
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 79

**THE POLICE PENSION (NORTHERN
IRELAND) REGULATIONS 2009**

**PART 1
GENERAL**

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Police Pension (Northern Ireland) Regulations 2009.

(2) These Regulations come into operation on 6th April 2009 and have effect from 6th April 2006, subject to paragraph (3).

(3) The following regulations have effect from 31st December 2007—

- (a) regulation 10(2)(c); and
- (b) regulation 74(9).

(4) The Police Pension (Northern Ireland) Regulations 2007(1) are revoked.

Meaning of certain expressions and references – general provision

2.—(1) 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 member of the police service, however expressed, includes a reference to a person who has been such a member;
- (c) any reference to an award, however expressed, is a reference to an award under these Regulations.

(2) For the purposes of these Regulations, an inspector of constabulary, a specified employee of SOCA or a police officer engaged on relevant service shall be deemed to be a member of the police service.

(3) In relation to an inspector of constabulary or an officer engaged on relevant service, any reference in these Regulations to the Board shall be construed as a reference to the Secretary of State.

(4) In relation to a specified employee of SOCA—

- (a) any reference in these Regulations to the Board shall be construed as a reference to SOCA; and
- (b) any reference in these Regulations to the police service shall be construed as a reference to SOCA.

Disablement

3.—(1) 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) 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.

(3) Subject to paragraph (4), disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a member of the police service or, as the case may be, to engage in any regular employment otherwise than as a police officer, except that in relation to a child survivor or an adult survivor of a police officer it means inability, occasioned by infirmity of mind or body, to earn a living.

(4) Where a person has retired or otherwise ceased to serve as a police officer 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 to the Board.

(5) In this regulation, "infirmity" means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

PART 2

ELIGIBILITY FOR PENSION AWARDS, PENSIONABLE SERVICE AND RETIREMENT

Eligibility for pension awards

Application of Regulations

4.—(1) These Regulations shall apply to a police officer who first became such on or after 6th April 2006.

(2) These Regulations shall also apply, subject to and in accordance with the provisions of Schedule 2, to a police officer who—

- (a) first became such before 6th April 2006 and retired or otherwise ceased to serve—
 - (i) with no entitlement to an award under the 1988 Regulations;
 - (ii) with an entitlement to an award by way of repayment of his aggregate pension contributions under regulation B6 of those Regulations;
 - (iii) with an entitlement to an ordinary pension under regulation B1 of those Regulations, a short service award under regulation B2 of those Regulations or an entitlement to a deferred pension under regulation B5 of those Regulations and, in any of those cases, the award is in payment (otherwise than where the deferred pension is in payment due to permanent disablement);
 - (iv) with an entitlement to an ordinary pension under regulation B1 of those Regulations, or a deferred pension under regulation B5 of those Regulations, and in either case the pension is not in payment; or
 - (v) with an entitlement to an ill-health award under regulation B3 of those Regulations or with an entitlement to a deferred pension under regulation B5 of those Regulations where the pension is in payment due to permanent disablement (whether the deferred

pension came into payment immediately on retirement or ceasing to serve or on some later date).

- (b) at the date of such retirement or otherwise ceasing to serve was entitled to reckon less than 30 years' pensionable service under the 1988 Regulations; and
 - (c) has, on or after 6th April 2006, rejoined the police service, otherwise than—
 - (i) pursuant to regulation K1 of the 1988 Regulations where he had not made an election under regulation G4(1) of those Regulations which was in effect immediately before his retirement;
 - (ii) pursuant to regulation K1 of those Regulations where he retired before 6th April 2006 and he had made an election under regulation G4(1) of those Regulations which had not been cancelled before his retirement; or
 - (iii) upon reinstatement following a successful appeal against dismissal or requirement to resign where he had not made an election under regulation G4(1) of those Regulations which was in effect immediately before his dismissal or requirement to resign.
- (3) These Regulations shall also apply, subject to and in accordance with the provisions of paragraph (4), to a police officer who—
- (a) first became such before 6th April 2006;
 - (b) was in service as such immediately before and on that date; and
 - (c) either—
 - (i) had made an election under regulation G4(1) of the 1988 Regulations which had not been cancelled before that date, or
 - (ii) on or after 6th April 2006 makes an election under that provision.
- (4) In the case of an officer such as is mentioned in paragraph (3)—
- (a) the election mentioned in paragraph (3)(c)(i) shall, as from 6th April 2006, continue to have effect as if it had been made on the said date under regulation 7(1) or, as the case may be;
 - (b) the election mentioned in paragraph (3)(c)(ii) shall have effect from the date on which it is made as if it had been made under regulation 7(1), and
 - (c) in either case, he may accordingly cancel his election in accordance with regulation 7(5), in which case he shall become eligible for awards to be payable to or in respect of him under these Regulations, subject to paragraph 9 of Schedule 2.
- (5) This paragraph applies to a police officer who cancels an election in the circumstances mentioned in paragraph (4) and who has an entitlement to an ordinary pension under regulation B1 of the 1988 Regulations or a deferred pension under regulation B5 of those Regulations and in either case the pension is not in payment.
- (6) This paragraph applies to a police officer—
- (a) by whom pension contributions were payable under regulation G2 of the 1988 Regulations as at 6th April 2006 (or would have been payable but for his dismissal and subsequent reinstatement following a successful appeal against that dismissal);
 - (b) who continues to serve as such during the period beginning on the said date and ending on the date of his transfer election under paragraph (8) (or who would have continued to serve as such during that period but for his dismissal and subsequent reinstatement following a successful appeal against that dismissal); and
 - (c) who does not, during the period mentioned in sub-paragraph (b), make an election under regulation G4(1) of the 1988 Regulations.

(7) This paragraph applies to a police officer such as is mentioned in paragraph (5) who cancels an election in the circumstances mentioned in paragraph (4) on a date before the expiry of the period of three months determined by the Secretary of State under paragraph 1 of Schedule 3, or such longer period as the Board may, by reason of exceptional circumstances in that officer's case, in their discretion allow.

(8) A police officer—

- (a) to whom these Regulations apply by virtue of paragraph (2)(a)(ii), (2)(a)(iv) or (2)(a)(v);
- (b) to whom paragraph (6) or (7) applies; or
- (c) who, on or after 6th April 2006, rejoined the police service immediately before his retirement pursuant to regulation K1 of the 1988 Regulations, and who either had not made an election under regulation G4(1) of the 1988 Regulations which was in effect immediately before his retirement or who retired before 6th April 2006 and had made an election under regulation G4(1) of the 1988 Regulations which had not been cancelled before his retirement,

may make an election for the pensionable service he is entitled to reckon under those Regulations to be reckoned as pensionable service for the purposes of these Regulations (“a transfer election”) subject to and in accordance with the provisions of Schedule 3.

(9) Where a police officer to whom paragraph (6) applies or is such as is mentioned in paragraph 8(c) makes a transfer election, these Regulations shall apply to him and he shall become eligible for awards to be payable to or in respect of him under these Regulations.

Pension contributions payable by police officers

5.—(1) Subject to paragraph (3), a police officer shall pay to the Board pension contributions at the rate of—

- (a) in a case where he is ineligible under regulation 6 for a pension award payable on the ground of permanent disablement, 6 per cent of his pensionable pay; and
- (b) in any other case, 9.5 per cent of his pensionable pay.

(2) The pension contributions payable under paragraph (1) upon each instalment of pay shall fall due at the same time as the instalment and may, without prejudice to any other method of payment that may be agreed by the Board in exceptional circumstances, be discharged by way of a deduction of the appropriate amount made by the Board from the instalment.

(3) Paragraph (1) shall not apply in the case of a police officer who has made an election under Regulation 7 which is, for the time being, in effect.

Eligibility for pension awards payable on the ground of permanent disablement

6.—(1) This regulation applies to—

- (a) a candidate for appointment to the police service; and
- (b) a police officer who seeks under regulation 7(5) to cancel his election that regulation 5(1) shall not apply in his case.

(2) A person to whom this regulation applies shall, if required by the Board, submit to an examination by a duly qualified medical practitioner selected by the Board (“the selected medical practitioner”) in accordance with regulation 65 in order that the Board may determine his eligibility to receive pension awards payable on the ground of permanent disablement.

(3) The Board shall determine, by applying the opinion of the selected medical practitioner as set out in his report, and advice from the Scheme actuary, whether the risk presented by that person that

he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high.

(4) The determination of the Board under paragraph (3) shall be subject to appeal by that person in accordance with regulation 66; and upon receipt of the final revised report or written statement of opinion prepared in accordance with that regulation, the Board shall redetermine, by applying the opinion set out in the final revised report or written statement of opinion, and advice from the Scheme actuary, whether the risk presented by that person that he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high.

(5) The likely cost of providing a person with benefits under these Regulations shall be assessed as disproportionately high if it is more than 50 per cent greater than the likely cost of providing such benefits to a person who does not have an identified risk of retirement on that ground.

(6) A person who it is determined under paragraph (3) or (4) presents such a risk shall, in accordance with these Regulations, be ineligible for pension awards payable on the ground of permanent disablement.

(7) The Board may in accordance with this regulation determine the eligibility of a person—to whom this regulation applies by virtue of paragraph 1(a) who was previously ineligible for pension awards payable on the ground of permanent disablement under this regulation or under regulation G7 of the 1988 Regulations; or

- (a) to whom this regulation applies by virtue of paragraph 1(b) who was ineligible for pension awards payable on the ground of permanent disablement under regulation G7 of the 1988 Regulations on the date of the election which he is now seeking to cancel under regulation 7(5) of these Regulations,

to receive pension awards payable on the ground of permanent disablement; and in which case, the person concerned shall submit to an examination as set out in paragraph (2).

(8) If a person mentioned in paragraph (7) is eligible for pension awards following a determination of the Board under paragraph (3) or (4) (as applicable), he shall be so eligible from the date of that determination:

Provided that—

- (a) he shall only be so eligible in respect of his pensionable service from that date;
- (b) regulation 26 shall apply to him from that date; and
- (c) in calculating his entitlement to any standard ill-health pension or any enhanced top-up ill-health pension the pensionable service he is entitled to reckon as at the date of his retirement shall only comprise service from the date of the Board's determination under paragraph (3) or (4) (as applicable).

Election not to pay pension contributions

7.—(1) A police officer may at any time elect that regulation 5(1) shall not apply in his case by notice in writing given to the Board.

(2) Subject to paragraph (3), the date on which an election under paragraph (1) takes effect shall be the date on which an instalment of pay next falls due to him after the receipt of notice under paragraph (1).

(3) In the case of a police officer who has given notice under paragraph (1) within three months of the date on which he became such and to whom regulation 12 does not apply, his election under that paragraph shall be deemed to have taken effect on that date.

(4) In a case falling within paragraph (3), the Board shall, subject to regulation 32, pay to the police officer in question a sum equal to the sum of the pension contributions paid by him since the date on which the election is deemed to have taken effect.

(5) A police officer who has made an election under paragraph (1) may cancel such election by notice in writing given to the Board.

(6) Where paragraph (5) applies—

- (a) the election shall cease to have effect as from the date on which an instalment of pay next falls due to the police officer concerned after the receipt of such notice; and
- (b) that officer shall be entitled to make a further election; but
- (c) that officer shall not be entitled to cancel that further election during the same period of service as a police officer.

(7) A police officer shall not, if the Board so resolve, be entitled to cancel an election under paragraph (1) unless he has undergone a medical examination in accordance with regulation 6 (and any fee payable in respect of such an examination and a report thereon shall be paid by the police officer concerned).

(8) A police officer in respect of whom it is determined, following a medical examination under paragraph (7), that the likely cost of providing him with benefits under these Regulations is disproportionately high, shall (subject to any appeal under regulation 6(4)) be entitled to cancel his election under paragraph (1) only subject to the condition that he shall not be eligible to receive pension awards payable on the ground of permanent disablement.

(9) A police officer who was ineligible to receive pension awards payable on the ground of permanent disablement under regulation 6 on the date of his election under paragraph (1), shall upon cancellation of that election be ineligible to receive pension awards payable on the ground of permanent disablement.

Pensionable service

Reckoning of pensionable service

8.—(1) The pensionable service reckonable by a police officer at any date (in these Regulations referred to as the “relevant date”) shall be determined in accordance with the succeeding provisions of these Regulations, subject to paragraphs (2) to (7).

(2) Unpaid maternity leave or unpaid parental leave is not reckonable except in the circumstances described in paragraph (3), or if the conditions specified in paragraph (4) are satisfied.

(3) A period of unpaid maternity leave is reckonable—

- (a) in respect of such leave taken within the first 39 weeks of any period of maternity leave, unless;
- (b) the officer had an election under regulation 7 that was effective immediately before the commencement of that period of unpaid maternity leave.

(4) The conditions are that the person concerned—

- (a) was serving as a police officer during the period immediately preceding a period of maternity leave or parental leave, which includes the period of unpaid maternity leave, or unpaid parental leave in question;
- (b) had not made an election under regulation 7 that was effective immediately before the commencement of that period of unpaid leave; and
- (c) in accordance with the provisions of paragraph (8) pays to the Board a sum equal to the sum of the pension contributions which would have been payable for the period of

unpaid maternity leave, or unpaid parental leave in question if his notional pensionable pay during that period had been at the same rate as his pensionable pay (including any statutory maternity pay payable to a woman under the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽²⁾) immediately before the commencement of the period of unpaid maternity leave or unpaid parental leave which constituted or included the period in question.

(5) Unpaid sick leave is not reckonable unless the conditions specified in paragraph (6) are satisfied.

(6) The conditions referred to in paragraph (5) are that—

(a) the person concerned—

- (i) was serving as a police officer during the period immediately preceding the period of sick leave which includes the period of sick leave in question;
- (ii) had not made an election under regulation 7 that was effective immediately before the commencement of that period of unpaid leave; and
- (iii) in accordance with the provisions of paragraph (8) pays to the Board a sum equal to the sum of the pension contributions which would have been payable for the period of sick leave in question if his notional pensionable pay during that period had been at the same rate as his pensionable pay immediately before the commencement of the period of sick leave which constituted or included the period in question; and

(b) the period of unpaid sick leave in question—

- (i) does not exceed six months (whether or not as part of a longer period of sick leave); and
- (ii) when aggregated with any other period or periods of unpaid sick leave which fulfils, or all of which fulfil, the conditions specified in sub-paragraph (a), that aggregated period does not exceed twelve months, when calculated over the person's total service as a police officer.

(7) No period of unpaid leave is reckonable other than as provided in this regulation.

(8) A person who wishes to make the payment referred to in paragraphs (4)(c) and 6(a)(iii) shall—

(a) within a period ending—

- (i) three months after the day on which the period of leave which constitutes or includes the period of unpaid leave in question ended; or
- (ii) on the day, if earlier, on which he last serves as a police officer,
- (iii) inform the Board of that fact in writing; and

(b) specify which period of leave, and which method of payment under paragraph (12) he elects to use.

(9) Where a person who wishes to make the payment referred to in paragraphs (4)(c) and 6(a)(iii) dies before the end of the period specified in sub-paragraph (8)(a) without having given such notice—

- (a) the condition shall be deemed to have been satisfied in respect of any period of leave which would otherwise be reckonable by him under this regulation; and
- (b) he shall be deemed to have elected to make payment by way of instalments under paragraph (12).

(10) On receipt of the notice referred to in paragraph (8) the Board shall calculate the amount due under paragraph (4)(c) or 6(a)(iii) (as the case may be) and give written notice of that amount to the person concerned.

(11) Payment of the amount notified by the Board under paragraph (10) may be made by the person concerned either—

- (a) by way of a lump-sum or;
- (b) by instalments on the same dates as pension contributions are payable by him under regulation 5,

and where the person concerned has elected to make payment by way of instalments, the balance due after the payment of any of those instalments may be paid by way of a lump-sum equal to that balance at any time before the due date (as defined in paragraph (12)(a) and (b)).

(12) The total amount due under paragraph (4)(c) or (6)(a)(iii) shall be paid—

- (a) no later than six months after the person concerned is notified by the Board as to the amount payable;
- (b) if he retires or otherwise ceases to serve as a police officer before the expiry of that period, before the date on which he retires or so ceases to serve (“the due date”); or
- (c) in a case where the person concerned retires or otherwise ceases to serve as a police officer before the total amount due has been paid under this paragraph, any lump-sum payment made within two months—
 - (i) of retiring or so ceasing to serve; or
 - (ii) of receiving notification from the Board as to the amount payable,whichever is the later, shall be deemed to have been made by the due date.

(13) Where the person concerned—

- (a) has not paid the full amount due in accordance with the provisions of paragraphs (11) and (12), the proportion of the unpaid leave in question which shall be reckonable as pensionable service shall be the same proportion as the amount which has been so paid bears to the total amount due; or
- (b) dies before the due date, there shall be reckonable the full period of unpaid leave in question notwithstanding that the amount due has, in full or in part, not been paid in accordance with the provisions of paragraphs (11) and (12).

(14) A police officer shall be treated, for the purposes of calculating any award under these Regulations, as having made pension contributions throughout any period or periods of unpaid leave reckonable as pensionable service by virtue of payments made in accordance with this paragraph; and any such period or periods shall be treated for those purposes as part of a continuous period ending with the last day of unpaid leave during the period of service as a police officer of the person concerned.

Previous service reckonable without payment

9.—(1) Subject to paragraph (2), there shall be reckonable by a police officer as pensionable service—

- (a) where he previously retired from the police service upon becoming entitled to a pension on the ground of disablement under regulation 18 and, following termination of that pension under regulation 48(5), (6), or (7), has rejoined the service, any period of pensionable service which was reckonable by him immediately before he so retired;

- (b) where he previously ceased to serve as a police officer with an entitlement to a deferred pension which has not come into payment and has subsequently rejoined the service, any period of pensionable service reckonable by him immediately before he so ceased to serve;
- (c) where he previously ceased to serve as a police officer with an entitlement to a deferred pension which, in accordance with regulation 29, came into payment early on the ground of permanent disablement for engaging in any regular employment and his pension has been terminated upon his rejoining the service under regulation 48(5), any period of pensionable service reckonable by him immediately before he so ceased to serve.

(2) Where a police officer to whom paragraph (1) applies was, during the period of pensionable service in question, purchasing added years by periodical contributions, those added years shall be taken into account only to the extent that—

- (i) in a case falling within paragraph 1(a), they are reckonable by virtue of regulation 57(5), and
- (ii) in a case falling within paragraph 1(b) they were taken into account for the purposes of entitlement to the deferred pension mentioned in sub-paragraph (b).

(3) In a case falling within paragraph (1)(b), the entitlement of the officer concerned to the said deferred pension shall accordingly be relinquished.

(4) This regulation has effect subject to regulation 11.

Previous service reckonable on payment

10.—(1) There shall be reckonable by a police officer as pensionable service, in the circumstances specified in this regulation, any period so specified before he last joined or rejoined the police service before the relevant date, subject to his having made to the Board the appropriate payment in accordance with the provisions of paragraph (3).

(2) In calculating the payment due under paragraph (1) where the police officer has previously ceased to serve as such without the payment of a pension or a transfer value (and without entitlement to a deferred pension) and has rejoined the police service on the relevant date—

- (a) the period mentioned in paragraph (1) shall be any period of pensionable service reckonable by him at the time he so ceased to serve;
- (b) the appropriate payment mentioned in paragraph (1) shall be a sum equal to any award by way of repayment of aggregate pension contributions which he may have received on so ceasing to serve; and
- (c) where the appropriate payment is made more than a year after receipt of any such award, interest from the date of receipt of the award shall be calculated at the rate of 5 per cent per year, compounded with yearly rests.

(3) The person concerned shall, by notice in writing given to the Board within a period ending—

- (a) six months (or such longer period as the Board in their discretion may allow) after the date on which he joined or rejoined the police service; or
- (b) on the day, if earlier, on which he last serves as a police officer,

inform the Board that he wishes to make the payment referred to in paragraph (1); but where the person concerned dies before the end of the period specified without having given such notice, he shall be deemed to have given such notice.

(4) On receipt of a notice under paragraph (3) the Board shall determine the amount due under paragraph (2) and give written notice of that amount to the person concerned.

(5) Where a police officer undertakes to make an appropriate payment in accordance with paragraph (1), payment shall be made by regular instalments of such amount that the payment of the

sum will be completed within a period of two years beginning with the date on which he receives the written notice referred to in paragraph (4), save that—

- (a) where the Board is satisfied that completion of the payment within that period is causing, or is likely to cause, financial hardship they may allow such longer period as they may determine; and
- (b) the police officer may at any time discharge his liability under the undertaking, in whole or in part, by paying the whole or part of the balance of the sum then outstanding.

(6) Subject to paragraphs (7) and (8), any payment under this regulation shall be made by the police officer to the Board and, without prejudice to any other method of payment, the liability to make any such payment may be discharged by way of a deduction by the Board from his pay.

(7) If, before he has discharged his liability under the undertaking, a police officer retires under regulation 18 or dies, all further liability under that undertaking shall cease and his liability shall be deemed to have been fully discharged.

(8) If, before he has discharged his liability under the undertaking, a police officer retires otherwise than under regulation 18 with an award other than one of the amount of his aggregate pension contributions in respect of the relevant period of service, the Board shall be empowered to deduct the balance of the sum then outstanding from payments on account of the award.

(9) This regulation has effect subject to regulation 11.

Reckoning of part-time service

11.—(1) In the case of a police officer who has spent one or more periods in part-time service, the number of days of pensionable service in any such period shall be calculated by the application of the following fraction—

$$\frac{(Ax7)}{B}$$

Where—

A is the total number of determined hours of part-time service specified under the part-time appointment of the officer in the period in question; and

B is the number of hours per week if the service during that period were on a full-time basis.

(2) For the purposes of paragraph (1) a period of part-time service is to be taken to have ended and another such period to have begun on the occurrence of any change in that fraction.

Service reckonable by reason of transfer value

12.—(1) This regulation applies to a police officer—

- (a) who before he last became a police officer before the relevant date was subject to pension arrangements in pursuance of which a transfer value may be paid to the Board (“former pension arrangements”), and
- (b) in respect of whom a transfer value has, in pursuance of his former pension arrangements, been paid to the Board.

(2) Subject to paragraph (3), there shall be reckonable by a police officer in respect of his former service a period of pensionable service calculated in accordance with tables and guidance issued by the Scheme actuary.

(3) If the transfer value referred to in paragraph (1) is paid and accepted under the public sector transfer arrangements, the period of pensionable service the officer concerned is entitled to reckon

in respect of his former pension arrangements shall be calculated in accordance with the rules applicable to those public sector transfer arrangements.

(4) The provisions of this regulation shall not apply where the police officer concerned had a guaranteed minimum in relation to the pension provided by the former pension arrangements unless—

- (a) the transfer value mentioned in paragraph (1)(b) is paid under the public sector transfer arrangements, or
- (b) were the transfer value mentioned in paragraph (1)(b) to be paid, such part of it as relates to pension benefit accrual before 6th April 1997 is at least as great as the product of —
 - (A) the annual amount of the pension to which he would, if that transfer value were paid, be entitled under regulation 40, and
 - (B) the factor specified in column 2 of the following table opposite his age, as set out in column 1 of that table, as at the date when the Board is requested to accept that transfer value.

Age	Appropriate factor
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

(5) In this regulation, “the public sector transfer arrangements” means arrangements approved for the time being by the Minister for the Civil Service as providing reciprocal arrangements for the payment and receipt of transfer values for the purposes of these Regulations to or from other occupational pension schemes.

Reckoning of service for purposes of awards

13.—(1) Notwithstanding any other provision of these Regulations, for the purposes of calculating all awards payable to or in respect of a police officer under these Regulations, the total service which may be reckoned as pensionable service by such an officer shall not exceed 35 years.

(2) For the purpose of calculating an award payable to or in respect of a police officer by reference to any period in years (including a period of pensionable service) —

- (a) that period shall be reckoned in completed years and a fraction of a year;
- (b) a part of a year shall be taken to be that fraction of a year whereof the denominator is 365 and the numerator is the number of completed days in that part and, accordingly, a part of a year which includes 29th February in a leap year and comprises 365 days shall be treated as a whole year.

Retirement

Retirement

14.—(1) Subject to paragraph (2), a reference in these Regulations to retirement includes a retirement under regulation 15, 16, 17, or 18 but does not include a reference to—

- (a) leaving the police service on transferring to a police force in Great Britain;

- (b) ceasing to serve as a police officer, otherwise than on retirement under regulation 18, from a date before that on which the officer concerned attains the age of 55 years (whether he so ceases to serve voluntarily, upon the expiry without extension (or further extension) of the period of an appointment for a fixed term in accordance with regulation 11 of the 2005 Regulations⁽³⁾ or upon being dismissed);
- (c) retirement within the meaning of section 35(3) (b) of the Police (Northern Ireland) Act 2000⁽⁴⁾ in a case where, under that section, the Chief Constable is required to retire before the date on which he attains the age of 55 years; or
- (d) leaving the police service on joining the National Criminal Intelligence Service or the National Crime Squad and subsequently becoming a specified employee of SOCA.

(2) A police officer who fulfils the qualifying service criterion and who is dismissed on or after the date on which he attains the age of 55 years, shall be deemed for the purposes of these Regulations to have retired under regulation 15 on the date his dismissal took effect, having given such notice to the Board of his intention to retire and with any necessary consent having been given as is specified under that regulation.

- (3) A police officer fulfils the qualifying service criteria if—
- (a) he has at least two years' qualifying service; or
 - (b) regulation 12 applies to him.

(4) In paragraph (3), "two years' qualifying service" has the meaning assigned to it by section 67(7) of the 1993 Act⁽⁵⁾.

Voluntary retirement

15.—(1) Subject to paragraphs (2) to (6), a police officer may retire on or after the date on which he attains the age of 55 years.

(2) A police officer who intends to retire under this regulation shall give the Board written notice of that intention—

- (a) in the case of an officer of the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable, at least three months before his intended date of retirement; and
- (b) in the case of an officer of any other rank at least one month before his intended date of retirement,

but the Board may, at their discretion, accept a shorter notice than that specified.

(3) A specified employee of SOCA who intends to retire under this regulation shall give SOCA notice of such period as required by his contract of employment of that intention or shall give such shorter period of notice as may be agreed between the specified employee of SOCA and SOCA.

(4) For the purposes of this regulation any police officer engaged on relevant service shall be deemed to hold the rank in which he is entitled to revert to the police service at the end of his period of relevant service.

(5) A police officer who is suspended under the Conduct Regulations may retire under this regulation only if consent is given—

- (a) by the Board in the case of an officer falling within paragraph (2)(a); or
- (b) by the Chief Constable in the case of an officer of any other rank.

(6) A specified employee of SOCA shall be deemed to have retired in accordance with this regulation where his contract of employment has been terminated.

(3) S.R. (N.I.) 2005 No.547

(4) 2000 c.32

(5) 1993 c.49

Compulsory retirement on account of age

16.—(1) Subject to paragraph (4) from 6th April 2006 to 30th September 2006, regulation A16 of the 1988 Regulations shall apply to every police officer.

(2) From 1st October 2006, subject to paragraphs (3) and (4), every police officer shall be required to retire—

- (a) if he is of the rank of Constable, Sergeant, Inspector or Chief Inspector, on attaining the age of 60 years;
- (b) if he holds any higher rank, on attaining the age of 65 years.

(3) The time at which, under paragraph (2), a person shall be required to retire may be postponed, if the person concerned holds a rank above that of Superintendent, by the Board, and, if he holds the rank of Superintendent or any lower rank, by the Chief Constable.

(4) This regulation shall not apply to a specified employee of SOCA.

Compulsory retirement on the ground of efficiency of the police service

17.—(1) Subject to paragraph (3) this regulation applies to a police officer of the rank of Chief Superintendent, Superintendent, Chief Inspector, Inspector, Sergeant or Constable who is entitled to reckon 35 years' pensionable service (or would have been so entitled if he had not made an election under regulation 7).

(2) If the Board determine that the retention in the police service of a police officer to whom this regulation applies would not be in the general interests of efficiency, he may be required to retire on such date, on or after the date on which he attains the age of 55 years, as the Board determine.

(3) This regulation shall not apply to a specified employee of SOCA.

Compulsory retirement on the ground of disablement

18.—(1) The Board may require a police officer to retire on the date on which, having considered all the relevant circumstances, advice and information available to them, they determine that he ought to retire on the ground that he is permanently disabled for the performance of the ordinary duties of a member of the police service.

(2) A retirement under paragraph (1) shall be void if, after that date, on an appeal against the medical opinion on which the Board acted in determining that he ought to retire, the appeal board decides that the appellant is not permanently so disabled.

(3) This paragraph applies to a police officer who is permanently disabled for the performance of the ordinary duties of a member of the police service but who, in accordance with a determination of the Board in the circumstances of his case, continues to serve as such.

(4) In respect of a police officer to whom paragraph (3) applies, the Board may consider, at such times as they may in their discretion determine, whether the disablement has ceased, significantly worsened or significantly improved.

(5) If on any such consideration the Board, having considered all the relevant circumstances, advice and information available to them, determine that the officer ought to retire on the ground that he is permanently disabled for the performance of the ordinary duties of a member of the police service they shall require him to retire under paragraph (1) (subject to paragraph(2)).

Effective date of retirement

19. For the purposes of these Regulations—

- (a) a police officer shall be taken to retire or cease to serve immediately following his last day of service, and

- (b) a police officer required to retire under regulation 16, 17, or 18 shall be deemed to retire on the date on which he is so required to retire and his last day of service shall be the immediately preceding day.

PART 3

PENSIONABLE PAY AND CONTRIBUTIONS

Pensionable pay

20. The pensionable pay of a police officer at any time means his pay at the rate to which he is or was then entitled, account being taken of any retrospective increase in that rate; except that during a period of part-time service it means so much of his pay at that rate as is attributable to his determined hours specified under his part-time appointment, and during any period in which a member of the police service is a specified employee of SOCA, it means the pay at the rate to which he is or was then entitled under this contract of employment, account being taken of any retrospective increase in that rate.

Final pensionable pay

21.—(1) The final pensionable pay of a police officer shall, subject to paragraphs (2) to (5), mean his average pensionable pay—

- (a) in respect of the period of twelve months ending on the later of —
 - (i) the date of his last day of service in a period during which pension contributions were payable by him under regulation 5 or;
 - (ii) the last day in respect of which payment has been made under regulation 8(4)(c) or (6)(a)(iii) as the case may be;
- (b) in respect of either of the two periods of twelve months that immediately preceded the period mentioned in sub-paragraph (a); or
- (c) taken as an annual average in respect of any three consecutive periods of twelve months, ending an exact number of years before the date mentioned in sub-paragraph (a), falling within the period of seven years that immediately preceded the earlier of the two periods mentioned in sub-paragraph (b),

whichever is the greatest.

- (2) This paragraph applies, subject to paragraph (4), to a police officer who has —
 - (a) made an election under regulation 7, and
 - (b) cancelled the said election in accordance with regulation 7(5) to (9) within the period of three years immediately preceding his last day of service, at a time when he had an entitlement to a deferred pension.
- (3) The final pensionable pay of an officer to whom paragraph (2) applies shall be calculated—
 - (a) in respect of the period of pensionable service he was entitled to reckon as at the date on which the election took effect in accordance with paragraph (1), which shall apply, as if—
 - (i) for the purposes of paragraph (1)(a)(i) the date of his last day of service were the date on which the said election took effect, and
 - (ii) paragraph (1)(a)(ii) applied only in respect of any payment in respect of a period of unpaid maternity leave, unpaid parental leave or unpaid sick leave taken in the period before the said election took effect; and

(b) in respect of the period of pensionable service reckonable by reason of service beginning on the date on which the cancellation of his election took effect and ending on his last day of service (including any service reckonable by virtue of the receipt by the Board during that period of a transfer value), in accordance with paragraph (1) without any such modification as is specified in sub-paragraph (a) of this paragraph.

(4) In a case where a police officer's final pensionable pay is calculated in accordance with paragraph (3), for the purposes of calculating any award under Part 4, his final pensionable pay as calculated in accordance with sub-paragraphs (a) and (b) respectively shall be applied to the period of service mentioned in the sub-paragraph in question.

(5) Solely for the purpose of determining the greatest amount under paragraph (1) (including in cases where that paragraph applies as set out in paragraph (2)), the amount of the average pensionable pay of a police officer in respect of any period of twelve months to which paragraph (1)(b) or (c) relates shall be treated as increased by the same amount as that by which an annual pension of an amount equal to that average pensionable pay would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971(6) by the last day of the period referred to in paragraph (1)(a) (as modified, for cases within paragraph (2)(a)) if the said annual pension had come into payment on the day immediately following that on which the relevant period of twelve months to which paragraph (1)(b) or (c) relates ended.

Average pensionable pay

22.—(1) Subject to paragraphs (2) to (5), the average pensionable pay of a police officer in any of the periods of twelve months mentioned in regulation 21(1) shall be the aggregate of his pensionable pay in respect of the period in question.

(2) Where that officer is entitled to reckon less than twelve months' pensionable service, that aggregate shall be multiplied by the reciprocal of the fraction of the twelve-month period during which he was entitled to pensionable pay.

(3) Where the amount of a police officer's average pensionable pay, determined in accordance with paragraphs (1) and (2), is less than the amount it would have been had he not suffered a temporary stoppage or reduction in rate of pay —

- (a) by way of punishment;
- (b) by reason of a period being taken of sick leave, maternity leave or parental leave; or
- (c) any other period of leave being taken which was unpaid or paid at a reduced rate,

it shall be increased by the difference between those two amounts.

(4) Where any period of twelve months mentioned in regulation 21(1) includes a period of unpaid maternity leave, unpaid parental leave or unpaid sick leave, in respect of which payment has been made under regulation 8(4)(c) or 8(6)(a)(iii), the officer's pensionable pay during that period shall, for the purposes of determining average pensionable pay, be taken to be the pay to which he would have been entitled had the period of unpaid leave in question not been taken; and accordingly, the aggregate of his pensionable pay in respect of that period shall not be taken to exceed the amount which he would have received had the period of unpaid leave in question not been taken.

(5) Where any period of twelve months mentioned in regulation 21(1) includes one or more periods of part-time service, for the purposes of determining average pensionable pay, the officer's pensionable pay, as determined in accordance with paragraphs (1) to (4), in respect of any such period of part-time service shall be taken to be the pay to which he would have been entitled if his part-time service had been full-time.

Aggregate pension contributions for purposes of repayment

23.—(1) This paragraph applies for the purposes of calculating a payment under these Regulations by reference to the aggregate pension contributions of a police officer in respect of the relevant period of service.

(2) Where paragraph (1) applies, subject to paragraph (3), the relevant period of service shall be taken to—

- (a) begin on the date on which the officer became a member of the police service or, if he has more than once been a member of the police service, the date on which he last joined the police service; and
- (b) end on the date of the officer's retirement, or otherwise ceasing to serve as a police officer or the death as the case may be, on which the award is payable.

(3) In the case of a police officer who has made an election under regulation 7, the relevant period of service shall be taken to be the period, or last period, during which pension contributions were continuously payable by him under regulation 5 since the date on which, had no such election been made, the relevant period of service would be taken to have begun.

(4) Where paragraph (1) applies, the aggregate pension contributions in respect of the relevant period of service shall be taken to be the sum of the following amounts —

- (a) the aggregate of the pension contributions made in respect of that period by the person concerned to the Board including any payment made by that person under regulation 8(4)(c), or 8(6)(a)(iii) as the case may be, in respect of a period of unpaid maternity leave, unpaid parental leave or unpaid sick leave;
- (b) the amount of any sums paid by the person concerned to the Board (including sums paid in pursuance of an undertaking) as a condition of being entitled to reckon pensionable service by reason of service before that period; and
- (c) all payments made by him to the police service in accordance with an election under regulation 53.

(5) Where the person concerned has transferred to the police service, the amount referred to in paragraph (4) shall include any sum which, had he ceased to serve instead of transferring, would have been calculable under this paragraph as aggregate pension contributions at the time of transfer.

(6) Where the person concerned while a member of the police service, became entitled, in the circumstances mentioned in regulation 12(1), to reckon pensionable service by reason of a period of previous service or employment otherwise than as a police officer, the amount referred to in paragraph (4) shall include the amount of any award by way of return of contributions or of any analogous payment which would have been made to him at the end of that period of previous service or employment had he voluntarily ceased to serve or retired from employment in circumstances entitling him to such an award or payment under his former pension arrangements.

(7) Where the person concerned—

- (a) previously retired with a pension on the ground of disablement under regulation 18;
- (b) that pension was terminated under regulation 49; and
- (c) he rejoined the police service,

the amount referred to in paragraph (4) shall include any sum which would have been calculable under paragraphs (4) to (6) as aggregate pension contributions at the time of the previous retirement.

(8) If the police officer is a pension debit member, the amount of his aggregate pension contributions under this regulation shall be reduced by such amount as is assessed in accordance with guidance issued by the Scheme actuary.

PART 4

PENSION AWARDS

Personal pensions

Police officer's ordinary pension

24.—(1) This regulation applies to a police officer who—

- (a) fulfils the qualifying service criterion;
- (b) retires or has retired in accordance with regulation 16, 17 or 18; and
- (c) has not made an election under regulation 7 which had effect at the time of his retirement.

(2) Subject to the provisions of these Regulations, a police officer to whom this regulation applies shall be entitled to an ordinary pension of an amount calculated in accordance with regulation 25.

Calculation of ordinary pension

25.—(1) A police officer's ordinary pension shall be—

- (a) an annual sum payable for life calculated by multiplying an amount equal to one seventieth of his final pensionable pay by the number of years of pensionable service he is entitled to reckon; and
- (b) subject to paragraphs (2) and (3), a lump-sum payment calculated by multiplying an amount equal to four seventieths of his final pensionable pay by the number of years of pensionable service he is entitled to reckon.

(2) A lump-sum payment payable to an officer who rejoined his former force or joined another police force having previously received a lump-sum payment by reason of entitlement to an ill-health pension under regulation 26 or to early payment of a deferred pension on the ground of permanent disablement under regulation 29 (where that pension has been terminated under regulation 48) shall be reduced by an amount equal to the amount of that previous lump-sum payment, increased by the same amount as that by which an annual pension of an amount equal to that previous lump-sum would have been increased under the Pensions (Increase) Act 1971 by the date on which the award comes into payment if that annual pension had come into payment on the day on which the previous lump-sum payment was made.

(3) Where a police officer has rejoined the police service more than once having previously received on more than one occasion a lump-sum payment by reason of entitlement to an ill-health pension under regulation 26 or to early payment of a deferred pension on the ground of permanent disablement under regulation 29 (where each pension has been terminated under regulation 48) the lump sum payment payable to the officer under paragraph (1)(b) shall be reduced in accordance with paragraph (2) with references to a previous lump-sum payment being construed as references to the officer's most recent lump-sum payment, and of the amount it would have been if he had not prior to that received any lump-sum payment.

Police officer's ill-health pension

26.—(1) This regulation applies to a police officer who retires or has retired under regulation 18 unless—

- (a) he has made an election under regulation 7 which had effect at the time of his retirement;
- (b) he is ineligible for pension awards payable on the ground of permanent disablement under regulation 6, or

- (c) he has attained the age of 55 at the time of his retirement, and in such a case he shall be entitled to an ordinary pension under regulation 24 instead of an ill-health pension as provided in this regulation.
- (2) Subject to the provisions of these Regulations, a police officer to whom this regulation applies shall be entitled to an ill-health pension as provided in this regulation.
- (3) In the case of a police officer who, at the time of his retirement—
 - (a) either—
 - (i) fulfils the qualifying service criterion, or
 - (ii) is disabled as the result of an injury received without his default in the execution of duty; and
 - (b) in either case, is permanently disabled for the performance of the ordinary duties of a member of the police service, but is not permanently disabled for engaging in any regular employment otherwise than as a police officer,

the award under paragraph (2) shall be an ill-health pension calculated in accordance with regulation 27 (“a standard ill-health pension”).

- (4) In the case of a police officer who, at the time of his retirement, falls within paragraph (3) (a) but is permanently disabled both for the performance of the ordinary duties of a member of the police service and for engaging in any regular employment otherwise than as a police officer, the award under paragraph (2) shall comprise—
 - (a) a standard ill-health pension; and
 - (b) an additional pension calculated in accordance with regulation 28 (“an enhanced top-up ill-health pension”).

Calculation of standard ill-health pension

27. A police officer’s standard ill-health pension shall be an annual sum payable for life and a lump-sum payment, calculated in accordance with regulation 25 as if he had been entitled to an ordinary pension at the date of his retirement.

Calculation of enhanced top-up ill-health pension

- 28.—**(1) A police officer’s enhanced top-up ill-health pension shall be—
 - (a) an annual sum payable for life and;
 - (b) a lump-sum payment.
- (2) The amount in paragraph (1) shall be calculated by deducting the annual sum and lump-sum payment payable as his standard ill-health pension from the annual sum and lump-sum respectively as calculated in accordance with paragraphs (3) to (7) (“enhanced top-up totals”).
- (3) A police officer’s enhanced top-up totals shall be calculated in accordance with regulation 25 as if he had been entitled to an ordinary pension at the date of his retirement, but for the purposes of that calculation the pensionable service the officer concerned is entitled to reckon at the date of his retirement shall be treated as having been increased in accordance with the provisions of paragraph (4) or (5), subject to paragraph (7) as the case may require.
- (4) In the case of an officer entitled to reckon less than five years’ pensionable service as at the date of his retirement, either—
 - (a) the period of his pensionable service shall be multiplied by four, or
 - (b) there shall be added to that service a period equivalent to half of the pensionable service he would have become entitled to reckon in respect of the period beginning with the date of

the officer's retirement and ending on the day immediately before that on which he would attain the age of 55 years, had he continued to serve and to pay pensions contributions in accordance with regulation 5,

whichever amounts to the lesser period.

(5) In the case of an officer entitled to reckon five or more years' pensionable service as at the date of his retirement, there shall be added to that service a period equivalent to half of his prospective service.

(6) In the case of an officer who has spent one or more periods in part-time service as such in determining the number of years of pensionable service that he is entitled to reckon as at the date of his retirement for the purposes of paragraphs (4) and (5), a period of service by virtue of which his pensionable service is reckonable as if it were a period of full-time service (but this paragraph does not apply so as to affect any other references to pensionable service in paragraphs (4), (5) and (7)).

(7) In the case of an officer who has spent one or more periods in part-time service as such, the period of prospective service for the purposes of paragraph (4)(b) or (5), as the case may be, shall be calculated as if, during the period beginning with the date of the officer's retirement and ending on the day immediately before that on which he would attain the age of 55 years, he would have served part-time for the same proportion of that period as his total pensionable service before his retirement bears to the total pensionable service he would have been entitled to reckon before his retirement if all that service had been full-time.

(8) If in a case where any of the 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 the preceding paragraphs would be less than it would have been if he had become entitled to receive the pension at an earlier date, then the pension shall be of that amount instead.

Police officer's deferred pension

29.—(1) This regulation applies to a police officer who fulfils the qualifying service criterion and who—

- (a) ceases to serve as such otherwise than on retirement under regulation 15, 16, 17 or 18; or
- (b) makes an election under regulation 7,

in circumstances—

- (i) in which no transfer value under regulation 74 has been, or is required to be, paid in respect of him; and
- (ii) which do not entitle him to any pension award under any of the preceding provisions of this Part or regulation 40.

(2) A police officer to whom this regulation applies shall, on so retiring or otherwise ceasing to serve or, as the case may be, on making such election, be entitled to a deferred pension as provided in this regulation.

(3) In the case of an officer who falls within paragraph (1)(b) and who cancels his election in accordance with regulation 7(5) before his deferred pension has come into payment, his entitlement to that deferred pension shall be relinquished.

(4) A deferred pension shall be calculated in accordance with paragraphs (5) and (6).

(5) No payment shall be made on account of the pension in respect of the period—

- (a) before the officer in question attains the age of 65 years; or
- (b) from the officer in question becoming permanently disabled for engaging in any regular employment if he was not ineligible under regulation 6 for a pension award on the

ground of permanent disablement before he became so disabled (subject, however, to regulation 51),

whichever is sooner.

(6) Subject to paragraph (5), a police officer's deferred pension shall be—

- (a) an annual sum payable for life; and
- (b) a lump-sum payment,

calculated as if the deferred pension were an ordinary pension calculated under regulation 25.

Early payment of deferred pension subject to actuarial reduction

30.—(1) Subject to paragraphs (2) to (4), a police officer who is entitled to a deferred pension payable, in accordance with regulation 29(4) and (5) upon his attaining the age of 65, may elect for immediate payment of that pension subject to an actuarial reduction.

(2) No payment shall be made in respect of the period before the officer concerned attains the age of 55 years.

(3) An election under paragraph (1) shall be made by giving written notice to the Board at least one month before the date on which the officer concerned wishes such payment to commence.

(4) The actuarial reduction shall be calculated by the Board in accordance with tables prepared by the Scheme actuary.

(5) Where a police officer who has made an election under paragraph (1) dies, any survivor's pension payable in respect of that officer shall be calculated as if no such election had been made.

Repayment of aggregate pension contributions

31.—(1) This regulation applies to a police officer who retires, ceases to serve as such or who makes an election under regulation 7 (other than as set out in regulation 7(3)), in circumstances—

- (i) in which no transfer value under regulation 74 has been, or is required to be, paid in respect of him; and
- (ii) which do not entitle him to a pension award under any of the preceding provisions of this Part.

(2) A police officer to whom this regulation applies shall be entitled to an award by way of a lump-sum payment of an amount equal to his aggregate pension contributions in respect of his relevant period of service, calculated in accordance with regulation 23.

Deduction of tax from awards under regulation 7(4) or 31

32. The Board may deduct from any payment by way of an award under regulation 7(4) or 31—

- (a) that part of any contributions equivalent premium paid in respect of the police officer as is permitted under section 57 of the 1993 Act(7);
- (b) the tax for the time being chargeable on that award under section 205 of the Finance Act 2004(8).

Pension debit members - personal awards

33. Where a pension debit member is entitled to an award under regulation 24, 26, 29 or 31—

(7) Section 57 was amended by the Pensions (Northern Ireland) Order 1995, Schedule 3, paragraph 47 (S.I. 1995/3213 (N.I.22)), by the Child Support, Pensions and Social Security Act 2000, Schedule 5, Part 1, paragraph 6(2) (c.19), and by the Pensions Act 2004, Schedule 12, paragraphs 9 and 12 c.35

(8) 2004 c.12

- (a) the award shall be calculated by reference to the member's rights under these Regulations as reduced by virtue of article 28 of the 1999 Order and in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary, and
- (b) regulations 34 and 35 have effect accordingly.

Exchange of lump-sum for additional periodical payments

34.—(1) This regulation applies to the lump-sum of an ordinary pension, or a deferred pension under this Part (which is not a deferred pension that becomes payable by reason of permanent disablement under regulation 29(4) and (5)).

(2) In relation to a deferred pension, paragraphs (4), (5), and (6) shall have effect as if any reference to the date of retirement were a reference to the coming into payment of the pension or to the date of that coming into payment.

(3) A police officer may, subject to and in accordance with this regulation, exchange for additional annual pension payments the whole or part of a lump-sum element to which this regulation applies to which he may become entitled.

(4) For the purpose of exchanging a portion of his pension in accordance with this regulation a person shall give notice in writing to the Board (“notice of exchange”) and—

- (a) the notice shall be given before, but not earlier than four months before, his intended date of retirement;
 - (b) the notice shall indicate his wish to surrender and exchange for additional annual pension payments the whole or such part as he may specify of the lump-sum payment to which he would otherwise become entitled;
 - (c) the notice shall not be effective if it was given more than four months before the date of his retirement.
- (5) Where a person retires having given an effective notice of exchange, the Board shall—
- (a) withhold the whole or the specified part of the lump-sum payment in accordance with the notice; and
 - (b) pay to that person additional annual pension payments of such amount as represents the actuarial equivalent of the surrendered lump sum or portion of the lump sum at the date of his retirement, calculated from tables prepared by the Scheme actuary.

(6) Sums paid or payable as additional pension payments by virtue of an effective notice of exchange shall be disregarded for the purposes of the calculation of a survivor's pension under regulation 38 or 39.

Commutation of small pension for lump-sum

35.—(1) Where the annual rate of any pension payable to or in respect of a police officer under this Part or regulation 58 does not exceed the small pensions commutation maximum, the Board may pay the person entitled to the pension a lump-sum of such an amount as the Scheme actuary advises represents the capital value of the pension if—

- (a) that person consents; and
- (b) in a case where the pension is payable to that person under the preceding provisions of this Part, and is one which may not be less than that person's guaranteed minimum pension, he has reached state pension age.

(2) If—

- (a) a person is entitled to more than one pension under the preceding provisions of this Part, or
- (b) a person is entitled to more than one pension in respect of the same police officer, or

- (c) a pension credit member is entitled—
- (i) to more than one pension under regulation 58, or
 - (ii) to one or more pensions within sub-paragraph (a) in addition to one or more pensions under regulation 58,
- those pensions may only be commuted under this regulation if they do not in aggregate exceed the amount that is permitted to be commuted under all the commutation requirements that apply in the circumstances in question.
- (3) The payment of a lump-sum under this regulation in respect of a pension discharges the Board from all liability in respect of that pension.
- (4) In this regulation—
- “the small pensions commutation maximum” means the amount that is permitted to be commuted, having regard to all the commutation requirements that apply in the circumstances in question, and
- “the commutation requirements” means requirements permitting the commutation of small pensions that are imposed—
- (a) by regulation 19, 20 or 60 of the Occupational Pension Schemes (Contracting-Out) Regulations (Northern Ireland) 1996⁽⁹⁾;
 - (b) by regulation (2) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy) etc Regulations (Northern Ireland) 1997⁽¹⁰⁾;
 - (c) by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000⁽¹¹⁾; or
 - (d) by paragraph 7 of Schedule 29 to the Finance Act 2004 (which defines trivial commutation lump-sums for the purposes of Part 1 of that Schedule).

Survivors' pensions

Survivors' pensions - general provision

36. Subject to and in accordance with the provisions of these Regulations, where a police officer dies or has died—

- (a) while he is in receipt of an ordinary pension, an ill-health pension or a deferred pension;
- (b) after he has ceased to serve as such in circumstances where no transfer value was paid in respect of his service and he is entitled to a deferred pension whether or not that pension has come into payment;
- (c) while he is serving as such and fulfils the qualifying service criterion and no election under regulation 7 has effect at the time of his death; or
- (d) while he is serving as such and, having made an election under regulation 7 which has effect at the time of his death, he is entitled to a deferred pension,

a survivor such as is mentioned in regulation 37 shall be entitled to a pension calculated in the case of an adult survivor in accordance with regulation 38, and in the case of a child survivor in accordance with regulation 39.

⁽⁹⁾ S.R. (N.I.) 1996 No.493

⁽¹⁰⁾ S.R. (N.I.) 1997 No.153

⁽¹¹⁾ S.R. (N.I.) 2004 No.1054

Survivors

- 37.**—(1) For the purposes of regulation 36 a survivor shall mean—
- (a) a person who at the time of the death of the officer concerned was his spouse, civil partner or, subject to paragraph (2), other adult partner (“an adult survivor”); or
 - (b) a child of the officer concerned (“a child survivor”) who is—
 - (i) a natural child, step-child or adopted child of the officer concerned;
 - (ii) a child conceived before death of the officer concerned and born after that death to a person mentioned in paragraph 1(a); or
 - (iii) any other child who at the time of the death of the officer concerned was substantially dependent, financially or by reason of permanent disablement, on him.
- (2) An adult partner, other than a spouse or civil partner, shall not be entitled to a pension under these Regulations unless the following conditions are satisfied—
- (a) the police officer concerned had sent to the Board a declaration made and signed by the police officer and the adult partner concerned that—
 - (i) the police officer and the adult partner concerned were cohabiting as partners in an exclusive, committed and long-term relationship;
 - (ii) the adult partner was financially dependent on the officer or they were financially interdependent;
 - (iii) the police officer and the adult partner were both free to marry each other (where they are of opposite sexes) or to form a civil partnership with each other (where they are of the same sex); and
 - (iv) the police officer acknowledged an obligation to send to the Board a signed notice of revocation should the relationship terminate,and had not revoked that declaration before his death; and
 - (b) the surviving adult partner has submitted a claim in writing to the Board and satisfied the Board—
 - (i) that the circumstances mentioned in paragraphs (i), (ii) and (iii) of sub-paragraph (a) continued to subsist at the time of the officer’s death, and
 - (ii) that the period of cohabitation mentioned in paragraph (i) of sub-paragraph (a) had been of at least two years’ duration at the time of the officer’s death.
- (3) The Board may in their discretion accept a shorter period of cohabitation than that mentioned in paragraph (2)(b)(ii) where they are satisfied that the police officer and the adult partner concerned would have cohabited as partners for at least two years had the police officer not died.
- (4) Upon receipt of a declaration or notice of revocation of such a declaration made in accordance with paragraph (2)(a), the Board shall forthwith send to the officer concerned a written notification of its receipt.

Calculation of adult survivors’ pensions

- 38.**—(1) An adult survivor’s pension shall be calculated in accordance with the provisions of this regulation, subject to regulations 30(5) and 34(6).
- (2) Subject to paragraphs (8) and (9), in a case where the police officer concerned died in the circumstances mentioned in regulation 36(a), (b) or (d), an adult survivor of that officer shall be entitled to an annual pension payable for life calculated in accordance with paragraph (3).
- (3) The annual pension shall be equivalent to half of the annual pension which—
- (a) was payable to the officer at the time of his death; or

- (b) would have been payable to the officer if his deferred pension had come into payment immediately before his death.
- (4) Subject to paragraphs (8) and (9), in a case where the police officer concerned died in the circumstances mentioned in regulation 36(c), an adult survivor of that officer shall be entitled to an annual pension payable for life calculated in accordance with paragraph (5).
- (5) The annual pension shall be equivalent to half the annual sum that would have been payable to the officer if—
- (a) he had retired immediately before his death; and
 - (b) on retirement he had had an entitlement to both a standard and an enhanced top-up ill-health pension calculated in accordance with regulations 27 and 28.
- (6) Where the police officer concerned was a pension debit member, an adult survivor's pension is calculated—
- (a) by reference to the member's rights under these Regulations, as reduced by virtue of article 28 of the 1999 Order; and
 - (b) in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary.
- (7) An adult survivor's pension shall be calculated by reference to the annual pension which was payable or would have been payable to the police officer as mentioned in paragraph (3), or by reference to the annual sum that would have been payable to the police officer as mentioned in paragraph (5), without taking account of any increase of that annual pension or annual sum in accordance with the Pensions (Increase) Acts.
- (8) In the case of an adult survivor who was more than twelve years younger than the police officer concerned at the date of his death—
- (a) the survivor's pension, as calculated in accordance with paragraph (2) to (6), as the case may require and paragraph (7) shall be reduced by 2.5 per cent in respect of each whole year and any additional part of a year in excess of twelve by which the survivor was younger than the officer; but
 - (b) no reduction under sub-paragraph (a) shall exceed 50 per cent of the pension that would otherwise be payable.
- (9) In any case where—
- (a) the adult survivor is a surviving spouse or surviving civil partner; and
 - (b) the marriage of the spouse and the officer occurred, or the civil partnership was formed as the case may be, within the period of six months immediately preceding the officer's death,
- the Board may, in their discretion, withhold the pension.
- (10) The amount of an adult survivor's pension, calculated in accordance with the preceding provisions of this regulation, shall be increased in accordance with regulation 47.

Calculation of child survivors' pensions

39.—(1) Subject to regulations 30(5) and 34(6), a child survivor's pension shall be calculated in accordance with this regulation.

(2) A child survivor's pension shall be an annual amount equivalent to half of the pension which would be payable to any adult survivor as calculated in accordance with regulation 38(2) or (3), as the case may require, and regulation 38(5) subject to paragraph (3) below.

(3) Where three or more child survivors' pensions are for the time being payable in respect of the death of the same person, the pension payable to each child survivor shall be an annual amount

equal to the pension which would be payable to an adult survivor as so calculated divided by the total number of child survivors' pensions so payable.

(4) Where a pension debit member dies, leaving a child survivor, the reduction in his rights under these Regulations by virtue of article 28 of the 1999 Order is disregarded for the purposes of calculating any child survivor's award payable to that child under these regulations.

(5) In a case where a child survivor is—

- (a) in full-time training for a trade, profession or calling or is employed; and
- (b) is in receipt of remuneration in respect of that training or employment,

his child survivor's pension shall be withdrawn or reduced in accordance with paragraph (6).

(6) In the case of a child survivor to whom paragraph (5) applies—

- (a) if the annual amount of his child survivor's pension is greater than the amount of his excess remuneration (within the meaning of paragraph (9)), his pension 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 child survivor's pension which, but for this sub-paragraph, would be payable to him, a child survivor's pension shall not be payable.

(7) A child survivor's pension shall be payable—

- (a) in a case where the child survivor was, in the opinion of the Board, at the time of the police officer's death dependent on him by reason of permanent disablement, for life;
- (b) in a case where the child is in full-time education on a course of at least one year's duration, until he ceases to be in full-time education or attains the age of 23 years, whichever first occurs;
- (c) in any other case, until the child survivor attains the age of 19 years.

(8) A child survivor's pension, calculated in accordance with this regulation, shall be increased in accordance with regulation 47.

(9) In this regulation—

“excess remuneration” means the annual amount by which the annual rate of the relevant child survivor's remuneration exceeds the specified rate.

“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⁽¹²⁾ as uprated from time to time in accordance with an order under section 132(1) of the Social Security Administration (Northern Ireland) Act 1992⁽¹³⁾.

Guaranteed minimum pension

Guaranteed minimum pension for the purposes of the Pension Schemes (Northern Ireland) Act 1993

40.—(1) This paragraph applies, subject to paragraph (2), to a police officer who has a guaranteed minimum under section 9 of the Pension Schemes (Northern Ireland) Act 1993⁽¹⁴⁾ in relation to his pension provided under these Regulations.

⁽¹²⁾ S.R. (N.I.) 1987 No.459

⁽¹³⁾ 1992 c.8

⁽¹⁴⁾ 1993 c.49; section 9 has been amended by the Pensions (Northern Ireland) Order (S.I. 1995/3213 (NI 22), schedule 3, paragraph 20 and Schedule 5, Part III; the Social Security Contribution (Transfer of Functions, etc) Act 1999 (c.2), Schedule 1, paragraph 38; and the Proceeds of Crime Act 2002 (c.29), Schedule 11, paragraphs 1 and 22(1) and (3); and subsection (1)

(2) Paragraph (1) shall not apply in the case of a police officer in respect of whom a transfer value has been, or is required to be, paid under regulation 74.

(3) A police officer to whom paragraph (1) applies shall be entitled to a pension payable for life of a weekly amount equal to his guaranteed minimum (increased in accordance with section 11 of the 1993 Act); but no payment shall be made on account of the pension—

- (a) in respect of any period before the date on which he attains state pensionable age;
- (b) if he is also entitled to a pension under the preceding provisions of this Part, in respect of any period for which that pension, together with any increase therein under the Pensions (Increase) Act (Northern Ireland) 1971⁽¹⁵⁾, exceeds the pension which, disregarding this sub-paragraph, would be payable under this regulation; or
- (c) subject to paragraph (4), in respect of any period following the date on which he attains state pensionable age during which he continues to be in service or employment (whether or not as a police officer) which commenced before he attained that age if—
 - (i) his service or employment is otherwise than as a police officer and he consents to postponement of his entitlement under this paragraph;
 - (ii) he is entitled to an ordinary or deferred pension under these Regulations but for the period in question that pension has been withdrawn, in whole or in part, in pursuance of a decision taken by the Board for the purposes of regulation 49 before he attained state pensionable age; or
 - (iii) his continued service is as a police officer and he has no entitlement to an ordinary or deferred pension under these Regulations.

(4) Where a person continues to be in service or employment (whether or not as a police officer) for a period of five years following the date on which he attains state pensionable age and does not then leave it, the commencement of his entitlement to a guaranteed minimum pension may be further postponed only if he consents to such postponement.

(5) This paragraph applies in the case of a police officer who has ceased to be in service or employment that was contracted-out within the meaning of section 4(1) of the Pension Schemes Act (Northern Ireland) 1993⁽¹⁶⁾ and either—

- (a) all his entitlements to awards under these Regulations, except his rights in respect of his guaranteed minimum or his rights under section 5(2)(b) of the Pension Schemes Act (Northern Ireland) 1993⁽¹⁷⁾ (“his contracting-out rights”) have been transferred under Part 8; or
- (b) he has no entitlement to an award under these Regulations apart from his contracting-out rights.

(6) A police officer to whom paragraph (5) applies shall be entitled to—

- (a) a pension payable for life as from the date on which he attains state pensionable age of a weekly amount equal to his guaranteed minimum, if any; and
- (b) as from the date on which he attains the age of 55 a lump-sum and pension in respect of his rights under section 5(2)(b) of the 1993 Act.

(7) In a case in which paragraph (1) or (5) applies, where the police officer dies or has died at any time leaving a surviving spouse or surviving civil partner, then unless pension to which he has been

has been modified in certain cases by the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996 (S.I. 1996/1461), regulation 6(4) and the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462), regulations 12 and 13 and Schedule 2, paragraphs 3 and 7

(15) 1971 c.35. (NI)

(16) Section 4(1) was amended by Article 133(2) of Schedule 5 to the Pensions (Northern Ireland) Order 1995, paragraph 21(a) and by the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999, Schedule 1, paragraph 34(a)

(17) Section 5(2)(b) was substituted by section 136(3) of the Pensions (Northern Ireland) Order 1995 and amended by the Social Security Contributions (Transfer of Functions, etc) Order 1999, Schedule 1, paragraph 35(1) and (2)

entitled has been forfeited under regulation 52(2), the surviving spouse or surviving civil partner, as the case may be, shall be entitled to a pension of a weekly amount calculated in accordance with section 13(3) or (4) of the 1993 Act, as the case may require; but no payment shall be made on account of such pension if the surviving spouse or surviving civil partner is also entitled to a survivor's pension under regulation 36 in respect of any period for which the amount of that survivor's pension exceeds the pension which, disregarding this paragraph, would be payable under this regulation.

(8) Where a surviving spouse or surviving civil partner is entitled to both a survivor's pension under regulation 36 and a pension under paragraph (7) then, in respect of any period in respect of which a payment is made on account of the pension under paragraph (7), no payment shall be made to the surviving spouse or surviving civil partner on account of any such survivor's pension.

(9) For the purposes of this regulation, "state pensionable age" shall mean, in the case of a man, the age of 65 or, in the case of a woman, the age of 60.

(10) Regulation 52 shall apply in relation to a pension under paragraph (3), (6) or (7) as it applies to any other pension under this Part but as if paragraph (4) of that regulation were omitted.

(11) Save as provided for in paragraphs (3), (7) (8) or (10), nothing in any other regulation shall affect a person's entitlement to a pension under this regulation, the amount of such a pension or the circumstances in which it may be withdrawn or forfeited.

Awards on death - additional provisions

Death gratuities - dependants

41.—(1) This regulation applies in the case of a police officer who dies while in receipt of a pension or while entitled to a deferred pension, whether or not that pension has come into payment, if death—

- (a) results from an injury received in the execution of his duty; or
- (b) takes place within two years of his becoming entitled to his pension.

(2) In the case of such a police officer the Board may, in their discretion grant a gratuity to any person who was to any degree dependent on him, whether financially or by reason of disablement, at the time of his death; but the aggregate amount of any gratuities granted under this regulation shall not exceed the aggregate pension contributions in respect of the police officer's relevant period of service, calculated in accordance with regulation 23.

Death gratuity - estate

42.—(1) This regulation applies in the case of a police officer who dies—

- (a) while in receipt of a pension;
- (b) while entitled to a deferred pension, whether or not that pension has come into payment; or
- (c) while serving as such.

(2) If in the case of such an officer, the aggregate of—

- (a) any payments made or due to such an officer on account of his pension or by way of a lump-sum under regulation 24 or 26 together with any increase therein under the Pensions (Increase) Acts;
- (b) the capitalised value (calculated in accordance with tables prepared from time to time by the Scheme actuary) of any pension or allowance granted in respect of his death;
- (c) the actuarial value of any pension credit under Part 6 of these Regulations; and
- (d) any gratuity granted in respect of his death under regulation 41,

is less than his aggregate pension contributions in respect of his relevant period of service (calculated in accordance with regulation 23), the Board shall pay a gratuity equal to the difference to his legal personal representative.

Lump-sum death grant

43.—(1) On the death of a person while serving as a police officer a lump-sum death grant becomes payable unless an election under regulation 7 not to pay pension contributions had effect at the time of the death.

(2) The grant is payable whether or not any adult survivor's pension or death gratuity to a dependant of the officer or his estate is payable under regulation 36, 41 or 42 respectively.

(3) The amount of the grant is three times that of the deceased officer's pensionable pay, expressed as an annual rate—

- (a) at the time of death, or
- (b) if he was then absent from duty without pay, immediately before that absence began.

(4) The grant is to be paid—

- (a) to any surviving spouse or surviving civil partner who qualifies for it; or
- (b) if no person is qualified under sub-paragraph (a), and if the Board in their discretion so decide, to a surviving adult partner where the requirements of regulation 37(2)(a) and (b) are met; or
- (c) if no payment is made under sub-paragraph (a) or (b), and if the Board in their discretion so decide, to a person in respect of whom a nomination by the officer in accordance with regulation 44 had effect at the time of his death; or
- (d) otherwise, if the Board in their discretion so decide, to his legal personal representative.

(5) A surviving spouse or surviving civil partner qualifies for the grant unless at the time of the death—

- (a) the deceased officer and his spouse or, as the case may be, civil partner were separated by an order or decree of a competent court, and
- (b) the deceased was not required by such an order to contribute, and was not in fact regularly contributing to, the support of the spouse or civil partner or to the spouse or civil partner for the support of a child of the spouse or civil partner.

Nomination for lump-sum death grant

44.—(1) A police officer may, subject to paragraph (2), nominate a person to receive any lump-sum death grant which may become payable under regulation 43(4)(c).

(2) Such nomination shall not have effect unless—

- (a) it was signed by the officer concerned and sent, before any award under these Regulations other than a pension credit has come into payment, to the Board; and
- (b) it has not been revoked by written notice to the Board.

(3) Upon receipt of a nomination or notice of revocation of such a nomination made in accordance with paragraph (2), the Board shall forthwith send to the officer concerned a written notification of its receipt.

Pension debit members – awards on death

45. Where a pension debit member dies any award in respect of him under regulation 41, 42 or 43 is calculated by reference to the member's rights under these Regulations as reduced by virtue of

article 28 of the 1999 Order and in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary.

Prevention of duplication

46.—(1) Subject to paragraph (3), 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; and each of the awards is a survivor's pension under regulation 36 or an award under regulation 5, 12, 13, 16, 17, 19 or 20 of the 2006 Injury Regulations, he shall be entitled to receive, in respect of that period, payment on account of one only of those awards.

(2) The award payable under paragraph (1) shall be—

- (a) that from time to time selected by the person concerned; or
- (b) 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.

(3) Nothing in paragraph (1) shall prevent a person from being entitled to receive more than one such pension if the awards in question are calculated, directly or indirectly, by reference to different periods of pensionable service.

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

47.—(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, the increase shall be calculated in accordance with paragraph (2).

(2) The amount to be increased shall be increased by the amount, if any, by which a corresponding pension (within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971) of the amount first mentioned would from time to time be increased under the Pensions (Increase) Acts if—

- (a) it were payable to the person entitled to the relevant award and, in relation thereto, he had the like guaranteed minimum pension (if any) as he has in relation to the relevant award;
- (b) it were one of the pensions specified in paragraph 43 of Part II of Schedule 2 to the said Act of 1971⁽¹⁸⁾;
- (c) it were not a pension to which section 1(2)(a) of the Pensions (Increase) Act 1974 applies, and
- (d) it began, within the meaning of the said Act of 1971, and became payable when the relevant award so began and became payable.

(3) The Pensions (Increase) Acts as applied by paragraph (2) 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 pension is payable.

Revision and withdrawal or forfeiture of awards

Review and cancellation of pensions payable on the ground of permanent disablement

48.—(1) As long as a person—

- (a) is in receipt of—
 - (i) a standard ill-health pension and has not attained the age of 55 years; or

⁽¹⁸⁾ Paragraph 43 has been amended by paragraph 8 of Schedule 2 to the Police Pensions Act 1976 (c.35) and paragraph 18(3) of schedule 7 to the Police Act 1996 (c.16)

- (ii) an enhanced top-up ill-health pension or a deferred pension which, in accordance with regulation 29, came into payment early on the ground of permanent disablement for engaging in any regular employment, and

- (b) in either case has not attained the age of 65 years,

the Board may consider, at such times as are specified in paragraph (2), whether his disablement has ceased, significantly worsened (in the case of a person such as is mentioned in paragraph (1)(a)(i)) or significantly improved (in the case of a person such as is mentioned in paragraph (1)(a)(ii)).

(2) The times mentioned in paragraph (1) are such times as the Board may in their discretion determine—

- (a) in the case of a person such as is mentioned in paragraph (1)(a)(i), until the person concerned attains the age of 55 years; and
- (b) in the case of a person such as is mentioned in paragraph (1)(a)(ii), at intervals of no less than five years until the person concerned attains the age of 65 years.

(3) If, on any consideration under paragraph (1), it is found, in respect of a person who—

- (a) is in receipt of a standard ill-health pension or an enhanced top-up ill-health pension, and
- (b) has not attained the age of 55 years,

that his disablement for the performance of the ordinary duties of a member of the police service has ceased, the Board may give the person concerned notice that if he wishes to rejoin the service as a police officer within a period of not less than three months from the date on which he has been given such notice he will be permitted to do so.

(4) If the person concerned, within the period referred to in paragraph (3), offers to rejoin the police service as a police officer, he shall be permitted to do so in a rank not lower than that he held immediately before he retired with the ill-health pension.

(5) On the person concerned rejoining the service as mentioned in paragraph (4) or, where in any other circumstances a person who is in receipt of either—

- (a) an ill-health; or
- (b) a deferred pension which came into payment early on the grounds of permanent disablement for engaging in any regular employment,

rejoins the service, then payment of his ill-health pension shall be terminated by the Board upon rejoining.

(6) Where the person concerned does not offer to rejoin the service under paragraph (4) within the period referred to in paragraph (3), at the end of that period payment of his ill-health pension shall be terminated by the Board.

(7) If on any consideration under paragraph (1), it is found in respect of a person who—

- (a) is in receipt of an ill-health pension; and
- (b) has not attained the age of 55 years,

that his disablement for the performance of the ordinary duties of a member of the service would have been expected to have ceased by reason of his having received normal appropriate medical treatment, payment of his ill-health pension may be terminated by the Board, if the conditions in paragraph (9) are met.

(8) In paragraph (7) “appropriate medical treatment” shall not include medical treatment that it is reasonable in the opinion of the Board for that person to refuse.

(9) The conditions referred to in paragraph (7) are that—

- (a) the officer concerned is not receiving or has not received medical treatment, as the case may be;
 - (b) his failure to receive such treatment is attributable to his wilfulness or negligence; and
 - (c) he has wilfully or negligently persisted in that failure after receiving both—
 - (i) a written notice from the selected medical practitioner that, in his opinion, the conditions set out in paragraph (10) apply in that person's case; and
 - (ii) a written notice from the Board of their opinion that paragraph (b) applies in his case and of their powers to terminate payment of his ill-health pension under paragraph (7).
- (10) The conditions referred to in paragraph (9)(c)(i) are that—
- (a) the officer's disablement for the performance of the ordinary duties of a member of the service would have been expected to have ceased by reason of his having received appropriate medical treatment; and
 - (b) the officer is not receiving or has not received such medical treatment.
- (11) If, on any consideration under paragraph (1), it is found in respect of a person who—
- (a) has not attained 65 years of age, and
 - (b) is in receipt of either—
 - (i) an enhanced top-up ill-health pension; or
 - (ii) a deferred pension which came into payment early on the ground of permanent disablement for engaging in any regular employment,

that his disablement for engaging in any regular employment has ceased, then

- (c) in such a case as is mentioned in sub-paragraph (b)(i), except where the Board have given notice to the person concerned under paragraph (3), his entitlement to his enhanced top-up ill-health pension shall cease and he shall remain entitled to payment of his standard ill-health pension; and,
- (d) in such a case as is mentioned in sub-paragraph (b)(ii), the Board shall cease to make early payments of his deferred pension.

(12) Subject to paragraph (14), if on any consideration under paragraph (1), it is found, in respect of a person in receipt of a standard ill-health pension, that his disablement has worsened to the extent that he has become disabled for engaging in any regular employment, he shall become entitled to an enhanced top-up ill-health pension, calculated in accordance with regulation 28 and payable in accordance with paragraph (13):

Provided that such enhanced top-up ill-health pension shall not entitle him to any lump-sum payment additional to that paid in respect of the standard ill-health pension.

(13) An enhanced top-up ill-health pension to which entitlement arises under paragraph (12) shall be payable as from the date on which the claim by the person concerned that his disablement had worsened which led to the consideration referred to in paragraph (12) was notified to the Board (or, where the Board referred the matter for decision under regulation 67(2), of their own motion in the absence of such a claim, as from the date on which they so referred the matter for decision).

(14) Paragraph (12) shall apply only if the claim that a person's disablement had worsened which led to the consideration referred to in that paragraph was made within the period of five years beginning with the date on which the person concerned retired; save that that time limit shall not apply in a case where the disablement of the person concerned is attributable to a progressive medical condition specified in Schedule 4 which, of its nature could have been expected as at the time of his retirement to affect him with increasing severity.

(15) Where payment of a person's ill-health pension is terminated under paragraph (6), but he is not entitled to a deferred pension under regulation 29, then, if the aggregate of—

- (a) the sums paid in respect of the pension; and
- (b) the actuarial value, determined in accordance with tables prepared by the Scheme actuary, of any pension to which he is entitled under regulation 40 (Guaranteed minimum pension for the purposes of the Pensions Schemes (Northern Ireland) Act 1993⁽¹⁹⁾),

is less than his aggregate pension contributions in respect of the relevant period of service, the Board shall pay the difference to the person concerned.

(16) Where payment of—

- (a) a person's ill-health pension; or
- (b) a person's deferred pension which came into payment early on the ground of permanent disablement for engaging in any regular employment,

is terminated under this regulation he shall retain any lump-sum payment received by way of such pension subject to regulation 25(1)(b), (2) and (3).

(17) In its application to a specified employee of SOCA, this regulation shall apply with the following modifications—

- (a) any consideration by the Board under paragraph (1) shall be of whether the disablement of the person concerned has significantly worsened such that he has become permanently disabled for engaging in any regular employment (in the case of a person such as is mentioned in paragraph (1)(a)) or improved such that his disablement for engaging in any regular employment has ceased (in the case of a person such as is mentioned in paragraph (1)(a)(ii));
- (b) any consideration by the Board under paragraph (1) shall not include any consideration of whether the disability of the person concerned has improved such that he is no longer disabled for the performance of the ordinary duties of a member of the police service; and
- (c) paragraphs (3), (4), (6) to (10) and (15) shall not apply.

Withdrawal of pension during service as a police officer

49.—(1) Subject to paragraph (3), the Board may, in their discretion, withdraw the whole or any part of the pension for any period during which the pensioner is serving as a police officer in the police service or any police force in Great Britain.

(2) Where the Board withdraw a pension in accordance with paragraph (1) they shall be discharged from all actual or contingent liability in respect of the pension, or the part of it, withdrawn for the period in question.

(3) This regulation does not apply to a pension under regulation 36 or a pension credit under regulation 58.

Reduction of pension in case of default

50.—(1) Where a police officer or a former 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—

- (a) ill-health pension; or
- (b) deferred pension which comes into payment early on the ground of permanent disablement for engaging in any regular employment,

payable to him by them by an amount not exceeding a half of that to which he would otherwise be entitled.

(2) This regulation shall not apply where the person concerned—

- (a) is in receipt of a standard ill-health pension and has attained the age of 55 years; or
- (b) is in receipt of a deferred pension and has attained the age of 65 years.

(3) Where the pension of a police officer has been reduced under this regulation, then, if when he attains the age of 65 years the reduced pension is less than the amount of the deferred pension which would have been payable on his attaining that age had he been granted such a pension on the date of his ceasing to serve, it shall be increased to that amount.

Withdrawal of early payment of deferred pension

51. In a case where a person to whom regulation 29 applies ceased to serve by reason of dismissal under the Conduct Regulations and—

- (a) was permanently disabled for engaging in any regular employment at the time when he so ceased to serve; or
- (b) becomes so disabled before he attains the age of 65 years,

no payment shall be made on account of the pension in respect of the period before he attains the age of 65 years unless the Board in the exercise of their discretion determine to make such payment.

Forfeiture of pension

52.—(1) This regulation applies to a pension payable—

- (a) under this Part, to a police officer or former police officer;
- (b) under regulation 36, to a survivor of such a police officer; and
- (c) under Part 6, to a pension credit member.

(2) The Board may determine that the pension be forfeited, in whole or in part and permanently or temporarily as it may specify, if—

- (a) the pensioner has been convicted of an offence mentioned in paragraph (3); and
- (b) in the case of an adult survivor's pension, that offence was committed after the death of the police officer in respect of whom the pension is payable.

(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⁽²⁰⁾ 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 the pension be forfeited, in whole or in part and permanently or temporarily as it may specify, if—

- (a) the grantee has been convicted of an offence committed in connection with his service as a member of the police service; and
- (b) that offence 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.

(20) 1911 c.28; 1920 c.75; 1939 c.121; 1989 c.6

- (5) The Board may, to such extent as it at any time in its discretion thinks fit—
- (a) apply for the benefit of any adult or child survivor of the grantee of the pension; or
 - (b) restore to the grantee of the pension,
- any amount or amounts of any pension that has or have been forfeited under this regulation.
- (6) 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 it.
- (7) This regulation has effect subject to regulation 40(10).

PART 5

PURCHASE OF INCREASED BENEFITS

Election to purchase increased benefits

53.—(1) This paragraph applies to a police officer by whom contributions are for the time being payable under regulation 5.

(2) Subject to the following provisions of this regulation, a police officer to whom paragraph (1) applies may at any time, for the purpose of reckoning additional pensionable service (“added years”) in calculating the awards payable to, or in respect of, him under Part 4, elect to make payment to the Board in accordance with the following provisions of this Part.

- (3) Such an election is to be made by giving written notice to the Board specifying—
- (a) the number of added years to be purchased;
 - (b) the date, no earlier than that on which the officer will attain the age of 55 years nor later than that on which he could be required to retire under regulation 16(1) or (2) if he continued to serve without change of rank, when he wishes the added years purchased to become reckonable for the purpose of calculating awards; and
 - (c) whether payment is to be made by way of a lump-sum in accordance with regulation 55 or periodical contributions in accordance with regulation 56.
- (4) The total number of added years that may be purchased in accordance with regulations 55 and 56 by virtue of such an election shall not exceed—
- (a) Five; or
 - (b) such lesser number as would entitle the officer, if he were to serve continuously as a full-time member of the service from the date of his election under paragraph (2) until the date specified in accordance with paragraph (3)(b), to reckon a total of 35 years’ pensionable service as at the date so specified.
- (5) A pension debit member may not replace any rights debited to him as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the order not been made.

Acceptance and effect of elections

54.—(1) The Board may refuse to accept an election to make payment by periodical contributions unless—

- (a) the police officer in question has undergone a medical examination; and
- (b) satisfied the Board as to his good health.

(2) Any fee in respect of a medical examination pursuant to paragraph (1) shall be paid by the police officer.

(3) An election made under regulation 53(2) to purchase added years by way of periodical contributions shall take effect from the date on which the periodical contributions commence in accordance with regulation 56(1).

(4) Subject to regulation 56(5) an election made under regulation 53(2) shall be irrevocable, save that where the Board is satisfied that the payment of periodical contributions in accordance with such an election is causing, or is likely to cause, financial hardship they may consent to the discontinuance of such contributions for such period as they think fit.

(5) When a police officer who has made an election under regulation 53(2) has not retired by the date specified in the notice of election in accordance with regulation 53(3)(b), then, notwithstanding that he may derive no benefit from his election, his liability to make payment in accordance with the following provisions of this Part shall not be affected and he shall not be entitled to the repayment of any lump-sum or contribution so paid.

Lump-sum payments

55.—(1) A police officer to whom regulation 53(1) applies may, within twelve months of the date when he last began to serve as such, elect under that regulation to make payment by a lump-sum of such amount calculated by the Board, in accordance with tables prepared by the Scheme actuary, as is necessary to purchase the added years specified in the notice of election.

(2) A lump-sum payment under this regulation shall be made within three months of the date on which the notice of election is given and, if it is not so made, the election shall be deemed for the purposes of these Regulations never to have been made.

(3) A sum held in another pension scheme may not be used to purchase added years under this regulation.

Payment by periodical contributions

56.—(1) Subject to the following provisions of this regulation, where a police officer elects to make payment under this regulation the periodical contributions—

- (a) shall be made as from the date of his birthday falling within the year beginning with the date of his election; and
- (b) shall continue, subject to any discontinuance on the ground of financial hardship in accordance with regulation 54(4) until the date—
 - (i) specified in the notice of election in accordance with regulation 53(3)(b);
 - (ii) on which any election made by him under regulation 7 takes effect;
 - (iii) on which he retires under regulation 15, 16 or 17, as the case may be, or otherwise ceases to serve as a police officer; or
 - (iv) subject to paragraph (8), on which he retires under regulation 18,whichever is the earliest.

(2) All contributions under this regulation shall be deducted by the Board from the pay of the officer concerned.

(3) Such contributions shall be of such amount, calculated by the Board in accordance with tables prepared by the Scheme actuary, as is necessary to purchase the added years specified in the notice of election.

(4) In a case where the police officer makes an election to pay by periodical contributions while he is in part-time service, either—

- (a) payments payable by him shall be calculated as if he were in full-time service and his pensionable pay were the amount that would be his pensionable pay if he were in full-time service; or
- (b) those payments are to be payable in accordance with paragraph (7).

(5) An officer who made an election under regulation 53(2) at a time when he was a full-time member of the police service and has subsequently begun to serve on a part-time basis may vary that election within the period of three months from the date on which he began to serve on a part-time basis.

(6) Variation of an election in accordance with paragraph (5) shall be made by giving written notice to the Board specifying that the police officer in part-time service concerned wishes the payments payable by him to be payable in accordance with paragraph (7) and takes effect on the date of that notice.

(7) Where a police officer who is in part-time service—

- (a) makes an election under regulation 53(2); or
- (b) varies such an election in accordance with paragraph (5) and (6),

specifying that the payments which are payable by him are to be payable in accordance with this paragraph, then the payments payable by him by periodical payments shall be payable at the same percentage of his pay as if he were in full-time service.

(8) In the case of a police officer who has retired with an entitlement to an ill-health pension but has subsequently rejoined the police service or joined a police force in Great Britain in accordance with regulation 48 his periodical contributions shall again become payable as provided by paragraph (1).

(9) A sum held in another pension scheme may not be used to purchase added years under this regulation.

Reckoning of increased benefits

57.—(1) Subject to the following provisions of this regulation, for the purposes of calculating any award under Part 4 to or in respect of a police officer, added years purchased in pursuance of an election under regulation 53(2) shall be reckonable in the same way as other pensionable service reckonable by him.

(2) Subject to regulation 55(2), in a case where a police officer elects under regulation 53(3)(c) to make payments by way of a lump sum, he shall be entitled to reckon the number of added years specified in his notice of election under regulation 53(3)(a).

(3) In a case where a police officer elects under regulation 53(3)(c) to make payments by way of periodical contributions, he shall be entitled to reckon the number of added years determined in accordance with the following provisions of this regulation.

(4) Unless a police officer is in part-time service and has elected to pay contributions at the same percentage of his pensionable pay as if he were in full-time service as in regulation 56(7), in a case where the periodical contributions continue in payment until the date specified in the notice of election, the officer will be entitled to reckon the number of added years specified in his notice of election under regulation 53(3)(a).

(5) This paragraph applies where a police officer has commenced payment of periodical contributions in accordance with an election under regulation 53(2) and dies in service or retires with an entitlement to an ill-health pension under regulation 26.

(6) In a case in which paragraph (5) applies, the officer concerned shall, subject to paragraph (8), be entitled to reckon all the added years specified in his notice of election under regulation 53(3) (a), save that where—

- (a) he had discontinued payment of periodical contributions on the grounds of financial hardship under regulation 54(4); or
 - (b) he was an officer with part-time service and had elected to pay contributions at the same percentage of his pensionable pay as if he were in full-time service as in regulation 56(7), he shall be entitled to reckon a proportion of such benefits, determined in accordance with the formula set out in paragraph (7).
- (7) The formula referred to in paragraph (6) is—

$$\frac{AY \times PM}{PD}$$

where—

AY is the number of added years specified in the notice of election in accordance with regulation 53(3)(a);

PM is the aggregate length of the periods during which periodical contributions were made calculated in accordance with paragraph (14), where applicable; and

PD is the length of the period beginning with the date on which the election under regulation 53(2) took effect and ending on the date on which the officer concerned died or retired on the ground of disablement, as the case may be.

- (8) Subject to paragraph (9), in a case in which the officer concerned retired with—
- (a) an entitlement to a standard ill-health pension and that entitlement ceases in accordance with regulation 48; or
 - (b) an entitlement to an enhanced top-up ill-health pension and that entitlement ceases in accordance with regulation 48 in circumstances where he does not then remain entitled to a standard ill-health pension under paragraph (11)(c) of that regulation,

then (whether or not he rejoins the police service), his entitlement under paragraph (6) to reckon all or a proportion of the number of added years specified in his notice of election under regulation 53(3)(a) shall cease, but for the purposes of this regulation he will be deemed to have made the periodical contributions which, but for his retirement, would have fallen due during the period of that retirement.

(9) Where at the time of the officer's retirement on the ground of disablement he was entitled to reckon the proportion of the added years which he elected to purchase given in paragraph (7) he shall be deemed to have made a proportion of such periodical contributions, determined in accordance with the formula set out in paragraph (10).

- (10) The formula referred to in paragraph (9) is—

$$\frac{PN \times PM}{PD}$$

where PN is the length of the period beginning with the date on which the officer retired on the ground of disablement and ending on the date on which entitlement to the ill-health pension in question ceased, and PM and PD have the same meaning as in paragraph (7).

- (11) This paragraph applies to a police officer in respect of whom—
- (a) periodical contributions continue to be payable until the date specified in the notice of election, but had been discontinued for a period on the grounds of financial hardship under regulation 54(4), whether or not they were so discontinued at the date specified in the notice of election;
 - (b) periodical payments continue to be payable until the date specified in the notice of election, but he is an officer in part-time service and has elected to pay contributions payable

at the same percentage of his pensionable pay as if he were in full-time service as in regulation 56(7);

- (c) periodical contributions ceased in accordance with regulation 56(1)(b)(ii) on the date on which any election made by him under regulation 7 takes effect; or
- (d) periodical contributions ceased in accordance with regulation 56(1)(b)(iii) on the date on which he retired under regulations 15, 16, or 17, as the case may be, or otherwise ceased to serve as a police officer.

(12) In a case in which paragraph (11) applies, the officer shall be entitled to reckon a proportion of the number of added years specified in his notice of election under regulation 53(3)(a), determined in accordance with the formula set out in paragraph (13).

(13) The formula referred to in paragraph (12) is—

$$\frac{AY \times PM}{PE}$$

where—

AY is the number of added years specified in the notice of election in accordance with regulation 53(3)(a);

PM is the aggregate length in years of the period during which periodical contributions were paid, or deemed to have been paid, subject to paragraph (14); and

PE is the length of the period beginning with the date on which the election under regulation 53(2) took effect and ending on the date specified in the notice of election in accordance with regulation 53(3)(b).

(14) In the case of a police officer with part-time service who elected to pay contributions at the same percentage of his pensionable pay as if he were in full-time service as in regulation 56(7) the number of days for which he is deemed to have paid periodical contributions during a period of part-time service is calculated by the application of the fraction specified in regulation 11(1).

PART 6

PENSION SHARING: PENSION CREDIT MEMBERS

Pension credit member's entitlement to pension

58.—(1) Subject to regulation 59, a pension credit member is entitled to a pension, of an amount calculated in accordance with paragraphs (3), (4), and (5) which becomes payable—

- (a) when he attains normal benefit age; or
- (b) if it is later, when the pension sharing order under which he is entitled to the pension credit takes effect.

(2) In this Part “normal benefit age” means the age of 65.

(3) A pension credit member's pension shall be—

- (a) an annual sum payable for life, and
- (b) subject to paragraph (4), a lump-sum payment of an amount equal to that annual sum as at the time when the pension first becomes payable, multiplied by four.

(4) No lump sum shall be payable under paragraph (3)(b) if the pension credit is a disqualifying pension credit under paragraph 2(3) of Schedule 29 to the Finance Act 2004⁽²¹⁾.

(5) The total pension under paragraph (3) must be of such an amount that its actuarial value is equal to the member's pension credit, as calculated from tables prepared by the Scheme actuary and in accordance with regulations made under paragraph 5(b) of Schedule 5 to the 1999 Order⁽²²⁾.

Commutation of the pension credit benefit on the ground of serious ill-health

59.—(1) If a pension credit member is suffering from serious ill-health before he attains normal benefit age, the Board may commute the whole of the pension to which he is entitled under regulation 58 calculated in accordance with paragraph (2).

(2) The commutation shall be for a lump-sum of an amount equal to the annual rate of the pension to which the member would have been entitled under regulation 58 (3)(a) if he had attained normal benefit age on the date when the lump-sum is paid (as calculated in accordance with guidance prepared by the Scheme actuary), multiplied by five.

(3) Where a pension is commuted under paragraph (1), the payment of the lump-sum discharges the Board from all liability in respect of benefits payable to or in respect of the pension credit member.

(4) In this regulation, "serious ill-health" means ill-health giving rise to a life expectancy of less than one year from the date on which commutation is applied for.

Death grants where pension credit member dies before pension credit benefits payable

60.—(1) If a pension credit member dies before any pension credit benefits have become payable to him under these Regulations, a lump-sum death grant is to be paid calculated in accordance with paragraph (2).

(2) The grant shall be of an amount equal to the annual rate of the pension to which the member would have been entitled under regulation 58(3)(a) if he had attained normal benefit age on the date of his death (as calculated in accordance with guidance prepared by the Scheme actuary), multiplied by three.

(3) The lump-sum is payable—

- (a) if the member is survived by a spouse or civil partner who is not ineligible under paragraph (4), to that spouse or civil partner; or
- (b) if there is no person such as is mentioned in sub-paragraph (a), and if the Board in their discretion so decide, to the member's personal representatives.

(4) A spouse or, as the case may be, civil partner is ineligible for the purposes of paragraph (3) if—

- (a) the deceased and the spouse or civil partner in question were separated by an order or decree of a competent court at the time of the member's death; and
- (b) the deceased was not required by such an order to contribute, and was not in fact regularly contributing, to the support of the spouse or civil partner or to the spouse or civil partner for the support of a child of the spouse or civil partner in question.

Application of general regulations

61.—(1) The provisions specified in paragraph (2) apply to pension credit members and awards payable to or in respect of them, but apart from where provision is made by this Part or a contrary intention is otherwise indicated—

(21) 2004 c.12

(22) S.I. 1999/3147 (N.I.11); the relevant regulations are S.R. (N.I.) 2000 No.145, as amended by S.R. (N.I.) 2000 No.335

- (a) these Regulations do not apply to pension credit members as such or to benefits payable to or in respect of them as such;
 - (b) the benefits payable to or in respect of pension credit members as such are not aggregated for any purpose with benefits payable to or in respect of those persons in any other capacity; and
 - (c) the benefits payable to or in respect of pension credit members deriving their pension credit benefits from one pension debit member are not aggregated for any purpose with benefits payable to or in respect of those persons as pension credit members deriving their pension credit benefits from any other pension debit member.
- (2) Those provisions are regulation 63 and 64.
- (3) In the application of regulation 63 by virtue of this regulation, the reference in regulation 63 to a person claiming an award in respect of a member of a particular description to whom that regulation applies includes a reference to a pension credit member whose pension credit is derived from the rights of a pension debit member of that description.

PART 7

MEDICAL QUESTIONS AND APPEALS

Eligibility for awards – general

Eligibility for awards - general

62. Subject to the following 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.

Appeals

Appeals

63.—(1) Where a member of the police service, or a person claiming an award in respect of such a member, is aggrieved by—

- (a) the refusal of the Board to admit a claim to receive as of right an award or a larger award than that granted;
- (b) a decision of the Board as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 3;
- (c) the reduction under regulation 50 by the Board of the amount of any pension payable to such a member; or
- (d) the forfeiture under regulation 52 by the Board of any award granted to or in respect of such a member,

he may, subject to regulation 64, give notice of appeal to the Board and the Secretary of State; and any such notice shall be in writing and shall specify the grounds of the appeal.

(2) The Secretary of State, on receiving such notice of appeal, shall appoint an appeal tribunal (“the tribunal”), which shall consist of three persons, including a barrister or solicitor of not less than seven years’ standing who shall be appointed chairman and a former member of the police service or of a police force in Great Britain who, before he ceased to serve as such or 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 of it to the Secretary of State who shall notify the appellant and the Board.

(4) The Board and the appellant (“the parties”) may be represented before the tribunal by counsel, by a solicitor or by other appropriate person, adduce evidence and cross-examine witnesses.

(5) The tribunal shall apply the rules of evidence applicable in a hearing of an appeal to a county court under article 28 of the County Courts (Northern Ireland) Order 1980(23).

(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, and—

- (a) the order shall state the reasons for the decision; and
- (b) 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

64.—(1) An appeal shall not lie under regulation 63 against anything done by the Board in the exercise of a power conferred by these Regulations which is expressly declared by these Regulations to be a power which they are to exercise in their discretion.

(2) Subject to regulation 69(2), in any proceedings under regulation 63 the court or tribunal shall be bound by any final decision of a medical authority within the meaning of regulation 69.

Decisions on eligibility for pension awards payable on the ground of permanent disablement

Reference to selected medical practitioner - eligibility for pension awards payable on the ground of permanent disablement

65.—(1) For the purposes of a determination by the Board of a person’s eligibility to receive pension awards payable on the ground of permanent disablement in pursuance of regulation 6, the selected medical practitioner shall report to the Board his opinion on the likelihood and likely timing of that person becoming permanently disabled for the performance of the ordinary duties of a member of the police service, and such a report shall, subject to an appeal under regulation 66, be final.

(2) A copy of any such report shall be supplied to the person who is the subject of that report (“the claimant”).

Appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement

66.—(1) A person in respect of whom it has been determined under regulation 6(3) that the risk presented by him that he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high and who is dissatisfied with the opinion of the selected medical practitioner may appeal against the practitioner’s report if—

- (a) within 28 days of receiving notice of the Board’s decision under regulation 6(3) he gives notice that he intends to make such an appeal; and

- (b) within two months (or such longer period as may be agreed by the Board) of receiving notice of the Board's decision he supplies evidence that a registered medical practitioner ("the appellant's practitioner") has examined him and disagrees with the selected medical practitioner's opinion on the likelihood or likely timing (or both) of that person becoming permanently disabled for the performance of the ordinary duties of a member of the police service.

(2) The Board shall ask the selected medical practitioner to reconsider his report in the light of that evidence and, if necessary, to produce a revised report on the likelihood and likely timing of that person becoming permanently disabled for the performance of the ordinary duties of a member of the police service, and that revised report shall be final.

Medical questions - permanent disablement

Reference of medical questions - permanent disablement

67.—(1) Where the Board is considering for the purposes of these Regulations whether a person is permanently disabled, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

- (a) whether the person concerned is disabled for the performance of the ordinary duties of a member of the police service;
- (b) whether any such disablement as is mentioned in sub-paragraph (a) is likely to be permanent;
- (c) whether the person concerned is also disabled for engaging in any regular employment otherwise than as a police officer; and
- (d) whether any such disablement as is mentioned in sub-paragraph (c) is likely to be permanent.

(2) Where the Board is considering whether the disablement of a person such as is mentioned in regulation 18(3) or 48(1)(a)(i) has ceased, significantly worsened or significantly improved, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

- (a) whether the person concerned continues to be disabled for the performance of the ordinary duties of a member of the police service; and, if so
- (b) whether the person concerned is also disabled for engaging in any regular, employment; and
- (c) whether any such disablement as is mentioned in sub-paragraph (b) is likely to be permanent.

(3) Where the Board is considering whether the disablement of a person such as is mentioned in regulation 48(1)(a)(ii) has ceased, or significantly improved, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

- (a) whether the person concerned continues to be disabled for engaging in any regular employment; and, if not;
- (b) whether the person concerned continues to be disabled for the performance of the ordinary duties of a member of the police service.

(4) Where, in pursuance of a reference under paragraph (2) or (3), the selected medical practitioner decides that the question mentioned in paragraph (2)(a) or either of the questions referred to in paragraph (3)(a) and (b), as the case may be, is to be answered in the affirmative, no question as to the likelihood of such disablement continuing permanently is to be considered by him.

(5) Where the Board is considering the exercise of their powers under regulation 50, they shall refer for decision to a duly qualified medical practitioner selected by them the question whether the person concerned has brought about or substantially contributed to the disablement by his own default.

(6) The Board may decide to refer a question in paragraph (1), (2), (3) or (5), as the case may be, to more than one duly qualified medical practitioner instead of to a single duly qualified medical practitioner, and in such a case references in this regulation and regulations 68, 69(4) and 70(8) to a selected medical practitioner shall be construed as if they were references to more than one selected medical practitioner.

(7) 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 certificate and shall, subject to regulations 68 and 69, be final.

(8) 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

68.—(1) Where a person is dissatisfied with the decision of the selected medical practitioner (“SMP”), on the question or questions referred to him as set out in a report and certificate under regulation 67(7) he may, within 28 days after he has received a copy of the report and certificate, or such longer period as the Board may allow, and subject to and in accordance with the provisions of regulation 70, 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, except in a case where the person concerned and the Board agree to a further reference to the SMP in accordance with regulation 69(1), notify the Secretary of State accordingly.

(3) The Board shall send to the Secretary of State two copies of the notice of appeal, and the report and certificate appealed against, with the name and address of the appellant and any other information required by the Secretary of State.

(4) The Secretary of State shall appoint the independent medical referee (“IMR”), which shall consist of one or more independent medical practitioners, and where more than one medical practitioner is appointed, the Secretary of State shall designate one of them as the principal independent medical referee (“PIMR”).

(5) The IMR shall report on the question or questions which is or are subject to appeal, except that where there is a PIMR designated only he shall so report, after taking into account the assessment of all other IMR’s appointed by the Secretary of State.

(6) The decision of the IMR shall, if he disagrees with any part of the report of the SMP, be expressed in the form of a report and certificate of his decision on any of the questions referred to the SMP on which he disagrees with the latter’s decision.

(7) The report of the IMR in pursuance of paragraph (4) shall, subject to the provisions of regulation 69, be provided to the Board and the appellant (“the parties to the appeal”).

(8) The Board shall determine the appeal after considering the report of the IMR, and that report shall supersede any other medical report.

Further reference to medical authority

69.—(1) The Board and the person in respect of whom a medical authority has given a final decision (“the claimant”) may, by agreement, refer such decision to the said medical authority, for reconsideration of the decision and the medical authority shall accordingly reconsider the said decision and, if necessary, issue a fresh report and certificate, which, subject to—

- (a) any further reconsideration under this paragraph or paragraph (2); or
- (b) an appeal, where the claimant requests that the appeal of which he has given notice (before referral of the decision under this paragraph) be notified to the Secretary of State and referred to an IMR,

shall be final.

(2) A tribunal hearing an appeal under regulation 63 may, if they consider that the evidence before the medical authority who has given the final decision was inaccurate or inadequate, refer the said decision to the medical authority for reconsideration in the light of such facts as the tribunal may direct, and the medical authority shall accordingly reconsider the said decision and, if necessary, issue a fresh report which, subject to any further reconsideration under this paragraph, shall be final.

(3) If a claimant and the Board agree, or the tribunal decide, 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 or practitioners agreed upon by the claimant and the Board or, as the case may be, selected by the tribunal, and his or, as the case may be, their 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 (and cognate expressions) who has given a final decision, means—

- (a) the SMP, if the time for appeal from his decision has expired without an appeal to an appeal board being made or if, following a notice of appeal to the Board, the Board have not yet notified the Secretary of State of the appeal; and
- (b) the IMR, if there has been such an appeal.

Procedure and costs on appeals under regulation 68

70.—(1) Every notice of appeal under regulation 68(1) and statement of grounds under regulation 68(2) shall be in writing.

(2) On receiving a notice of appeal against a decision made under regulation 67(7) and the appellant's statement of grounds for appeal, the Board, unless regulation 69(1) applies, shall forward to the Secretary of State copies of those documents and all other documents determined as necessary by the Secretary of State.

(3) The IMR shall—

- (a) appoint a time and place at which he, or they, as the case may be, shall examine the appellant (“medical assessment”);
- (b) appoint any such further dates as he, or they, as the case may be, may consider necessary; and
- (c) shall give not less than two months' notice, or such shorter period as the parties to the appeal may agree, of that appointment to the Secretary of State.

(4) The Secretary of State shall inform the parties to the appeal of the date appointed for the medical assessment.

(5) The appellant shall ensure all papers to be considered by the IMR are sent to the Secretary of State not less than 14 days before the date of the medical assessment.

(6) The Secretary of State shall ensure all relevant documents are sent to the IMR and the parties to the appeal before the date of the medical assessment.

(7) Where a party to the appeal intends to submit written evidence or a written statement—

- (a) that party shall submit it to the Secretary of State not less than 14 days before the date appointed for the medical assessment;

- (b) where any written evidence or statement has been submitted under sub-paragraph (a), the other party may provide written evidence or statement in response, which shall be submitted to the Secretary of State not less than seven days before the date appointed for the medical assessment;
 - (c) the IMR may postpone or adjourn the date appointed for the medical assessment where any written evidence or statement is submitted in contravention of sub-paragraphs (a) and (b), or it appears necessary to do so for the proper determination of the appeal.
- (8) Any medical assessment may be attended by—
- (a) the SMP or, in his absence, a duly qualified medical practitioner appointed for the purpose by the Board;
 - (b) any duly qualified medical practitioner appointed for the purpose by the appellant; and
 - (c) a person whom the appellant wishes to accompany him,

although they may only observe any examination.

(9) If any medical assessment includes a medical examination then only medical practitioners may be present for that part of the assessment.

(10) Each party shall, not less than 14 days before the date appointed for the medical assessment, inform the Secretary of State whether they intend that a person described in paragraph (8) will attend the medical assessment.

(11) The IMR shall supply the Secretary of State with a written report of his decision in accordance with regulation 68(5) and (6).

(12) The Secretary of State shall provide the parties to the appeal with a copy of the IMR's report and certificate, if any.

- (13) There shall be paid to the IMR—
- (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,

and any fees or allowances so payable shall, subject to paragraph (15)(b) and (d), be paid by the Board and shall be treated as part of the expenses of the Board for the purposes of this regulation.

(14) Subject to the qualifications set out in paragraph (15), the expenses of each party to the appeal shall be borne by that party.

- (15) The qualifications referred to in paragraph (14) are as follows—
- (a) where a medical assessment has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the Board less than 11 days (excluding weekends and public holidays) before the date appointed for the medical assessment, the IMR 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 medical assessment, as the case may be;
 - (b) if the IMR determines that a medical assessment has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the appellant less than 11 days (excluding weekends and public holidays) before the date appointed for the medical assessment the Board may, subject to sub-paragraph (c), 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;

- (c) if the IMR, 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 said cancellation, adjournment or postponement, he or they shall state that this is the case and the Board shall not require the payment of any such costs;
 - (d) where the IMR decides in favour of the Board and reports that in his, or, as the case may be, their opinion the appeal was frivolous or vexatious, the Board may, subject to subparagraph (e), require the appellant to pay towards the cost of the appeal such sum not exceeding the total fees and allowances of the IMR as the Board thinks fit;
 - (e) if the IMR, 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, he, or as the case may be, they, shall state that this is the case and the Board shall not require the payment of any such costs;
 - (f) where the IMR 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 medical assessment.
- (16) For the purposes of this regulation a medical assessment shall include questioning, and may include either physical or other examination of the appellant.
- (17) References in this regulation to periods of days shall include weekends and public holidays, unless expressed otherwise.

Refusal to be medically examined

71. If a question is referred to a medical authority under regulation 67, 68 or 69 and the person concerned wilfully or negligently fails to submit himself to such medical examination or to attend such assessments 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 under regulation 68, the Board may make their determination on such evidence and medical advice as they in their discretion think necessary;
- (b) if the question arises on an appeal under regulation 68, the appeal shall be deemed to be withdrawn.

PART 8

TRANSFER VALUES, PAYMENT, ETC

Interpretation

Interpretation - transfers

72. In these Regulations—

- (a) a reference to a police officer transferring to a police force in Great Britain shall be construed as a reference to his leaving the police service and joining a police force in Great Britain as a regular police officer with—
 - (i) in the case of the Chief Constable, Deputy Chief Constable or an Assistant Chief Constable, the consent of the Board and the approval of the Secretary of State; and

- (ii) in any other case, the consent of the Chief Constable and after having given a month's notice in writing to the Board, or such shorter period of notice as may have been accepted by the Board.
- (b) a reference to a regular police officer having transferred from a police force in Great Britain to the police service shall be construed as a reference to his leaving a police force in Great Britain and joining the police service as a police trainee or police officer, subject to—
 - (i) in the case of a Chief Officer of police, Deputy Chief Constable, or an Assistant Chief Constable, obtaining the consent of the police authority concerned; and
 - (ii) in any other case, obtaining the consent of the Chief Officer of police acting with the consent of the police authority concerned.

Certificates of pensionable service on transfer between forces or rejoining the police service

Certificates of pensionable service

73.—(1) This paragraph applies where a regular police officer transfers from a police force in Great Britain to the police service.

(2) In a case where paragraph (1) applies, the police authority of that force shall furnish the Board with a certificate stating—

- (a) the amount of the pensionable service which the regular police officer to whom this paragraph applies is entitled to reckon by reason of previous service in a police force in Great Britain in accordance with regulations 8 to 13;
- (b) whether or not that regular police officer has, at the time of leaving service in the force maintained by the police authority, made an election under regulation 7; and
- (c) where that police officer is a pension debit member under Part 6, the appropriate percentage by which his future benefits are to be reduced under regulation 33.

(3) On the acceptance of a certificate under paragraph (2) by the Board, any entitlement of a regular police officer to whom this regulation applies to an award from the police authority shall cease to have effect.

(4) In a case where paragraph (1) applies, the police authority shall furnish the regular police officer with a copy of the certificate furnished under paragraph (2) together with a description of the effect of paragraph (2).

(5) This paragraph applies where a police officer transfers from the police service to a police force in Great Britain.

(6) In a case where paragraph (5) applies, the Board shall furnish the police authority of that force with a certificate stating—

- (a) the amount of the pensionable service which the police officer to whom this paragraph applies is entitled to reckon by reason of previous service in the police service in accordance with regulations 8 to 13;
- (b) whether or not that police officer has, at the time of leaving service in the police service, made an election under regulation 7, and
- (c) where that police officer is a pension debit member under Part 6, the appropriate percentage by which his future benefits are to be reduced under regulation 33.

(7) On the acceptance of a certificate under paragraph (6) by the police authority, any entitlement of a police officer to whom this regulation applies to an award from the Board shall cease to have effect.

(8) In a case where paragraph (5) applies, the Board shall furnish the police officer with a copy of the certificate furnished under paragraph (6), together with a description of the effect of paragraph (6).

Transfer values payable on leaving the police service or ceasing to make pension contributions

Transfer values payable on leaving the police service or ceasing to make pension contributions

74.—(1) Subject to paragraph (10), this regulation applies to a police officer who, before he attains the age of 64 years—

- (a) ceases to serve as a police officer; or
- (b) makes or has made an election under regulation 7,

and who, in either case, satisfies the conditions specified in paragraph (2).

(2) The conditions mentioned in paragraph (1) are—

- (a) that he subsequently becomes subject to new pension arrangements which are contained within—
 - (i) a public service pension scheme within the meaning of section 1 of the 1993 Act⁽²⁴⁾;
 - (ii) any other pension scheme which is registered under section 153 of the Finance Act 2004⁽²⁵⁾; or
 - (iii) a qualifying recognised overseas pension scheme within the meaning of section 169 of the Finance Act 2004;
- (b) that his pensionable service satisfies the three month condition within the meaning of section 97AA(1) (b) (i) of the 1993 Act⁽²⁶⁾;
- (c) that he is not entitled to a pension under Part 4 or, if he is so entitled, it is not yet payable;
- (d) that he has not received any award by way of repayment of his aggregate pension contributions; and
- (e) that he has, on or before the date on which he attains the age of 64 years, or within such longer period as the Board may allow in the circumstances of the particular case, given written notice to the Board of his desire that this regulation should apply in his case.

(3) A police officer who has given notice in accordance with paragraph (2)(e) may, without prejudice to the giving of another such notice, withdraw that notice by giving written notice to that effect to the Board under this paragraph; but withdrawal of notice under this paragraph shall be of no effect if it is given at a time when the Board have already entered into an agreement with a third party to pay a transfer value under paragraph (4) in respect of him.

(4) Subject to paragraphs (5) and (10), where this regulation applies the Board shall—

- (a) within 12 months of receipt of notice given in accordance with paragraph (2)(e); or
- (b) if earlier, by the date on which the police officer concerned attains the age of 65 years,

pay a transfer value calculated, (subject to paragraph (6)), in accordance with tables and guidance issued for the purpose by the Scheme actuary to the Board or person empowered to receive such payments for the purposes of the new pension arrangements to which the police officer becomes subject.

⁽²⁴⁾ Subsection (1) of section 1 was so numbered by the Pensions Act 2004 (c.35), section 293(1) and (2) and the definition of “public service pension scheme” was amended by the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820; article 4, Schedule 2, Part I, paragraph 113(a) and (b))

⁽²⁵⁾ 2004 c.12

⁽²⁶⁾ Section 97AA(1)(b) was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005

(5) If proceedings before a court have been commenced against the police officer concerned within 12 months of the date on which contributions under regulation 6 ceased to be payable in respect of him, and it appears to the Board that the proceedings may lead to the forfeiture of any pension, entitlement to which arises as a result of the payment of such contributions, the period within which payment under this paragraph is to be made shall be—

- (a) that specified in paragraph (4); or
- (b) three months from the conclusion of those proceedings (including any proceedings on appeal),

whichever ends later.

(6) In the case of a transfer value paid under the public sector transfer arrangements, paragraph (4) shall have effect as if, for the words from “subject to paragraph (6)” to “actuary” there were substituted the words “in accordance with the rules of the public sector transfer arrangements”; and for these purposes, “the public sector transfer arrangements” has the same meaning as that given in regulation 12(5).

(7) In the case of a police officer who has received such an award as is mentioned in paragraph (2)(d) but has, within six months of becoming subject to new pension arrangements, or within such longer period as the Board may allow in the circumstances of his case, paid to the Board an amount equal to that of the award, (plus interest, where payable in accordance with paragraph (9)) paragraph (2) shall have effect as if sub-paragraph (d) were omitted.

(8) In the case of a police officer who is becoming subject to new pension arrangements such as are specified in paragraph (2)(a)(i), paragraph (7) shall have effect as if for “six months” there were substituted “12 months”.

(9) For the purposes of paragraph (7) and (8)—

- (a) interest shall be payable where payment is made under that paragraph more than a year after receipt of the award as mentioned in paragraph (2)(d); and
- (b) any such interest shall be calculated at the rate of 5 per cent per year, compounded with yearly rests.

(10) Where a pension debit exists under Part 6, the amount of any transfer value payable under this regulation shall be decreased by the actuarial value of that debit.

Prohibition on accepting or paying transfer values for pension credit rights

75. A transfer value may not be accepted or paid in respect of any pension credit rights under Part 6.

Mis-sold pensions

Mis-sold pensions

76.—(1) This regulation applies to a police officer who—

- (a) opted or transferred out; and
- (b) has suffered loss as a result of a contravention which is actionable under section 150 of the Financial Services and Markets Act 2000(27).

(2) A police officer to whom this regulation applies may give notice in writing to the Board that he wishes the Board to accept payment of a transfer value in order to create or restore pensionable service, and such notice shall be treated as cancelling, with effect from the date on which an

instalment of pay next falls due to him, any election that is in force under regulation 7 in respect of that police officer.

(3) Where a police officer has given notice under paragraph (2), but before the payment has been accepted and pensionable service created or restored he either—

- (a) dies while serving as a member of the police service; or
- (b) becomes entitled to an award under these Regulations,

paragraph (4) shall continue to apply in his case.

(4) Where a transfer value in relation to a police officer who has given notice under paragraph (2) is paid to the Board before the expiry of the period of 12 months beginning with the date on which the police officer gives such notice, or such longer period as the Board may allow, the Board—

- (a) shall, if satisfied that the transfer value has been calculated in a manner consistent with the methods adopted and assumptions made by them in determining the restitution payment, accept the payment and treat the relevant period as pensionable service reckonable by the officer concerned; and
- (b) may, if not so satisfied, but if satisfied that the transfer value represents, by reference to those methods and assumptions, a length of service not exceeding the relevant period, accept the payment and treat that length of service as pensionable service reckonable by the officer concerned,

and the police officer shall be treated for the purpose of calculating any award under these Regulations as having made pension contributions throughout the period of pensionable service credited under this paragraph.

(5) Where a police officer is credited under paragraph (4) with a period of pensionable service that is shorter than the relevant period, the period of service credited shall be treated for the purpose of any award under these Regulations as being a continuous period with the same concluding date as the relevant period.

(6) Where a police officer who is being credited under paragraph (4) with a period of pensionable service has previously been credited with an additional period of pensionable service calculated in accordance with regulation 12(2) and (3) or regulation 74(4) and (5) in respect of the relevant period, the Board may adjust the transfer value which they accept under this regulation to ensure that no part of the additional period of pensionable service which was previously credited is included in the period of pensionable service credited under paragraph (4).

(7) In this regulation—

“the assumed calculation date” means the date on which it is assumed, for the purpose of calculating a restitution payment, that a transfer value will be paid to the Board;

“the material date” means the date on which the Board is asked to provide the calculation of the restitution payment;

“personal pension scheme” and “public service pension scheme” have the meanings given by section 1(1) of the 1993 Act;

“the relevant period”, in relation to a police officer, means the total of any periods of opted out and transferred out service;

“restitution payment”, in relation to a police officer, means an amount equal to the sum of—

- (a) the capitalised value at the material date, determined by the Board in accordance with methods and assumptions notified to them by the Scheme actuary for cash equivalent transfer values from occupational pension schemes (other than public service pension schemes), which would produce a service credit equal to his total period of opted out

service, including the capitalised value of any rights under the Pensions (Increase) Acts(28); and

- (b) the greater of—
 - (i) any transfer value paid to a personal pension scheme in respect of that police officer's transferred out service by the Board under regulation 74(4) and (5), increased by interest calculated at a rate approved by the Scheme actuary over the period from the date of payment of that transfer value to the assumed calculation date; and
 - (ii) the cash equivalent transfer value which would be payable by the Board in respect of that transferred out service if the Board were to pay a cash equivalent transfer value in respect of that service determined in accordance with methods and assumptions, notified to them by the Scheme actuary, applicable immediately after the assumed calculation date.
- (8) For the purposes of this regulation, a police officer shall be taken—
 - (a) to have opted out if, for any period during which he is a member of the police service, he does not make contributions (including any additional or further contributions which he had previously elected to make) in respect of police pension rights but instead makes contributions to a personal pension scheme; and
 - (b) to have transferred out if a transfer value is paid in respect of him by the Board to a personal pension scheme,

and “opted out service” and “transferred out service” are to be construed accordingly.

Payment of awards

Board responsibility for payment of awards

77.—(1) An award which is payable to or in respect of a person by reason of his having served as a police officer shall be payable by the Board.

(2) An award which is payable to or in respect of a pension credit member under Part 6, and any sum paid in commutation of such an award, is payable by the Board.

Payment and duration of awards

78.—(1) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 29(4) and (5);
- (b) regulation 30;
- (c) regulation 40; and
- (d) regulations 48 to 52,

the pension of a police officer shall be payable in respect of each month as from the date of his retirement.

(2) Subject to the provisions of these Regulations, a survivor's pension shall be payable in respect of each month as from the death of the police officer in respect of whom the award is payable or, in the case of a posthumous child such as is mentioned in regulation 37(1)(b)(ii), as from the birth of the child, except where the police officer in respect of whom the award is payable was in receipt of a pension and dies during a period in respect of which he has already received his pension, in which case the survivor's pension shall not be payable before the end of that period.

- (3) Subject to the provisions of these Regulations, in particular of—
- (a) regulation 39(7)(b) and (c);
 - (b) regulation 40; and
 - (c) regulations 48 to 52,

a pension shall be payable for life and shall be discharged by payments in advance at such reasonable intervals as the Board may, in their discretion, determine, except that payment on account of a pension may be delayed, in whole or in part, pending the determination of any question as to the liability of the Board in respect of the pension, 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, neither that sum nor any part of it shall be recoverable although referable to a period after his death.

(5) Subject to the provisions of these Regulations, a gratuity or award by way of repayment of aggregate pension contributions shall become payable as soon as the entitlement to it arises and shall be paid forthwith in one sum and a lump sum payable upon the retirement of a police officer shall be paid within three months from the date of retirement, except that—

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

Payment of awards otherwise than to beneficiary and application of payments

79.—(1) This regulation applies to the payment of any award to or in respect of a police officer or a pension credit member (whether a pension, gratuity or other award) and any reference in this regulation to the beneficiary is a reference to the person to whom, this regulation apart, the award is payable.

(2) Subject to the provisions of these Regulations, and in particular the following provisions of this regulation, an award shall be payable only to the beneficiary.

(3) Where the beneficiary is a minor the Board may if they think fit, in lieu of paying any sum on account of an award to the minor, pay it to such other person as they may determine; and a person who receives any sum in pursuance of this paragraph shall, subject to and in accordance with any directions of the Board, apply that sum for the benefit of the minor.

(4) 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 1965(29), the Board may, without probate, confirmation or any other formality or proof of title, pay the sum to the persons appearing to the Board to be beneficially entitled to the personal estate of the deceased or, as the Board think 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.

(5) Where it appears to the Board that a 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) they may, in their discretion, pay it in whole or in part to a person having the care of the beneficiary or such other person as they may determine; and

(b) in so far as they do not so discharge their liability in respect of that sum, the Board shall apply it in such manner as they think fit for the benefit of the beneficiary or his dependants, and 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 it for the benefit of the beneficiary or his dependants.

(6) 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, in lieu of paying the whole or any part of any sum on account of the award to that beneficiary, the Board may, if they think fit but subject to paragraph (7), 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 less of the following amounts—

- (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 loss,

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 in respect of the loss by an order of a competent court.

(7) Where the Board exercise the power conferred by paragraph (6) they shall furnish the police officer concerned with a certificate showing the amount retained and the effect on the award; and, where the police officer is entitled to reckon pensionable service otherwise than by reason of service as a police officer in the police service, only the following proportion of any sum due on account of the award that may be so retained and applied, that is to say the proportion which his pensionable service reckonable by reason of service as a member of the police service bears to his total pensionable service.

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

Payment on behalf of officers of lifetime allowance charge

80.—(1) A police officer may request the Board to pay on his behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004(**30**) when—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of that Act(**31**) occurs in relation to him, and
 - (b) the officer and the authority are jointly and severally liable in relation to that event.
- (2) Such a request may only be made by notice in writing given before the event occurs.

(3) The authority may comply with such a request only if the officer pays the authority the amount in question on or before the date on which the event occurs.

Reduction of benefits where lifetime allowance charge payable

81.—(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 occurs in relation to a police officer;
- (b) the officer and Board are jointly and severally liable in relation to that event; and

(30) 2004 c.12

(31) Subsection (1) of section 216 was amended by the Finance Act 2005 (c.7), Schedule 10, paragraphs 1, 31 and 42, and Schedule 23, paragraphs 1 and 30

- (c) no request has been duly made under regulation 80 in relation to the event or, if such a request has been made, the authority is prevented from complying with it by paragraph (3) of that regulation.
- (2) Where this regulation applies—
 - (a) the Board shall pay any of the tax payable on the event;
 - (b) the benefits payable to or in respect of the officer, or the transfer payment in the case of event 8 in the table in section 216(1) of the Finance Act 2004, shall be reduced to reflect fully the amount of tax payable; and
 - (c) the amount of the reduction shall be determined in accordance with guidance provided by the Secretary of State and, in the case of any reduction to pension benefits, consistent with normal actuarial practice.

PART 9 SPECIAL CASES

Servicemen

Interpretation

82.—(1) In regulations 82 to 88—

“relevant service in the reserve forces” means service in pursuance of a training obligation under sections 38, 40 and 41 of the Reserve Forces Act 1980 or Part III of the Reserve Forces Act 1996⁽³²⁾ or by virtue of a call out for permanent service or a recall under Part VII of the said Act or the Reserve Forces Act 1980⁽³³⁾;

“the reserve forces” means those forces specified in section 1(2) of the Reserve Forces Act 1996;

“serviceman” means a person who immediately before undertaking a period of relevant service in the reserve forces was a police officer.

Awards to servicemen

83.—(1) Subject to regulation 88, this regulation applies to a serviceman who at the end of his period of relevant service in the reserve forces is or was permanently disabled for the performance of the ordinary duties of a member of the police service.

(2) A serviceman to whom this regulation applies shall be entitled—

- (a) to an ill-health pension under regulation 26 on the same conditions in all respects as if he were such a police officer as is mentioned in paragraph (1) of that regulation; or
- (b) where he does not meet the condition specified in regulation 26(3)(a)(i), to an award by way of repayment of his aggregate pension contributions under regulation 31.

Survivors’ awards on death of servicemen

84.—(1) Subject to regulations 85 and 89, paragraph (2) applies in a case in which a serviceman who fulfils the qualifying service criterion—

⁽³²⁾ 1996 c.14

⁽³³⁾ 1980 c.9

- (a) dies or has died during his period of relevant service in the reserve forces; or
 - (b) having been permanently disabled for the performance of the ordinary duties of a member of the police service at the end of that period (without any intervening period of service as such) dies or has died while in receipt of a pension granted in pursuance of regulation 83(2)(a).
- (2) In a case in which this paragraph applies—
- (a) an adult survivor of that serviceman (had he been a police officer) such as is mentioned in regulation 37(1)(a) shall be entitled to an adult survivor’s pension, and
 - (b) a child survivor of that serviceman (had he been a police officer) such as is mentioned in regulation 37(1) (b), shall be entitled to a child survivor’s pension under regulation 36, on the same conditions in all respects as if he had been a police officer who had died in the circumstances mentioned in that regulation.

Prevention of duplication

85. Regulation 46 shall apply in relation to a pension in pursuance of regulation 84 as if , after the words “under regulation 36” in regulation 46 there were inserted the words “ or regulation 84”.

Application of regulations 41, 42 and 43

86.—(1) In the case of a serviceman who dies while in receipt of a pension or while entitled to a deferred pension, whether or not that pension has come into payment, and whose death results from an injury received during his period of relevant service in the reserve forces, regulation 41 shall apply as it applies in the case of a police officer who so dies and whose death results from an injury received in the execution of his duty.

(2) In the case of a serviceman who dies during his period of relevant service in the reserve forces, regulations 42 and 43 shall apply as they apply in the case of a police officer who dies while serving as such.

Servicemen who do not resume service in the police service

87. Where a serviceman who ceased to serve as a police officer in order to undertake a period of relevant service in the reserve forces does not or did not resume service in the police service within a month of the end of that period, he shall be treated for the purposes of these Regulations as having ceased to serve as a police officer as from the end of his period of relevant service in the reserve forces.

Pensionable service and pension contributions

88.—(1) A serviceman who ceased to serve as a police officer in order to undertake a period of relevant service in the reserve forces shall be entitled to reckon that period as pensionable service in the police service, subject to paragraph (2).

(2) Regulations 83, 84 and 86 shall have effect in the case of a serviceman who ceased to serve as a police officer in order to undertake a period of relevant service in the reserve forces only if he pays or has paid pension contributions (other than additional or further pension contributions) to the Board, as though he had remained a police officer in respect of his period of relevant service in the reserve forces (and those regulations shall have effect notwithstanding that pension contributions are not or have not been paid as aforesaid by a serviceman in respect of any period during which his service pay is less than his pensionable pay).

(3) In the case of a serviceman who ceased to serve as a police officer in order to undertake a period of relevant service in the reserve forces and who immediately before he so ceased to serve

was making periodical contributions in accordance with an election under regulation 53 (election to purchase increased benefits)—

- (a) his liability to make those contributions to the Board shall continue during such period of relevant service in the reserve forces; and
- (b) regulation 57 shall apply as if, after the words “Part 4” in paragraph (1) of that regulation, there were inserted the words “or Part 9”,

as though he had remained a police officer.

Former members of police force in Great Britain

Former members of a police force in Great Britain

89.—(1) This regulation shall apply in the case of a police officer who has been a member of a police force in Great Britain and—

- (a) has transferred to the police service in accordance with regulation 72(b); or
- (b) has retired from or otherwise ceased to serve in his former force, and subsequently joins the police service at a time when no pension by reason of his service in that force is in payment to him.

(2) Where such a police officer is entitled to reckon pensionable service in a police force in Great Britain then, except where the context otherwise requires, these Regulations including in particular regulations 8, 9, 10, and 88 shall have effect as if anything done by him or in his case, under or for the purposes of a provision of Great Britain police pensions legislation which corresponds to a provision of these Regulations had been done under or for the purposes of that corresponding provision, and accordingly his pensionable service in a police force in Great Britain shall be reckonable as if the officer had been a member of the police service.

(3) Paragraph (2) is subject to the police officer concerned making any appropriate payment to the Board in accordance with regulation 10.

Members of the Police Service of Northern Ireland transferring to a police force in Great Britain

Members of the Police Service of Northern Ireland transferring to a police force in Great Britain

90.—(1) Where a police officer has left the police service and joined a police force in Great Britain and the police authority of the police force in question is contingently liable to make payments to him under the pensions legislation of Great Britain, regulation 73 shall have effect.

(2) In relation to a person to whom an ill-health pension is payable under Part 4, regulation 73(5) shall have effect as if the expression “the police service” included a police force in Great Britain.

(3) In relation to a person to whom a pension is payable under Part 4, regulation 74 shall have effect as if the expression “the police service” included a police force in Great Britain.

Members of the Police Service of Northern Ireland Reserve (Full-time)

Members of the Police Service of Northern Ireland Reserve (Full-time)

91.—(1) These Regulations shall apply to members of the Police Service of Northern Ireland Reserve (Full-time) subject to the modifications in paragraphs (2) and (3).

- (2) Unless the context otherwise requires, in these Regulations reference to—

“police officer” shall be read as a reference to a reserve officer;

“police service” shall be read as a reference to the Police Service of Northern Ireland Reserve (Full-time);

“1988 Regulations” shall be read as a reference to those Regulations as applied to the Police Service of Northern Ireland Reserve (Full-time) by the Royal Ulster Constabulary Reserve (Full-time) Pensions Regulations 1994⁽³⁴⁾.

(3) Regulations 82 to 90 shall not apply.

Amendment of the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006

92. Schedule 5 which amends the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006⁽³⁵⁾, has effect.

Northern Ireland Office
21st February 2009

Shaun Woodward
One of Her Majesty’s Principal Secretaries of
State

We consent to the making of these regulations

2nd March 2009

Frank Roy
Tony Cunningham
Two of the Lords Commissioners of Her
Majesty’s Treasury

⁽³⁴⁾ S.R. (N.I.) 1994 No.197

⁽³⁵⁾ S.R. (N.I.) 2006 No.268