
STATUTORY INSTRUMENTS

1987 No. 156

The Police (Injury Benefit) Regulations 1987

PART III

GENERAL

Gratuities paid in anticipation

6. Where, before 17th March 1987, a police authority pays to any person a gratuity in respect of the death or disablement of a member of a police force as the result of an injury received by him in the execution of his duty, and the gratuity is at any time thereafter certified by the police authority as having been so paid in anticipation of the coming into force of these Regulations—

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

Abatement in respect of gratuities payable under the principal Regulations

7.—(1) The amount of any gratuity payable to a member of a police force under Regulation 4 shall be reduced by deducting therefrom the amount of any gratuity paid to him under Regulation 20(4), 21(4) or 22 of the principal Regulations.

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

- (a) the amount of any gratuities paid to the member or his estate under Regulation 20(4), 21(4), 22 or 43 of the principal Regulations;
- (b) in the case of a widow, where a gratuity under Regulation 28(2) of the principal Regulations is payable to her or her estate—
 - (i) unless sub-paragraph (ii) below applies, the amount of the gratuity;
 - (ii) where the said amount falls to be calculated in accordance with Regulation 29(3) of the principal Regulations, an amount equal to the amount of the gratuity which would be payable to her or her estate under the said Regulation 28(2) if—
 - (A) the said Regulation 29 had not applied;
 - (B) the husband had died while serving as a member of a police force (whether or not he was in fact so serving when he died); and
 - (C) the husband's average pensionable pay was greater than $2\frac{1}{4}$ times the annual amount of the ill-health pension which would have been payable under Regulation 20 of the principal Regulations to the husband if he had retired on the grounds of permanent disability on the day on which he had died (whether or not it was in fact greater); and

- (c) in the case of any other person, the amount of any gratuity paid to that person or his estate in respect of the death of that member under Regulation 39 or Regulation 43 of the principal Regulations.

(3) In any case where, by reason of Regulation 5(4) a payment in respect of the death of a member of a police force falls to be divided among two or more persons, that payment shall, before it is so divided, be reduced by deducting therefrom the amount of any gratuities paid as mentioned in paragraph (2).

Abatement in respect of damages or compensation

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

(2) For the purposes of this Regulation—

- (a) a person shall be deemed to have recovered damages—
- (i) whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce the claim; or
 - (ii) if they are recovered for that person's benefit in respect of a claim under the Fatal Accidents Act 1976(1);
- (b) "compensation" does not include an award of compensation made to a person by the Criminal Injuries Compensation Board if the amount of the award was reduced by the amount of any gratuity paid or payable to him under these Regulations.

(3) Without prejudice to paragraph (1), where any payment in respect of a gratuity under these Regulations is made to a person and that person subsequently recovers any damages or compensation in respect of the death or disability to which the gratuity relates, the police authority shall be entitled to recover from that person an amount not exceeding—

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

(4) So far as any amount recoverable under this Regulation represents a payment made by the police authority from which income tax has been deducted before the payment, the proper allowance shall be made in respect of the amount so deducted; and, in this Regulation, "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.

(5) No proceedings shall be brought to recover any amount paid in respect of a gratuity under this Regulation—

- (a) after the death of the person to whom the payment was made, or
- (b) after the expiration of 2 years from the date on which the final determination of the amount of the damages or compensation first came to the knowledge of the police authority.

Admissibility of certificates in evidence

9. A certificate issued by a police authority—

- (a) certifying that a gratuity has been paid as mentioned in Regulation 6; or

(1) 1976 c. 30.

- (b) stating the date on which the final determination of a right to and the amount of any damages or compensation first came to its knowledge,

shall be received in evidence in any proceedings, and the said gratuity shall be deemed to have been so paid or, as the case may be, the said date shall be deemed to be the date so stated until the contrary is proved.

Application of principal Regulations

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

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

- (a) in relation to a gratuity payable under Regulation 4, a gratuity payable under Regulation 22 of the principal Regulations;
- (b) in relation to a gratuity payable under Regulation 5—
 - (i) in the case of a widow, a gratuity payable under Regulation 28 of those Regulations;
 - (ii) in the case of a child, a gratuity payable under Regulation 39 of those Regulations;
 - (iii) in the case of a dependent relative, a gratuity payable under Regulation 43 of those Regulations.

(3) Without prejudice to the foregoing, Part VIII of the principal Regulations (determination of questions) shall apply for the purposes of determining eligibility for awards under these Regulations as it applies to the determination of questions under those Regulations, and as if the questions to be referred by the police authority to a duly qualified medical practitioner under Regulation 71(2) of those Regulations were the following—

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