

1961. No. 70

[C]

NATIONAL INSURANCE

Modification of the Ulster Special Constabulary Pensions Provisions

REGULATIONS, DATED 23RD MARCH, 1961, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SUB-SECTION (4) OF SECTION 66 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946, AND SUB-SECTION (1) OF SECTION 14 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1959.

Whereas the Ministry of Finance has determined under sub-section (4) of section sixty-six of the National Insurance Act (Northern Ireland), 1946(a), that the Minister of Home Affairs is the appropriate Minister to make regulations under that sub-section modifying the scheme for the provision of pensions and other benefits established by the Special Constables Act, 1914(b), as applied by the Constabulary Act (Northern Ireland), 1922(c), and the Constabulary (Pensions) Act (Northern Ireland), 1949(d), and the Regulations made thereunder:

Now, therefore, in exercise of the powers conferred on me by the said sub-section (4) as extended by section fourteen of the National Insurance Act (Northern Ireland), 1959(e), I hereby make the following Regulations:—

Citation

1. These Regulations may be cited as the National Insurance (Modification of the Ulster Special Constabulary Pensions Provisions) Regulations, 1961.

Awards to which Regulations apply

2. These Regulations shall apply to pensions, gratuities and other awards, other than supplemental pensions, granted to or in respect of members on retirement or dismissal on or after the 3rd April, 1961, under the Ulster Special Constabulary Pensions Regulations.

Forfeiture and suspension

3.—(1) Except for such causes as may be prescribed by regulations made under paragraph (c) of sub-section (1) of section seven of the National Insurance Act (Northern Ireland), 1959, the secured portion of a pension to which these Regulations apply shall not be capable of being forfeited or, save as respects any period before insured pensionable age, suspended.

(2) Without prejudice to the generality of paragraph (1), as respects a pension to which these Regulations apply—

(a) paragraph (2) of Regulation 39 of the Ulster Special Constabulary Pensions Regulations, 1950(f) (which relates to the cancellation of ill-health and supplemental pensions), shall apply only to the unsecured portion of the pension, but where, but for the provisions of this subparagraph, the whole pension would cease, the secured portion of the pension shall not be payable in respect of any period before insured pensionable age;

(a) 1946. c. 23.

(b) 4 & 5 Geo. 5. c. 61.

(c) 12 & 13 Geo. 5, c. 8 (N.I.).

(d) 1949. c. 9.

(e) 1959. c. 21.

(f) S.R. & O. (N.I.) 1950, No. 97.

- (b) paragraph (1) of Regulation 41 of the Ulster Special Constabulary Pensions Regulations, 1950, as amended by Regulation 9 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1952(a) (which relates to the taking into account, for the purpose of assessing a pension, of compensation for injury under the Criminal Injuries (Ireland) Acts), shall apply only to the unsecured portion of the pension, and to the secured portion of the pension in respect of any period before insured pensionable age;
- (c) paragraph (3) of the said Regulation 41 (which relates to the taking into account, for the purpose of assessing a pension, of a pension, grant or allowance out of any naval, military or air force fund in pursuance of any Royal Warrant or other instrument in respect of the incapacity of a member) shall apply only to the unsecured portion of the pension, and to the secured portion of the pension in respect of any period before insured pensionable age;
- (d) paragraph (4) of the said Regulation 41, as set out in Regulation 14 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1958(b) (which relates to the taking into account, for the purpose of assessing a pension, of a pension, allowance or gratuity in respect of certain police and Government service), shall apply only to the unsecured portion of the pension, and to the secured portion in respect of any period before insured pensionable age;
- (e) paragraph (a) of Regulation 41A of the Ulster Special Constabulary Pensions Regulations, 1950, as set out in Regulation 16 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1954(c) (which provides for the deduction from a police pension of compensation allowance awarded on disbandment of the Royal Irish Constabulary), shall apply only to the unsecured portion of the pension, and to the secured portion of the pension in respect of any period before insured pensionable age;
- (f) the provisions of Regulation 44 of the Ulster Special Constabulary Pensions Regulations, 1950 (which relates to the temporary and permanent forfeiture by the Ministry of police pensions), shall apply only to the forfeiture, whether temporary or permanent, of the unsecured portion of the pension, and to the temporary forfeiture of the secured portion of the pension for a period before insured pensionable age, or during the imprisonment or detention in legal custody of the pensioner, and the Ministry in determining under the said Regulation 44 whether a forfeiture shall be permanent or temporary and affect the pension in whole or in part, may make different determinations in respect of the secured and unsecured portions of the pension;
- (g) Regulation 48 of the Ulster Special Constabulary Pensions Regulations, 1950 (which relates to an assignment of or charge on an award), shall have effect so that any such assignment of or charge on a pension, made for the benefit of the family of the pensioner, shall apply only to the unsecured portion of the pension, and to the secured portion of the pension in respect of any period before insured pensionable age;
- (h) paragraph (1) of Regulation 49 of the Ulster Special Constabulary Pensions Regulations, 1950 (which relates to the application of a sum due on account of a pension in satisfaction of certain debts), shall apply only

(a) S.R. & O. (N.I.) 1952, No. 157.

(c) S.R. & O. (N.I.) 1954, No. 30.

(b) S.R. & O. (N.I.) 1958, No. 61.

to a sum due on account of the unsecured portion of the pension or due in respect of any period before insured pensionable age on account of the secured portion of the pension;

- (i) paragraph 3 of Part IIA of the First Schedule to the Ulster Special Constabulary Pensions Regulations, 1950 (which provides for the payment to an ill-health pensioner who does not rejoin the force on cancellation of his pension of an amount equal to the excess, if any, of his aggregate pension contributions over the payments made to him in respect of the pension), shall have effect as if—
 - (i) the reference therein to the cancellation of an ill-health pension were a reference to the cancellation of the unsecured portion of such a pension, and
 - (ii) the reference therein to the aggregate amount paid in respect of an ill-health pension were a reference to the aggregate of that amount and the actuarial value of the secured portion of the pension, in so far as it is payable under sub-paragraph (a), determined in accordance with tables prepared by the Ministry; and
- (j) Part III of the First Schedule to the Ulster Special Constabulary Pensions Regulations, 1950, as amended by Regulation 19 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1956(a) (which relates to reductions in ordinary, ill-health and short-service pensions in respect of periods beyond insured pensionable age), shall apply only to the unsecured portion of the pension.

Reduction of award other than a pension where payment in lieu of contributions falls to be made

4.—(1) Where a payment in lieu of contributions falls to be made in respect of a member's service in the force and—

- (a) a short-service gratuity is payable by the Ministry on his retirement, or
- (b) an ill-health gratuity is so payable and the Ministry determines that the provisions of this Regulation shall apply, or
- (c) an amount equal to his aggregate pension contributions in respect of the relevant period of service is payable by the Ministry to him or his dependants on his retirement or dismissal,

the award in question shall be reduced by an amount equal to the amount which could be retained out of the award under sub-section (4) of section nine of the National Insurance Act (Northern Ireland), 1959, if the award were a refund of payments to which that sub-section applies.

(2) Where a payment in lieu of contributions may fall to be made in respect of a member's service in the force and such an award as is mentioned in paragraph (1) is payable as mentioned therein, the Ministry may reduce the amount of the award in question by the amount by which it would be reduced under the said paragraph (1) if the payment in lieu of contributions in fact fell to be made, so however that, if the said payment does not fall to be made within the period of seventy-eight weeks from the date when the person concerned ceases to be a member or within such shorter period as the Ministry may determine, then any reduction under this paragraph in the amount of the award shall cease to have effect and the difference between the full and the reduced amounts thereof shall become payable.

(a) S.R. & O. (N.I.) 1956, No. 75.

(3) Without prejudice to the generality of paragraphs (1) and (2), the provision of Regulation 5, as set out in Regulation 2 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1951(a), and paragraph (4) of Regulation 47 of the Ulster Special Constabulary Pensions Regulations, 1950, and of Part IIA of the First Schedule thereto, as amended by Regulation 18 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1954 (which provisions relate to the amount and payment of the awards mentioned in paragraph (1)), shall have effect subject to the provisions of the said paragraphs (1) and (2).

Abatement of pension in relation to participating service otherwise than as a member or as a member of the Royal Ulster Constabulary

5.—(1) Where a person in receipt of a pension to which these Regulations apply has been in service or employment otherwise than as a member or as a member of the Royal Ulster Constabulary—

- (a) in respect of which he was subject to superannuation arrangements;
- (b) by virtue of which he is entitled to reckon pensionable service for the purposes of the pension; and
- (c) the period of which includes a participating period of relevant employment;

then, for the purpose of abating the pension in relation to that participating period of relevant employment, any provision of the said arrangements in operation when he left the said service or employment the effect of which is that pensions payable thereunder are to be reduced in connection with the operation of the National Insurance Act, 1959(b), or the National Insurance Act (Northern Ireland), 1959, shall apply, subject to the necessary adaptations and modifications, as though the provision were contained in these Regulations and as if—

- (i) the pension were payable under the said arrangements; and
- (ii) any other period of service or employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension were a period of non-participating employment at the end of which no payment in lieu of contributions falls to be made.

(2) The Ministry, in determining any question arising under paragraph (1) and relating to a particular service or employment, shall be entitled to treat as conclusive any relevant certificate issued, with the agreement of the person concerned, by his employer in that service or employment.

(3) Where for the purposes of the superannuation arrangements applicable to such service or employment as is mentioned in paragraph (1) the person concerned was entitled to reckon service by virtue of some previous service or employment, that previous service or employment shall be treated for the purposes of this Regulation as if it were part of the service or employment first mentioned in this paragraph.

(4) Without prejudice to the generality of paragraphs (1), (2) and (3), the provisions of Parts IA and IIA of the First Schedule to the Ulster Special Constabulary Pensions Regulations, 1950, as amended by Regulation 18 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1954 (which relates to the calculation of pensions), shall have effect subject to the provisions of the said paragraphs, but the abatement of a pension in accordance with this Regulation shall be without prejudice to the reduction of the pension

(a) S.R. & O. (N.I.) 1951, No. 123.

(b) 7 & 8 Eliz. 2. c. 47.

in accordance with Part III of the said Schedule as amended by Regulation 19 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1956.

Abatement of pension in relation to participating service as a member or as a member of the Royal Ulster Constabulary

6.—(1) Where a person in receipt of a pension to which these Regulations apply is entitled to reckon as pensionable service for the purposes of the pension the whole or part of a period of employment as a member or as a member of the Royal Ulster Constabulary which is a participating period of relevant employment, then in relation to that period the unsecured portion of the pension shall be reduced in accordance with the provisions of paragraph (2).

(2) Where the unsecured portion of a pension is reduced in accordance with the provisions of this paragraph, the annual rate of that portion of the pension shall be reduced in respect of any period beyond insured pensionable age by the annual rate of the graduated retirement benefit which would be payable to the pensioner in respect of the whole period referred to in paragraph (1) on the assumption that he retired from regular employment on attaining such age:

Provided that where only a part of the period referred to in paragraph (1) is reckonable as pensionable service the annual rate of the unsecured portion of the pension shall be reduced by that proportion of the graduated retirement benefit which the part bears to the whole period.

(3) Without prejudice to the generality of paragraphs (1), (2) and (3), the provisions of Parts IA and IIA of the First Schedule of the Ulster Special Constabulary Pensions Regulations, 1950, as amended by Regulation 18 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1954 (which relates to the calculation of pensions), shall have effect subject to the provisions of the said paragraphs, but the abatement of a pension in accordance with this Regulation shall be without prejudice to the reduction of the pension in accordance with Part III of the said Schedule, as amended by Regulation 19 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1956.

Abatement of pension where secured portion of ill-health pension is also payable

7.—(1) Where a person in receipt of the secured portion of an ill-health pension the unsecured portion of which has ceased to be payable is also in receipt of some other pension to which these Regulations apply, and is entitled to reckon for the purposes of that other pension the period of pensionable service which was reckonable for the purposes of the ill-health pension, then the annual rate of the unsecured portion of that other pension shall be reduced by the annual rate of the secured portion of the ill-health pension.

(2) Without prejudice to the generality of paragraph (1), the provisions of Parts IA and IIA of the First Schedule to the Ulster Special Constabulary Pensions Regulations, 1950, as amended by Regulation 18 of the Ulster Special Constabulary Pensions (Amending) Regulations, 1954 (which relates to the calculation of pensions), shall have effect subject to the provisions of the said paragraph.

Interpretation

8.—(1) In these Regulations the following expressions shall have the meanings respectively which they have for the purposes of the Ulster Special Constabulary Pensions Regulations:—

“aggregate pension contributions in respect of the relevant period of service”;

“ill-health gratuity”;

“ill-health pension”;

“member”;

“the Ministry”;

“pensionable service”;

“short-service gratuity”;

“supplemental pension”.

(2) In these Regulations the following expressions shall have the meanings respectively which they have for the purposes of the National Insurance Act (Northern Ireland), 1959:—

“employed contributor’s employment”;

“graduated retirement benefit”;

“non-participating employment”;

“payment in lieu of contributions”.

(3) In these Regulations any reference to insured pensionable age is a reference to the age of 65 years..

(4) In these Regulations any reference to a participating period of relevant employment is a reference to a period of employed contributor’s employment after the fifth day of April, 1961, and before insured pensionable age other than—

(a) service in the armed forces of the Crown; and

(b) non-participating employment at the end of which no payment in lieu of contributions falls to be made;

and for the purposes of this paragraph a period of employed contributor’s employment or of non-participating employment shall be treated as continuing during periods of holiday, temporary incapacity for work and similar temporary interruptions.

(5) In these Regulations any reference to the Ulster Special Constabulary Pensions Regulations is a reference to the Regulations for the time being in force under the Special Constables Act, 1914, as applied by the Constabulary Act (Northern Ireland), 1922, and the Constabulary (Pensions) Act (Northern Ireland), 1949.

(6) In these Regulations any reference to the secured portion of a pension is a reference to the portion of the pension which equals the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining insured pensionable age, in return for a payment in lieu of contributions in respect of the whole of any period of non-participating employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension, being a period of non-participating employment at the end of which no payment in lieu of contributions in fact fell to be made; and any reference to the unsecured portion of a pension shall be construed accordingly.

For the purposes of this paragraph a period of non-participating employment shall be treated as continuing during periods of holiday, temporary incapacity for work and similar temporary interruptions.

(7) For the purposes of these Regulations, the annual rate of graduated retirement benefit shall be determined as if there were fifty-two weeks and one-sixth of a week in each year.

Dated this 23rd day of March, 1961.

Brian Faulkner,
Minister of Home Affairs
for Northern Ireland.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations modify the Regulations made under the Special Constables Act, 1914, as applied by the Constabulary Act (Northern Ireland), 1922, and the Constabulary (Pensions) Act (Northern Ireland), 1949, in connection with the operation of the provisions of the National Insurance Act (Northern Ireland), 1959; by virtue of Regulation 2 the present Regulations apply to awards, other than supplemental pensions, granted under the Ulster Special Constabulary Pensions Regulations on a person ceasing to be a member on or after 3rd April, 1961.

By virtue of section 6(2) of the Act of 1959 an employment may not be contracted out of the graduated National Insurance scheme unless persons in that employment qualify for equivalent pension benefits. The conditions to be satisfied if a retirement pension under an occupational pension scheme is to be treated as an equivalent pension benefit are set out in section 7(1); the pension, or part thereof, must (subject to retirement) start not later than insured pensionable age (paragraph (a)), must be payable for life unless terminated or suspended for prescribed causes (paragraphs (b) and (c)) and must be payable at not less than a specified rate (paragraph (d)). Regulation 3 secures that these conditions shall be satisfied in relation to a police pension: paragraph (1) provides that a part of such a pension (being a part payable at not less than the specified rate and referred to, in the Regulations, as the secured portion) shall not, except for a cause prescribed under section 7(1)(c), be forfeited or, save as respects a period before insured pensionable age, suspended (the expression "secured portion" is defined in Regulation 8(6)); paragraph (2) makes consequential amendments to the Ulster Special Constabulary Pensions Regulations.

Regulation 4 provides for the reduction of certain awards under the said Regulations where a payment in lieu of contributions under the Act of 1959 is also payable.

Regulations 5 and 6 provide that where account is taken of a period of service or employment for the purposes both of a police pension and of graduated retirement benefit under the National Insurance scheme the police pension shall be abated.

Regulation 7 provides that where account is taken of a period of service or employment for the purposes both of an ill-health pension, being a pension of which the secured portion is payable by virtue of Regulation 3(2)(a), and of some other police pension, the latter shall be abated by the secured portion of the former.