

## 1973 No. 433 (S.30)

## POLICE

## The Special Constables (Pensions) (Scotland) Regulations 1973

<i>Made</i>	- - -	12th March 1973
<i>Laid before Parliament</i>		19th March 1973
<i>Coming into Operation</i>		9th April 1973

In exercise of the powers conferred on me by section 26 of the Police (Scotland) Act 1967(a) (as read with section 1(2) of the Police Pensions Act 1961(b)) as extended by sections 12 and 15 of the Superannuation Act 1972(c), and of all other powers enabling me in that behalf, and after submitting a draft of the following regulations to and considering any representations made by the Joint Central Committee and such bodies and associations as are mentioned in section 26(9)(b) of the said Act of 1967, I hereby make the following regulations:—

*Citation, commencement and effect*

**1.**—(1) These regulations may be cited as the Special Constables (Pensions) (Scotland) Regulations 1973.

(2) These regulations shall come into operation on 9th April 1973 and shall have effect as from 1st April 1972.

*Old cases*

**2.**—(1) The old cases regulations, that is to say, the regulations set out in the Schedule to these regulations, shall cease to have effect except in the case of an award to or in respect of a person who ceased to hold the office of special constable before 1st April 1972, including an award on the death of such a person on or after the said date.

(2) Nothing in these regulations shall apply in such a case as is mentioned in paragraph (1).

*Interpretation*

**3.**—(1) In these regulations the expression “the principal regulations” means the Police Pensions Regulations 1973(d).

(2) Regulations 3, 4, 10, 12(2) and (4), 13(1), (3) and (4), 14, 17(2) and 18 of the principal regulations shall apply for the purposes of these regulations,

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(a) 1967 c. 77.

(b) 1961 c. 35.

(c) 1972 c. 11.

(d) S.I. 1973/428(1973 I,p.1401)

subject to any necessary adaptations, as they apply for the purposes of the said regulations.

(3) Subject to regulation 13(3) of the principal regulations, in these regulations disablement means inability occasioned by infirmity of mind or body, in the case of a special constable, to follow his ordinary employment or, in the case of a child, to earn a living.

(4) (a) Where an amalgamation scheme is or has been made or approved by the Secretary of State under section 1, 2 or 4 of the Police (Scotland) Act 1946(a), section 17, 18 or 20 of the Police (Scotland) Act 1956(b) or section 19, 20 or 21 of the Police (Scotland) Act 1967 (which relate to the amalgamation of police areas) the joint police committee for the combined area shall be deemed, for the purposes of these regulations, to be the same authority as the police authority or joint police committee for an area which ceases to be a separate police area by virtue of such a scheme.

(b) For the purposes of this paragraph "combined area" shall have the meaning assigned to it in the said Act of 1967.

(5) For the purposes of these regulations a reference in the principal regulations to a continuous period of service shall be construed as a reference to a period during which a special constable holds or held that office in the police area for which he is or was appointed; and any reference in the said regulations to retirement, or to ceasing to be a member of a police force, shall be construed as a reference to the termination of such a period.

(6) For the purposes of these regulations a reference in the principal regulations to the Police Pensions Regulations 1971(c) shall be construed as a reference to those regulations as applied by the Special Constables (Pensions) (Scotland) Regulations 1971(d).

(7) For the purposes of these regulations a reference to a special constable is a reference to a special constable appointed under the Police (Scotland) Act 1967 and, except where the context otherwise requires, includes a reference to a person who has been a special constable.

#### *Special constable's injury awards*

4.—(1) This regulation shall apply to a person who ceases or has ceased to hold the office of special constable and is permanently disabled as a result of an injury received without his own default in the execution of his duty as a special constable.

(2) Subject to the provisions of these regulations, a person to whom this regulation applies shall be entitled to a gratuity and, in addition, to an injury pension and regulations 22, 66 and 67 of the principal regulations shall apply as if he had been an auxiliary policeman at the time that he received the injury.

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(a) 1946 c. 71.

(c) S.I. 1971/232 (1971 I, p. 700).

(b) 1956 c. 26.

(d) S.I. 1971/234 (1971 I, p. 814).

*Widow's special award*

5.—(1) This regulation shall apply to a widow of a special constable who dies or has died as the result of an injury received without his own default in the execution of his duty as a special constable.

(2) Subject to the provisions of these regulations, a widow to whom this regulation applies shall be entitled to a special pension and, in addition but subject to regulation 28(5) of the principal regulations (as applied hereby) to a gratuity, and regulations 28, 31(1), 33(2), 34 and 35 of the principal regulations and Part XIII thereof shall apply as if her husband had been an auxiliary policeman at the time that he received the injury.

*Widow's augmented award*

6.—(1) This regulation shall apply to a widow of a special constable whose death is the result of an injury received without his own default in the execution of his duty where one of the following conditions is satisfied, namely that—

- (a) he was attacked by a person or persons in a manner which was intrinsically likely to cause death and death ensued as a result of the attack, or
- (b) the injury was received in the course of duties performed for the immediate purpose of effecting an arrest or of preventing an escape or rescue from legal custody, or
- (c) the injury was received in the course of duties performed—
  - (i) for the immediate purpose of saving the life of another person or of preventing loss of human life, and
  - (ii) in circumstances in which there was an intrinsic likelihood of his receiving a fatal injury, or
- (d) the police authority are of the opinion that one of the preceding conditions may be satisfied, and that this regulation should apply, or
- (e) the police authority are of the opinion that the injury was received otherwise than as aforesaid but in the course of duties performed in such circumstances that it would be inequitable if there were not payable in respect of him such an award as would have been payable had one of the conditions specified in sub-paragraphs (a), (b) and (c) of this regulation been satisfied.

(2) For the purpose of calculating a widow's special pension and gratuity payable to a widow to whom this regulation applies, regulation 28 of the principal regulations (as applied by regulation 5 of these regulations) shall have effect subject to the provisions of regulation 29 of the principal regulations.

*Dependent relative's special pension*

7.—(1) This regulation shall apply where a special constable dies or has died as a result of an injury received without his own default in the execution of his duty as a special constable and, in such case, shall apply—

(a) to a parent or (without prejudice to the following sub-paragraph) to a brother or sister of the constable who had attained the age of 19 years before the constable's death, or

(b) subject to his having attained the age of 19 years to any child of the constable, whether or not he had attained that age before the constable's death,

being a person who was substantially dependent on the constable immediately before his death (hereinafter referred to as a dependent relative).

(2) A dependent relative to whom this regulation applies may be granted a special pension if the police authority, having regard to all the circumstances of the case, in their discretion so determine, and regulation 36 of the principal regulations and Part XIII thereof shall apply as if the special constable had been an auxiliary policeman at the time that he received the injury.

#### *Child's special allowance*

**8.**—(1) This regulation shall apply to a child of a special constable who dies or has died as the result of an injury received without his own default in the execution of his duty as a special constable.

(2) Subject to the provisions of these regulations, a child to whom this regulation applies shall be entitled to a child's special allowance and regulations 38, 41(1) and 42 of the principal regulations and Part XIII thereof shall apply as if the parent had been an auxiliary policeman at the time that he received the injury.

#### *Child's special gratuity*

**9.**—(1) This regulation shall apply to a child of a special constable who dies or has died as the result of an injury received without his own default in the execution of his duty where one of the conditions set out in paragraph (1) of regulation 6 of these regulations is satisfied and—

(a) in the case of a man, does not leave a widow entitled to a gratuity under paragraph (2) of regulation 5 of these regulations, or

(b) in the case of a woman, was the child's only surviving parent.

(2) Subject to the provisions of these regulations, a child to whom this regulation applies shall be entitled to a gratuity in addition to a special allowance and regulations 39 and 42 of the principal regulations shall apply as if the parent had been an auxiliary policeman at the time that he received the injury.

#### *Average pensionable pay and pensionable service*

**10.** For the purpose of calculating an award under these regulations to or in respect of a special constable—

(a) his average pensionable pay or average pensionable pay for a period of a week shall be deemed to be of the like amount as his average pensionable pay or, as the case may be, his average pensionable pay for

a week (within the meaning of the principal regulations) would have been, at the date at which he last ceased to hold the office of special constable, had his appointment and service at any time as a special constable for any police area been appointment and service in the rank of a constable as a regular policeman in the police force for that area; and

(b) his pensionable service shall be deemed to be, subject to a maximum of 10 years, his period, or the aggregate of his period, of service as a special constable.

*Application of certain provisions of the principal regulations*

11. Regulations 45, 69 and 70, Part VIII (except for regulation 76) and regulations 79, 80 and 81 of the principal regulations shall, subject to any necessary adaptations, apply for the purposes of these regulations as they apply for the purposes of the principal regulations.

*Authority by whom payments are to be made*

12. An award under these regulations shall be payable by the police authority for the police area for which the special constable was appointed at the time when he received the injury by virtue of which the award is payable.

*Gordon Campbell,*

One of Her Majesty's Principal  
Secretaries of State.

St. Andrew's House,  
Edinburgh.

12th March 1973.

Regulation 2

SCHEDULE

OLD CASES REGULATIONS

The Special Constables (Pensions) (Scotland) Regulations 1971	S.I. 1971/234 (1971 I, p.814).
The Special Constables (Pensions) (Scotland) Amendment Regulations 1971	S.I. 1971/585 (1971 I, p.1578).
The Special Constables (Pensions) (Scotland) Amendment (No. 2) Regulations 1971	S.I. 1971/1402 (1971 II, p.3932).
The Special Constables (Pensions) (Scotland) Amendment (No. 3) Regulations 1971	S.I. 1971/1501 (1971 III, p.4200).
The Special Constables (Pensions) (Scotland) (Lump Sum Payments to Widows Etc.) Regulations 1972	S.I. 1972/1847 (1972 III, p.5361).

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations, which apply to special constables appointed in Scotland, have effect as from 1st April 1972 (retrospective effect is authorised by sections 12 and 15 of the Superannuation Act 1972). They apply to the exclusion of the Special Constables (Pensions) (Scotland) Regulations 1971 in the case of a special constable who has held office on or after that date.

The regulations of 1971 gave to special constables and their dependants certain pension benefits for which regular policemen and their dependants were eligible by applying certain provisions of the Police Pensions Regulations 1971. The present regulations make fresh provision for this purpose by similarly applying the Police Pension Regulations 1973. The main differences between the provisions of the Police Pensions Regulations of 1971 and of 1973 applied in the case of special constables are that the regulations of 1973 provide for enhanced rates of benefits.

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