section 36(3) of the 2000 Act;

“public holiday” means—

(a) New Year’s Day, St Patrick’s Day, first Monday in May and last Monday in May, 12th July, last Monday in August, Christmas Day and 26th December; and

(b) (in addition) in any year where New Year’s Day, Christmas Day or 26th December falls on a Saturday or Sunday, any substitute day;

“the Scheme actuary” means the actuary for the time being appointed by the Secretary of State to provide a consulting service on actuarial matters relevant to these Regulations;

“step-child” includes a person who is the child of the civil partner of the police officer concerned, but is not the child of that police officer;

“widow” includes widower;

“wife” includes husband.

SCHEDULE 2

PART 1

Regulation 9(1)

AMENDMENTS OF THE 1988 REGULATIONS

1. In regulation A7 (persons treated as being in receipt of a pension)—

(a) for the words “, ill-health or as the case may be, injury” there are substituted the words “or as the case may be, ill-health”; and

(a) S.I. 2002/796 (N.I.1)

(b) 1971 c.56

(c) 1974 c.9

- (b) paragraph (c) is omitted.
2. In regulation B5(2)(b) (member's deferred pension) there are inserted at the end the words "or to an award under regulation 10 of the Injury Benefit Regulations".
3. In regulation B6(1)(b) (award by way of repayment of aggregate pension contributions) after the words "this Part" there are inserted the words "or to an award under regulation 10 of the Injury Benefit Regulations".
4. In regulation B7(8)(b) (commutation - general provision) after the words "injury pension" there are inserted the words "under regulation 10 of the Injury Benefit Regulations".
5. In regulation B8 (commutation – small pensions) —
- (a) in paragraph (1) after the words "together with" there are inserted the words "any injury pension to which he is entitled under regulation 10 of the Injury Benefit Regulations,"; and
 - (b) in paragraph (3) after the words "one pension" there are inserted the words "(including an injury pension under regulation 10 of the Injury Benefit Regulations)".
6. In regulation C1(1)(b) (widow's ordinary pension) for the words "and an injury pension" there are substituted the words "pension under regulation B3 and an injury pension under regulation 10 of the Injury Benefit Regulations".
7. In regulation C5(2) (limitation on award to widow) the words ", C2" are omitted.
8. In regulation C6 (widow's requisite benefit and temporary pension)—
- (a) in paragraph (1) for the words ",C2(1) or C4(1)" there are substituted the words " or C4(1) or not entitled to an adult survivor's special award under regulation 12 of the Injury Benefit Regulations";
 - (b) in paragraph (2) after the words "an injury pension" there are inserted the words "under regulation 10 of the Injury Benefit Regulations"; and
 - (c) in paragraph (4)(b) for the words following the words "such a pension" there are substituted the words "under regulation 10 of the Injury Benefit Regulations but for his entitlement to additional benefit within the meaning of paragraph 7(3) of Schedule 3 to those Regulations and, where he is, or is so treated as being, in receipt of such a pension, the provisions of paragraph 7(3) shall be disregarded in determining the weekly amount of that pension.".
9. In regulation C7(1) (widow's award where no other award payable)—
- (a) the words ",C2" are omitted; and
 - (b) after the word "applies" there are inserted the words "and who has no entitlement to a adult survivor's special award under regulation 12 of the Injury Benefit Regulations".
10. In regulation D1(b) (child's ordinary allowance) for the words "ill-health and an injury pension" there are substituted the words "ill-health pension under regulation B3 and an injury pension under regulation 10 of the Injury Benefit Regulations".
11. In regulation D5 (child's allowance - limitations)—
- (a) in paragraph (1) the words "or gratuity" and "and "a special gratuity"" are omitted;
 - (b) paragraph (7) is omitted;
 - (c) in paragraph (8) for the words ",(5) and (7)" there are substituted the words "and (5)"; and
 - (d) in paragraph (9) the words "or special gratuity" are omitted.
12. In regulation E3 (gratuity - estate)—
- (a) in paragraph (2)(a) after the words "injury pension" there are inserted the words "under regulation 10 of the Injury Benefit Regulations";

- (b) in paragraph (2)(c) after the word “including” there are inserted the words “any such pension or allowance granted under the Injury Benefit Regulations and”; and
 - (c) in paragraph (2)(d) there are inserted at the end the words “(including any such gratuity granted under the Injury Benefit Regulations)”.
- 13.** In regulation E4(6) (gratuity in lieu of widow’s pension) the words “or special” in both places where they appear are omitted.
- 14.** In regulation E7 (prevention of duplication)—
- (a) in paragraph (1)(a) after the words “Part C” there are inserted the words “of these Regulations or under regulation 12 of the Injury Benefit Regulations”, and
 - (b) in paragraph (1)(b) for the words “or an adult dependent relative’s pension under regulation E1” there are substituted the words “or a child’s special allowance under regulation 16 of the Injury Benefit Regulations or an adult dependent relative’s special pension under regulation 19 of the said Regulations”.
- 15.** In regulation E8 (increase of widow’s pension or child’s allowance during first 13 weeks)—
- (a) in paragraph (1) the word “, special” in both places where it appears is omitted;
 - (b) in paragraph (2)(i) for the words from “paragraph 4” to “member’s” there are substituted “paragraph 7(3) of Schedule 3 to the Injury Benefit Regulations (police officer’s”; and
 - (c) in paragraph (2)(ii) after the words “injury pension” there are inserted the words “under regulation 10 of the Injury Benefit Regulations”.
- 16.** In regulation G1(5)(a) (pensionable and average pensionable pay) the words from “regulation B4” to “augmented award”) and the words from “D2” to “special pension”) are omitted.
- 17.** In regulation H1(2) (reference of medical questions), the words from “and, if they are further considering” onwards are omitted.
- 18.** In regulation J1(guaranteed minimum pension)—
- (a) in paragraph (2)(b) after the words “Part B” there are inserted the words “or an injury pension under regulation 10 of the Injury Benefit Regulations”;
 - (b) in paragraph (2)(c)(ii) after the words “Part B” there are inserted the words “or an injury pension under regulation 10 of the Injury Benefit Regulations” and after the words “regulation K4” there are inserted the words “ or, as the case may be, regulation 37 of the Injury Benefit Regulations”;
 - (c) in paragraph (3) after the words “Part B” in the first place where they appear there are inserted the words “or an injury pension under regulation 10 of the Injury Benefit Regulations”;
 - (d) in paragraph (3)(a) the words “other than an injury pension” are omitted and for the words “and some other” there are substituted the words “under regulation 10 of the Injury Benefit Regulations and a”;
 - (e) in paragraph (3)(b) the words “, in the case of a pension other than an injury pension,” are omitted;
 - (f) in paragraph (4)(a) after the words “Part C” there are inserted the words “or an adult survivor’s special award under regulation 12 of the Injury Benefit Regulations”;
 - (g) in paragraph (4A)(a) the words from “under regulation E1(3)” to “regulation E1(1)(c) or” are omitted and after the words “Part C” there are inserted the words “or under regulation 19 of the Injury Benefit Regulations (adult dependent relative’s special pension) by virtue of paragraph (1)(c) of the said regulation”;
 - (h) in paragraph (5) after the words “Part C” in the first place where they appear there are inserted the words “or a special pension under regulation 12 of the Injury Benefit Regulations” and after the words “Part C” in the second place where they appear there are inserted the words “or such a special pension as aforesaid”;

- (i) in paragraph (5A) for the words “E1(3) by virtue of regulation E1(1)(c)” there are substituted the words “19 of the Injury Benefit Regulations by virtue of paragraph (1)(c) of that regulation”; and
 - (j) in paragraph (6)(c) the words “or under regulation E1” are omitted.
- 19.** In regulation K1(cancellation of pensions)—
- (a) at the heading the words “and injury” are omitted; and
 - (b) in paragraph (4) the letter “(a)” which precedes sub-paragraph (a), the word “and” which follows that sub-paragraph and sub-paragraph (b) are omitted.
- 20.** In regulation K3 (reduction of pension in case of default) the words “or injury” are omitted.
- 21.** In regulation K4(1)(withdrawal of pension during service as a policeman) the words “or under regulation E1 (adult dependent relative’s special pension)” are omitted.
- 22.** In regulation K5(1) (forfeiture of pension) the words “or under regulation E1 (adult dependent relative’s special pension)” are omitted.
- 23.** In regulation L2 (payment and duration of awards)—
- (a) paragraph (1)(b) is omitted;
 - (b) in paragraph (2)(ii) the words “other than an injury gratuity under regulation B4” are omitted;
 - (c) paragraph (3)(d) is omitted.
- 24.** In Schedule A (glossary of expressions) there is inserted at the appropriate place the following definition—
- “the Injury Benefit Regulations” means the Police Service of Northern Ireland (Injury Benefit) Regulations 2006”.
- 25.** In paragraph 1(2)(b) of Part I of Schedule C (widow’s ordinary pension) for the words “ill-health and an injury pension” there are inserted the words “an ill-health pension under Part B and an injury pension under regulation 10 of the Injury Benefit Regulations”.
- 26.** In paragraph 1 of Part IV of Schedule C (widow’s pension in case of post-retirement marriage)—
- (a) for the words “or special award under regulation C1 or C2” there are substituted the words “under regulation C1”, and
 - (b) sub-paragraph (c) and the word “and” immediately preceding it are omitted.
- 27.** In paragraph 1 of Part I of Schedule D (child’s ordinary allowance)—
- (a) in sub-paragraph (4) for the words “ill-health or injury pension” there are substituted the words “or ill-health pension or an injury pension under regulation 10 of the Injury Benefit Regulations”; and
 - (b) in sub-paragraph (5) after the words “ill-health pension” there are inserted the words “under Part B” and after the words “injury pension” there are inserted the words “under regulation 10 of the Injury Benefit Regulations”.
- 28.** In paragraph 3(1)(b) of Part I of Schedule D (child’s ordinary allowance) for the words “ill-health and an injury pension” there are inserted the words “an ill-health pension under Part B and an injury pension under regulation 10 of the Injury Benefit Regulations”.
- 29.** In paragraph 6(1C)(j) of Part IV of Schedule J (pensionable service), the words “and injury” are omitted.
- 30.** In paragraph 4(4) of Part VI of Schedule J (pensionable pay and contributions etc.), paragraphs (a), (b), (f), (i) and (j) are omitted.

PART 2

Regulation 9(2)

REVOCATIONS

<i>Title</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Royal Ulster Constabulary Pensions Regulations 1988	S.R. 1988 No. 374	Regulation A10 In regulation A11(2), the words “Subject to paragraph (3)” Regulation A12 Regulation B4 Regulation C2 Regulation C3 Regulation D2 Regulation D3 Regulation E1 Regulation K2 In Schedule A, the definitions of the expressions “injury”, “injury received in the execution of duty” and “the result of an injury” Part V of Schedule B Part II of Schedule C Part II of Schedule D Part I of Schedule E In Schedule J, paragraphs 5 and 6 of Part I, paragraph 6 of Part II and paragraph 1 of Part VII
The Royal Ulster Constabulary (Injury Benefit) Regulations 1988	S.R. 1988 No. 376	The whole regulations
The Police Service of Northern Ireland Pensions (Amendment) Regulations 2006	S.R. 2006 No 123	Paragraph 6 of Schedule 1

SCHEDULE 3

Regulation 10

POLICE OFFICER’S INJURY AWARD

1. A gratuity under regulation 10 shall be calculated by reference to the person’s degree of disablement and his average pensionable pay and shall be—

- (a) in the case of a police officer all of whose service by virtue of which his pensionable service is reckonable was full-time, the amount specified as appropriate to his degree of disablement in column (2) of the Table in paragraph 3, and
- (b) in the case of a police officer any of whose service by virtue of which his pensionable service is reckonable was part-time, the amount given by the formula—

$$\frac{G \times R}{Q}$$

where—

G is the amount that the gratuity would be if all the service were full-time service,

R is the period in years of his pensionable service, and

Q is the period that would be the period in years of his pensionable service if periods of part-time service were reckonable as if they were periods of full-time service.

2. If in a case where any of the police officer's service by virtue of which his pensionable service is reckonable was part-time service, the amount of the gratuity calculated in accordance with paragraph 1 would be less than it would have been if the person had become entitled to receive the gratuity at an earlier date, then that amount shall be substituted for it.

3. An injury pension shall be calculated by reference to the person's degree of disablement, his average pensionable pay and the period in years of his pensionable service, and, subject to the following paragraphs, shall be—

- (a) in the case of a police officer all of whose service by virtue of which his pensionable service is reckonable was full-time, of the amount of his minimum income guarantee specified as appropriate to his degree of disablement in column (3), (4), (5) or (6) of the following Table, and
- (b) in the case of a police officer any of whose service by virtue of which his pensionable service is reckonable was part-time, of the amount given by the formula—

$$\frac{M \times R}{Q}$$

where—

M is the amount that his minimum income guarantee would be if all the service were full-time service and R and Q are the same as in paragraph 1;

<i>Degree of disablement</i>	<i>Gratuity expressed as % of average pensionable pay</i>	<i>Minimum income guarantee expressed as % of average pensionable pay</i>			
		<i>Less than 5 years' service</i>	<i>5 or more but less than 15 years' service</i>	<i>15 or more but less than 25 years' service.</i>	<i>25 or more years' service.</i>
(1)	(2)	(3)	(4)	(5)	(6)
25% or less (slight disablement)	12.5%	15%	30%	45%	60%
More than 25% but not more than 50% (minor disablement)	25%	40%	50%	60%	70%
More than 50% but not more than 75% (major disablement)	37.5%	65%	70%	75%	80%
More than 75%	50%	85%	85%	85%	85%

75% (very
severe
disablement)

4. If in a case where any of the police officer's service by virtue of which his pensionable service is reckonable was part-time service, the amount of the pension calculated in accordance with paragraph 3 would be less than it would have been if the person had become entitled to receive the pension at an earlier date, then that amount shall be substituted for it.

5. In paragraphs 2, 3 and 4, references to a person's pensionable service shall in the case of a police officer who has made an election under regulation G4(1) of the 1988 Regulations be construed as references to the service which would have been reckonable by him if he had not made such an election.

6.—(1) The amount of an injury pension, calculated as aforesaid, shall be reduced, where the person concerned received the relevant injury (within the meaning of regulation 10) during a period of service as a police officer, by three-quarters of any other pension calculated by reference to Schedule B to the 1988 Regulations.

(2) For the purposes of sub-paragraph (1), such other pension as is there mentioned which is reduced—

- (a) in accordance with the provisions of regulation B7 or B9 (commutation and allocation) of the 1988 Regulations;
- (b) in accordance with the provisions of Part VIII of Schedule B (reduction related to up-rating of widow's pension) to the 1988 Regulations; or
- (c) by virtue of a pension debit,

shall be deemed not to have been so reduced.

(3) In the case of a police officer who has made an election under regulation G4(1) of the 1988 Regulations, sub-paragraph (1) shall have effect as if for the reference to three-quarters of any other pension calculated by reference to pensionable service reckonable by reason of that period of service there were substituted a reference to the amount of any other pension which would have been so calculated had he not made such an election.

7.—(1) The amount of the injury pension in respect of any week, calculated as aforesaid, shall be reduced on account of any such additional benefit as is mentioned in sub-paragraph (3) to which the person concerned is entitled in respect of the same week and, subject to sub-paragraph (2), the said reduction shall be of an amount equal to that of the additional benefit or, in the case of a benefit mentioned in sub-paragraph (3)(a) or (b), of so much thereof as is there mentioned.

(2) Where the provisions governing scales of additional benefits have changed after the person concerned ceased to be a police officer, the amount of the reduction in respect of any week on account of a particular benefit shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed, it being assumed, in the case of such benefit as is mentioned in sub-paragraph (3)(a)(ii), that it would have borne the same relationship to the former maximum amount thereof.

(3) The following benefits are the additional benefits referred to in this paragraph—

- (a) any industrial injuries benefit under section 94 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992^(a) in respect of the relevant injury or so much of any such pension as relates to that injury (referred to in this sub-paragraph as the relevant part of the pension), together with—
 - (i) any increase in such pension by way of unemployability supplement under Part 1 of Schedule 7 to that Act or so much of any such increase as is proportionate to the relevant part of that pension so, however, that where the person concerned is entitled to an unemployability supplement which is increased under Part 1 of the said

(a) 1992 c.7

Schedule, the unemployability supplement shall be deemed not to have been so increased,

- (ii) any increase in such pension under section 94 of that Act (reduced earnings allowance) or so much of any such increase as is proportionate to the relevant part of that pension, and
 - (iii) so long as the person concerned is receiving treatment as an in-patient at a hospital as a result of the relevant injury, any increase in such pension under Part 3 of Schedule 7 to that Act (hospital treatments);
- (b) any reduced earnings allowance under section 94 of that Act in respect of the relevant injury or so much of any such allowance as relates to that injury;
 - (c) until the first day after his retirement which is not, or is deemed not to be, a day of incapacity for work within the meaning of section 30A, or, as the case may be, a day on which he is incapable of work within the meaning of sections 68 and 69, of that Act—
 - (i) any incapacity benefit under section 30A of that Act,
 - (ii) any severe disablement allowance under sections 68 and 69, including, in each case, any increase under any provision of Part 4 of that Act (dependants).

(4) Where a person has become entitled to a disablement gratuity under Part 2 of Schedule 7 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in respect of the relevant injury, this paragraph shall have effect as if he were entitled during the relevant period to a disablement pension of such amount as would be produced by converting the gratuity into an annuity for the said period.

In this sub-paragraph the expression “the relevant period” means the period taken into account, in accordance with section 94 of that Act, for the purpose of making the assessment by reference to which the gratuity became payable.

8. No payment shall be made in respect of an injury pension for any week in which the aggregate reductions under paragraphs 6 and 7 exceed the amount of the pension calculated in accordance with paragraph 3.

9. In a case where—

- (a) a former police officer was in part-time service before the date on which the Police Service of Northern Ireland Pensions (Amendment) Regulations 2006^(a) came into operation, and
- (b) the amount of his award calculated in accordance with this Schedule would be less than it would have been if those Regulations had not been made,

then the award shall be of that amount instead.

SCHEDULE 4

Regulation 18

REDUCTION IN CHILD’S SPECIAL ALLOWANCE DURING FULL-TIME REMUNERATED TRAINING ETC

1.—(1) In this Schedule—

“relevant child” means, subject to sub-paragraph (2), a child entitled to a special allowance who is—

- (a) in full-time training for a trade, profession or calling, and
- (b) in receipt of remuneration in respect of that training at an annual rate in excess of the specified rate;

^(a) S.R. 2006 No. 123; the Regulations came into operation on 1st April 2006

“specified rate” means a sum equivalent to the annual rate (rounded up to the nearest £1) of the applicable amount of personal allowance payable to a single claimant aged not less than 18 but less than 25 years, as specified in the Income Support (General) Regulations (Northern Ireland) 1987(a) as uprated from time to time in accordance with an order under section 132(1) of the Social Security Administration (Northern Ireland) Act 1992(b);

“excess remuneration” means the annual amount by which the annual rate of the relevant child’s remuneration exceeds the specified rate;

“relevant provision” means regulation 16(4) or regulation 16(6).

(2) A child shall not be a relevant child for the purposes of this Schedule if and in so far as his allowance falls to be increased in accordance with regulation 27 (increase during first 13 weeks).

2. In the case of any relevant child—

- (a) if the annual amount of the special allowance is greater than the amount of his excess remuneration, it shall be reduced by the amount of that excess remuneration, or
- (b) if the amount of that excess remuneration is equal to or greater than the annual amount of the allowance which, but for this sub-paragraph, would be payable to him, the allowance shall not be payable.

3.—(1) Where as well as any relevant child there are other children to whom special allowances are payable in respect of the death of the same person and either of the relevant provisions applies, the special allowances payable to those other children (“the other special allowances”) shall be increased as provided in this paragraph.

(2) If paragraph 2(a) applies in the case of any relevant child, then, without prejudice to sub-paragraph (3), the annual amount of each of the other special allowances shall be increased by an amount equal to his excess remuneration divided by the number of other special allowances.

(3) If paragraph 2(b) applies in the case of any relevant child, then, without prejudice to sub-paragraph (2), each of the other special allowances shall be recalculated as if the relevant child were not entitled to a special allowance.

(4) Notwithstanding the provisions of sub-paragraphs (2) and (3), no child shall by virtue of these provisions receive a special allowance greater than that to which he would be entitled if no relevant provision applied in his case.

SCHEDULE 5

Regulation 19

DEPENDENT RELATIVE’S SPECIAL PENSION

1. Subject to paragraphs 2, 3 and 4, a dependent relative’s special pension shall be of a weekly amount equal to 45% of the average pensionable pay for a week of the member in respect of whose death it was granted (“the deceased”).

2. In respect of any week in respect of which there are payable in respect of the deceased’s death both—

- (a) a widow’s special pension or, where the deceased was a married woman or a woman in a civil partnership, a dependent relative’s special pension granted to her widower or surviving civil partner, and
- (b) a dependent relative’s special pension other than, where the deceased was a married woman or a woman in a civil partnership, one granted as aforesaid,

(a) S.R. 1987 No. 459
(b) 1992 c.8

the dependent relative's special pension mentioned in sub-paragraph (b) shall not be of the amount mentioned in paragraph 1 but, subject to paragraphs 3 and 4, of an amount equal to 20% of the deceased's average pensionable pay for a week.

3. The amount of a dependent relative's special pension determined in accordance with paragraph 1 or 2 shall be increased in accordance with regulation 28 (increase by reference to the Pensions (Increase) Acts).

4.—(1) Where in respect of any week the aggregate amount of—

- (a) any widow's special pension, and
- (b) any child's special allowance,

payable in respect of the deceased's death equals or exceeds the amount of the deceased's average pensionable pay for a week, no dependent relative's special pension shall be payable in respect of that week.

(2) Where in respect of any week the aggregate amount of—

- (a) any widow's special pension,
- (b) any child's special allowance, and
- (c) any dependent relative's special pension,

payable in respect of the deceased's death would exceed the amount of the deceased's average pensionable pay for a week, the dependent relative's pension shall be reduced by such factor as will ensure that that aggregate does not exceed that amount.

(3) For the purposes of this paragraph any increase in a pension or allowance in accordance with regulation 28 (increase by reference to the Pensions (Increase) Acts) shall be ignored.

SCHEDULE 6

Regulation 30

MEDICAL APPEALS

1. Every notice of appeal under regulation 30(1) and statement of grounds under regulation 30(2) shall be in writing.

2. On receiving a notice of appeal against a report and certificate issued under regulation 29 and the appellant's statement of grounds for appeal, the Board, unless regulation 31(2) applies, shall forward to the Secretary of State two copies of those documents and all other documents determined as necessary by the Secretary of State.

3.—(1) The independent medical referee shall appoint a time and place for hearing the appeal, at which he may interview or examine the appellant, and for any such further hearings as he may consider necessary and shall give reasonable notice thereof to the appellant and Board.

(2) The Board and the appellant shall, before the date appointed for the hearing inform the Secretary of State whether they intend to be represented at the hearing.

4.—(1) Where either party to the appeal intends to submit written evidence or a written statement at a hearing arranged under paragraph 3 that party shall submit it to the Secretary of State and the other party before the date appointed for the hearing.

(2) The independent medical referee may postpone or adjourn the date appointed for the hearing where it appears necessary to do so for the proper determination of the appeal.

5.—(1) Any hearing (including any examination) may be attended by—

- (a) the selected medical practitioner; and
- (b) a duly qualified medical practitioner appointed for the purpose by the appellant,

although they may only observe any examination.

(2) If the selected medical practitioner does not attend any examination then a duly qualified medical practitioner appointed for that purpose by the Board may attend the examination as an observer.

(3) If any hearing includes an examination then only medical practitioners may be present for that part of the hearing.

6. The independent medical referee shall supply the Secretary of State with a written statement of his decision. Where the independent medical referee disagrees with any part of the selected medical practitioner's report, the independent medical referee shall supply a revised report and certificate, which shall be final.

7.—(1) There shall be paid to the independent medical referee—

- (a) such fees as are determined in accordance with arrangements made by the Secretary of State; or
- (b) where no such arrangements have been made, such fees and allowances as the Secretary of State may from time to time determine.

(2) Any fees and allowances payable to the independent medical referee under sub-paragraph (1) shall, subject to paragraph 8(5), be paid by the Board and shall be treated as part of the expenses of the Board for the purposes of this Schedule.

8.—(1) Save as provided in this paragraph, the expenses of each party to the appeal shall be borne by that party.

(2) Where a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the Board less than 11 days before the hearing (excluding weekends and public holidays) the independent medical referee shall require the Board to pay to the appellant any expenses actually and reasonably incurred by him in respect of attending or arranging to attend the cancelled, adjourned or postponed hearing as the case may be.

(3) Where the independent medical referee determines that a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the appellant, less than 11 days before the hearing (excluding weekends and public holidays) the Board may, subject to sub-paragraph (4), require the appellant to pay towards the cost of the cancellation, adjournment or postponement as the case may be, such sum not exceeding the total costs of the cancellation, adjournment or postponement as the case may be as the Board thinks fit.

(4) If the independent medical referee, after taking account of any representations from either party, decides that the cancellation, adjournment or postponement as the case may be was not due to any fault on the part of the appellant and the appellant should not pay towards the cost of the cancellation, adjournment or postponement as the case may be, he shall state that this is the case and the Board shall not require the payment of any such costs.

(5) Where the independent medical referee decides in favour of the Board and reports that in his opinion the appeal was frivolous or vexatious, the Board may, subject to sub-paragraph (6), require the appellant to pay towards the cost of the appeal such sum not exceeding the independent medical referee's total fees and allowances as the Board thinks fit.

(6) If the independent medical referee, after taking account of any representations from either party, decides there are exceptional reasons why the appellant should not pay towards the cost of the appeal, it shall state that this is the case and the Board shall not require the payment of any such costs.

(7) Where the independent medical referee decides in favour of the appellant, the Board shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending any such hearing as is mentioned in paragraph 3.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for payments to police officers who are permanently disabled as a result of an injury received without their own default in the execution of duty as a police officer or, where death results from such an injury, to surviving spouses or civil partners, children or other dependent relatives of the deceased member. The Regulations revoke and re-enact provisions for that purpose in the Royal Ulster Constabulary Pensions Regulations 1988 (“the 1988 Regulations”) and the Royal Ulster Constabulary (Injury Benefit) Regulations 1988, and establish a scheme which is distinct from the provisions of the 1988 Regulations, which continue in operation in relation to contributory pensions payable to members or to others in relation to deceased members. These Regulations are applied to the Police Service of Northern Ireland Reserve (regulation 42).

Part 1 contains general provisions, including definitions of “injury received in the execution of duty” and “disablement” (regulations 5 and 6). Part 1 contains general provisions, including definitions of “injury received in the execution of duty” and “disablement” (regulations 6 and 7). Regulation 1(1) provides that the Regulations have retrospective effect to 6th April 2006, which is the date on which a new tax regime for registered pension schemes – introduced by the Finance Act 2004 – comes into effect. Retrospective effect is permitted by Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972.

Part 2, with Schedules 3 to 5, makes provision for the awards payable on injury or death, with supplementary provision in Part 3; and Part 5 governs the circumstances in which an award may be revised, withdrawn or forfeited. Part 4 and Schedule 6 provide procedures for the determination of medical questions which arise. Part 6 contains provision in respect of the payment of awards. Schedule 2 revokes the Royal Ulster Constabulary (Injury Benefit) Regulations 1988 and relevant provisions of the 1988 Regulations and makes consequential amendments of the 1988 Regulations.