
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 268

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

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) 2¼ 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⁽¹⁾ 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 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.

(1) 1975 c.15

(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 $2\frac{1}{4}$ 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 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(2);
- (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) 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.