

1979 No. 1259

POLICE

The Police Pensions (War Service) Regulations 1979

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| <i>Made</i> - - - - | 5th October 1979 |
| <i>Laid before Parliament</i> | 15th October 1979 |
| <i>Coming into Operation</i> | 6th November 1979 |

In exercise of the powers conferred upon me by sections 1, 3 and 4 of the Police Pensions Act 1976(a), and after consultation with the Police Council for the United Kingdom, I hereby, with the consent of the Minister for the Civil Service, make the following Regulations:—

PART I

CITATION, OPERATION, INTERPRETATION ETC.

1. These Regulations may be cited as the Police Pensions (War Service) Regulations 1979.

2. These Regulations shall come into operation on 6th November 1979 and shall have effect as from 1st April 1975.

3.—(1) In these Regulations references to the principal Regulations are references to the Police Pensions Regulations 1973(b) and references to the old cases Regulations are references to the Police Pensions Regulations 1971(c).

(2) These Regulations shall be construed as one with the principal Regulations except that, in relation to a member of a police force who has not served as such on or after 1st April 1972, they shall be construed as one with the old cases Regulations.

4.—(1) In these Regulations any reference to a person's war service is, subject to paragraph (2), a reference to whole time service on or after 3rd September 1939 but before 1st July 1950 in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in Schedule 1 to the Superannuation Act 1946(d).

(2) For the purposes of these Regulations no account shall be taken of a person's period of war service, or that part thereof—

- (a) that was performed before he attained the age of 18 years, or
- (b) in respect of which he received non-effective pay or excess remuneration, within the meaning of paragraph (3), which he has not repaid, or

(a) 1976 c. 35.

(b) S.I. 1973/428; the relevant amending instruments are S.I. 1976/306; 1977/2173; 1978/1348.

(c) S.I. 1971/232; there are no relevant amending instruments.

(d) 1946 c. 60.

- (c) by virtue of which an armed forces pension or retired pay is payable to him in pursuance of any Royal Warrant or other instrument otherwise than in respect of disablement, or
- (d) by virtue of which he is entitled to reckon a period of pensionable service otherwise than in pursuance of these Regulations, or
- (e) which he has reckoned or has had the opportunity to reckon for the purposes of a public service pension scheme within the meaning of section 51(3)(b) of the Social Security Act 1973(a).

(3) In paragraph (2)(b)—

- (a) the expression “non-effective pay” includes naval, military or air force pensions, retired pay or gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(b) applied);
- (b) the expression “excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces,

and, for the purposes of paragraph (2)(b), a police authority shall be entitled to rely upon a certificate, signed by a duly authorised officer of the Ministry of Defence, that non-effective pay or excess remuneration was, or was not, paid in respect of any period and as to the sufficiency of any repayment.

5. Any notice for the purposes of these Regulations shall be given in writing to the police authority of the force in which the person giving the notice is serving or, where that person is entitled to a pension or a transfer value has been paid, or is payable, in his case, to the police authority liable for that pension or transfer value.

6.—(1) These Regulations shall have effect in the case of a regular policeman, other than one who died before 1st April 1975 or retired before that date without a pension—

- (a) who completed a period of war service,
- (b) who after completing his war service and before 1st July 1950 served as a member of a police force or of the Royal Ulster Constabulary, and
- (c) who is (or, immediately before his death, was) entitled to reckon pensionable service by virtue of that period of service as a member of a police force or of the Royal Ulster Constabulary.

(2) In these Regulations any reference to a qualified policeman is a reference to such a regular policeman as is mentioned in paragraph (1).

7.—(1) Nothing in these Regulations shall affect the calculation of a pension payable in respect of a period ending before 1st April 1975 and no payment shall be made in respect of such a period in the case of a pension which would not have been payable (on account of that or some other pension) but for these Regulations.

(2) Nothing in these Regulations shall affect the calculation of a transfer value other than one payable under Regulation 85 of the principal Regulations in the case of a regular policeman who ceased to serve as such on or after 1st April 1975.

(a) 1973 c. 38.

(b) 1945 c. 13 (9 & 10 Geo. 6) (repealed by 1952 c. 10).

PART II

RECKONING OF WAR SERVICE

8.—(1) A qualified policeman may, in accordance with this Regulation, by notice elect to reckon pensionable service by virtue of such period of war service as he may specify in the notice (“the specified period of war service”) for all the purposes of the principal Regulations or, as the case may be, of the old cases Regulations except for the purposes of the calculation of a widow’s pension or child’s allowance (whether or not by reference to his own pension or notional pension).

(2) A qualified policeman who elects under paragraph (1) may also so elect to reckon pensionable service by virtue of the specified period of war service for the purposes excepted in paragraph (1).

(3) Subject to the payment conditions contained in Regulation 9 being satisfied, in the case of a qualified policeman who elects as mentioned in paragraph (1) or in paragraphs (1) and (2), the principal Regulations or, as the case may be, the old cases Regulations shall have effect as though he had been entitled, immediately before his retirement (or death while serving) to reckon an additional period of pensionable service equal to a half of his specified period of war service so, however, that where a qualified policeman elects only as mentioned in paragraph (1), this paragraph shall not have effect for the purposes excepted in paragraph (1) and for those purposes his pension shall be deemed to be the pension to which he would be entitled without his additional period of pensionable service under this paragraph but that period shall count for the purposes of Part II of Schedule 3 to the old cases Regulations (preserved rate of widow’s ordinary pension calculated by reference to the husband’s pensionable service).

(4) Notice for the purposes of paragraph (1) or (2)—

(a) shall be given by a qualified policeman not earlier than three months before his intended retirement nor later than three months, or such longer period as the police authority may allow in the circumstances of his case, after his retirement, and

(b) shall be of no effect if he dies while serving or if it is given more than three months before his actual retirement:

Provided that a qualified policeman who retired before 6th November 1979 may give notice for the said purposes within three months of that date or within such longer period as the police authority may allow in the circumstances of his case.

(5) Where under paragraph (4) the police authority allow notice to be given more than three months after 6th November 1979 or the date on which the qualified policeman retires, as the case may be, then, unless the police authority are satisfied that the delay was due to circumstances beyond his control—

(a) he shall not be entitled to any payment under these Regulations in respect of the period before his application is received by the police authority;

(b) paragraph 2 of Part I of the Schedule shall apply to him with the omission of sub-paragraph (a) and the words “in any other case”; and

(c) Regulations 13 and 14 shall not apply to him.

(6) In the application of paragraphs (4) and (5) to a qualified policeman who ceased to be a member of the metropolitan police force on taking employment overseas in a dissimilar public office within the meaning of the Superannuation

(Public Offices) Rules 1967(a), references in those paragraphs to retirement are references to retirement from that employment; and such a qualified policeman who retired before 6th November 1979 from such employment overseas shall not be entitled under this Regulation to reckon an additional period of pensionable service greater than that which, together with his other pensionable service, will give him a pension which when added to his pension under the pension scheme applicable to that employment is equal to the maximum pension which could be paid to him under that scheme however long his pensionable service.

(7) Where a notice for the purposes of paragraph (1) or (2) specifies the whole of a qualified policeman's period of war service and a shorter period of war service would be sufficient to produce the same benefits, the notice shall be deemed to specify that period.

9.—(1) Subject to paragraph (5), the payment conditions referred to in Regulation 8(3) shall be satisfied if, within three months of the policeman concerned exercising his right of election, or within such longer period as the police authority may allow in the circumstances of his case, there is paid to the police authority the appropriate sum calculated—

- (a) so far as concerns an election under Regulation 8(1), in accordance with Part I of the Schedule;
- (b) so far as concerns an election under Regulation 8(2), in accordance with Part II of the Schedule.

(2) Where the policeman concerned ceased to serve as such before 6th November 1979 and, on that date he was in receipt of a pension then, without prejudice to paragraph (1), the payment conditions shall be satisfied if, within the three month period mentioned in paragraph (1) by notice he undertakes to pay the appropriate sum by regular instalments of such amount that the payment of the sum will be completed within a period of five years:

Provided that—

- (a) he may at any time discharge his liability under the undertaking, in whole or in part, by paying the whole or part of the balance then outstanding;
- (b) if he dies before discharging his liability under the undertaking, the balance shall be payable immediately.

(3) Where the policeman concerned is entitled to a deferred pension which has not come into payment within the three month period referred to in paragraph (1), the payment conditions shall be satisfied if, within three months of the pension coming into payment there is paid to the police authority the appropriate sum.

(4) Where the policeman concerned has commuted a portion of his pension for a lump sum of an amount not less than that of the appropriate sum and payment of the lump sum has not been made, he may by notice instruct the police authority to deduct the appropriate sum from the lump sum before making payment thereof; and in such case the giving of the notice shall be treated for the purposes of this Regulation and of the Schedule as if it were the payment of the appropriate sum.

(5) Where the policeman concerned is retiring in circumstances in which a transfer value is payable under Regulation 85 of the principal Regulations, the payment condition referred to in Regulation 8(3) shall be satisfied if the appro-

priate sum, calculated as provided in paragraph (1), is paid to the police authority before he retires or is deducted by the police authority from the amount of the transfer value which would otherwise be payable under the said Regulation 85.

10.—(1) This Regulation shall apply where a qualified policeman died before 6th November 1979 or dies while serving or while entitled to give notice for the purposes of Regulation 8, not having elected thereunder or having elected only as mentioned in Regulation 8(1).

(2) The widow of a policeman to whom this Regulation applies who has not elected as mentioned in Regulation 8(1) may, in accordance with this Regulation, by notice request that he be deemed to have so elected and to have specified the period of war service specified in the notice.

(3) The widow of a policeman to whom this Regulation applies who has, or is deemed to have, elected as mentioned in Regulation 8(1) may by notice request that he be deemed to have elected as mentioned in Regulation 8(2).

(4) Effect shall be given to requests under paragraphs (2) and (3) and, subject to paragraphs (5) and (6), Regulations 8(3) and 9(1) and (2) and the Schedule shall have effect accordingly.

(5) Regulation 9 shall have effect—

- (a) as if the reference in paragraph (1) thereof to the policeman exercising his right of election were a reference to the widow giving the relevant notice;
- (b) as if in paragraph (2) thereof the words preceding the words “without prejudice” were omitted.

(6) Part II of the Schedule shall have effect—

- (a) as if in paragraph 1(1) thereof there were omitted the words following the words “widow’s pension”;
- (b) as if the word “hypothetical” were omitted wherever it occurs in paragraphs 1(2) and 2 thereof;
- (c) as if in paragraph 2(b) thereof, for the reference to 1st April 1975 there were substituted a reference to the date of the death of the policeman concerned.

(7) Notice for the purposes of paragraph (2) or (3) shall be given by a widow within three months of 6th November 1979 or the date of her husband’s death, whichever is the later, or such longer period as the police authority may allow in the circumstances of her case.

(8) A notice of election which is of no effect by reason of Regulation 8(4)(b) shall be disregarded for the purposes of this Regulation.

11. For the purposes of Part VIII of Schedule 2 to the principal Regulations or of Part IV of Schedule 2 to the old cases Regulations there shall be disregarded the pensionable service mentioned in Regulation 8(3).

12.—(1) This Regulation shall apply where a widow or child of a qualified policeman is entitled to an accrued pension or allowance under the principal Regulations and Regulation 8(3) has effect for the purposes of its calculation; and in this Regulation any reference to half-rate service or to mixed-rate service is a reference to such service for the purposes of Part IV of Schedule 3 to the principal Regulations.

(2) Where this Regulation applies, Part IV of Schedule 3 and Part III of Schedule 4 to the principal Regulations shall have effect—

- (a) where the policeman concerned has half-rate service, other than such service as is mentioned in sub-paragraphs (a) and (b) of paragraph 1(1) of the said Part IV, as if both his half-rate service and mixed-rate service included the pensionable service mentioned in Regulation 8(3);
- (b) where the preceding sub-paragraph does not apply but the policeman concerned has mixed-rate service, as if his mixed-rate service included the pensionable service so mentioned.

13.—(1) Where a qualified policeman has allocated a portion of his pension under Regulation 25 of the principal Regulations, or, as the case may be, Regulation 25 or 26 of the old cases Regulations, and subsequently receives an increased pension on account of the additional period of pensionable service which he is entitled to reckon by virtue of Regulation 8(3), the amount of pension so allocated shall not be affected (without prejudice to the allocation of a further portion).

(2) The following paragraph shall apply to a qualified policeman who—

- (a) when entitled to reckon less than 25 years' pensionable service, retired with a short-service or deferred pension a portion of which he allocated as provided in Regulation 25 of the principal Regulations or, as the case may be, Regulation 25 or 26 of the old cases Regulations, and
- (b) by virtue of Regulation 8(3) is treated as entitled to reckon at least 25 years' pensionable service and to be entitled to an ordinary pension.

(3) In the case of a qualified policeman to whom this paragraph applies, for the purposes of the relevant provision of the principal Regulations, or as the case may be, of the old cases Regulations referred to in paragraph (2)(a), the notice of allocation given thereunder shall be treated as if it related to the ordinary pension referred to in paragraph (2)(b).

14.—(1) This Regulation shall apply to a qualified policeman who—

- (a) when entitled to reckon less than 30 years' pensionable service retired with an ordinary pension otherwise than in the circumstances mentioned in sub-paragraphs (a), (b), (d) or (e) of Regulation 21(1) of the principal Regulations, and
- (b) by virtue of Regulation 8(3) is treated as entitled to reckon at least 30 years' pensionable service.

(2) In the case of a qualified policeman to whom this Regulation applies, notwithstanding anything in Regulation 24 of the principal Regulations or, as the case may be, in Regulation 23 or 24 of the old cases Regulations—

- (a) notice of commutation may be given thereunder, subject to paragraphs (3), at any time before the expiry of the period of 3 months following this Regulation becoming applicable in his case;
- (b) where he retired before 1st April 1975, the maximum portion of the pension which may be commuted shall be determined by reference to the amount of the pension to which he was originally entitled.

(3) The transitional provisions of this paragraph shall apply to the case of a qualified policeman to whom this regulation applies who retired on or after 1st April 1975 but before 6th November 1979 and gave notice of commutation

before he became entitled to reckon an additional period of pensionable service under Regulation 8(3):—

- (a) if a lump sum has not been paid to him in respect of that notice of commutation, it shall cease to have effect (without prejudice to the giving of a further notice);
- (b) if the notice of commutation specified the portion of his pension which he wished to surrender as a weekly, monthly or annual sum and he has been paid a lump sum calculated on that basis, he shall be entitled to give a further notice of commutation, provided that the two notices shall not specify in total a portion of his pension greater than that allowed by Regulation 24(3) of the principal Regulations;
- (c) if the notice of commutation specified the portion of his pension which he wished to surrender as a proportion of his pension and he has been paid a lump sum calculated on that basis, the police authority shall, unless he requests otherwise, treat the notice as extending to the additional pension payable in respect of the additional period of pensionable service and as effective for that purpose from the date on which he gave notice of his election to reckon war service.

15.—(1) This Regulation shall apply to a qualified policeman who—

- (a) retired with a deferred pension, and
- (b) by virtue of Regulation 8(3) is treated as entitled to reckon at least 25 years' pensionable service and becomes entitled to an ordinary pension.

(2) In the case of a qualified policeman to whom this Regulation applies—

- (a) whose deferred pension has come into payment, and
- (b) who has commuted for a lump sum, as provided in Regulation 24 of the principal Regulations, a portion of that pension,

notwithstanding anything in the said Regulation 24, the notice of commutation given thereunder shall be treated for the purposes of paragraph (6) thereof as if it related to the ordinary pension mentioned in paragraph (1)(b).

(3) In the case of a qualified policeman to whom this Regulation applies whose deferred pension has not come into payment, a notice of commutation relating to the deferred pension shall not take effect but the provisions of paragraph (2) of Regulation 14 shall have effect as if the reference therein to that Regulation were a reference to this Regulation; and, if he retired before 1st April 1975, Regulation 24 of the principal Regulations, as applied by Regulation 14, shall have effect as if for paragraph (2) there were substituted "The following provisions of this Regulation shall have effect as if the policeman had retired on 1st April 1975 and paragraph (3A) were omitted".

W. S. I. Whitelaw,
One of Her Majesty's Principal
Secretaries of State.

2nd October 1979.

Consent of the Minister for the Civil Service given under her Official Seal on 5th October 1979.

(L.S.)

T. A. A. Hart,
Authorised by the Minister for the
Civil Service.

SCHEDULE *Regulation 9*
APPROPRIATE SUM

PART I

1. So far as concerns an election under Regulation 8(1), the appropriate sum shall be calculated by reference to the period in weeks of the pensionable service referred to in Regulation 8(3) (a day being reckoned as a seventh of a week) at the rate of 5% of £4.50 a week in the case of a man and of 5% of £3.95 a week in the case of a woman.

2. The appropriate sum, calculated as aforesaid, shall be increased by an amount equal to the compound interest which would have been payable thereon had the sum become payable on 1st July 1950 and such interest, calculated at 3½% per annum with yearly rests, had been payable in respect of the period beginning with that date and ending—

- (a) in the case of a policeman who was in receipt of a pension on 6th November 1979, immediately before 1st April 1975 or the date of his retirement, whichever is the later;
- (b) in any other case, immediately before payment of the appropriate sum:

Provided that where he dies before payment of the appropriate sum, no interest shall be payable in respect of any time thereafter.

PART II

1.—(1) So far as concerns an election under Regulation 8(2), the appropriate sum shall be calculated by reference to the widow's pension ("the hypothetical pension") which would have been payable had the policeman concerned died on the date of his retirement or on 1st April 1975, whichever is the later, leaving a widow entitled to such a pension.

(2) The appropriate sum shall be a half of the amount by which the actuarial value of the hypothetical pension is increased by the operation of Regulation 8(3).

2. For the purposes of paragraph 1—

- (a) where the hypothetical pension is calculated in accordance with the principal Regulations, it shall be calculated without regard to Part V of Schedule 3 to those Regulations;
- (b) the hypothetical pension shall be calculated without regard to any increase in accordance with Part XIII of the principal Regulations or of the old cases Regulations other than such an increase in pursuance of an order made under the Pensions (Increase) Act 1971(a) before 1st April 1975;
- (c) the actuarial value of the hypothetical pension shall be determined in accordance with tables prepared by the Government Actuary.

(a) 1971 c. 56.

3. Where the policeman concerned is (or on retirement will be) entitled to a deferred pension, the appropriate sum, determined as aforesaid, shall be increased by an amount equal to the compound interest which would have been payable thereon had the sum become payable on 1st April 1975 or the date of his retirement, whichever is the later, and such interest, calculated at $3\frac{1}{2}\%$ per annum with yearly rests, had been payable in respect of the period beginning with that date and ending immediately before payment of the appropriate sum:

Provided that where he dies before payment of the appropriate sum, no interest shall be payable in respect of any time thereafter.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations supplement the Police Pensions Regulations 1973 (and, in the case of police officers who retired with a pension before 1st April 1972, the Police Pensions Regulations 1971). These Regulations make special provision for regular policemen who have completed a period of war service (defined in Regulation 4(1)) and meet the other qualifications required by Regulation 6(1). A qualified policeman may elect to increase his own pension by buying additional years of reckonable service up to half his period of war service or he may pay more and provide also a corresponding increase in the benefits under the pension scheme for widows and children (Regulation 8). The payment conditions are set out in the Schedule. Where a qualified policeman dies without electing to increase his widow's pension in this way, she may in certain circumstances exercise the right to elect (Regulation 10). The other Regulations deal with the procedure for exercising the rights under the Regulations and adapt the 1973 (and 1971) Regulations where this is necessary to take account of the increase in reckonable service to which an officer may become entitled under these Regulations.

These Regulations have effect from 1st April 1975 (retrospection is authorised by section 1(5) of the Police Pensions Act 1976).

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