

1987 No. 156

POLICE

The Police (Injury Benefit) Regulations 1987

<i>Made - - - -</i>	<i>4th February 1987</i>
<i>Laid before Parliament</i>	<i>17th February 1987</i>
<i>Coming into force</i>	<i>17th March 1987</i>

In exercise of the powers conferred on me by sections 1, 3, 4 and 6 of the Police Pensions Act 1976 (a), and after consultation with the Police Negotiating Board for the United Kingdom, I hereby, with the consent of the Treasury (b), make the following Regulations:

PART I
PRELIMINARY

Citation

1. These Regulations may be cited as the Police (Injury Benefit) Regulations 1987.

Commencement

2. These Regulations shall come into force on 17th March 1987 and shall have effect as from 25th November 1982.

Interpretation

3.—(1) Subject to the following provisions of these Regulations, these Regulations shall be construed as one with the Police Pensions Regulations 1973 (c) (hereinafter referred to as “the principal Regulations”).

(2) Without prejudice to paragraph (1)—

(a) in these Regulations—

- (i) “taxable allowances” includes all taxable allowances payable by virtue of regulations from time to time in force under section 33 of the Police Act 1964 (d) or section 26 of the Police (Scotland) Act 1967 (e);
- (ii) “total remuneration”, in relation to a member of a police force, means the sum of his pensionable pay and taxable allowances payable to him;
- (iii) notwithstanding Regulation 13(3) of the principal Regulations, “totally disabled” means incapable by reason of the disablement in question of earning any money in any employment and “total disablement” shall be construed accordingly; and

(a) 1976 c.35, as amended by section 2(3) of the Police Negotiating Board Act 1980 (c.10).

(b) Formerly the Minister for the Civil Service: see S.I. 1981/1670.

(c) S.I. 1973/428; the relevant amending instruments are S.I. 1978/1348, 1983/996, 1985/156, 1986/1379.

(d) 1964 c.48. (e) 1967 c.77.
1967 c.77.

- (b) in the case of a person who is totally disabled, Regulation 13(1) of the principal Regulations shall have effect, for the purposes of these Regulations, as if the reference to "that disablement being likely to be permanent" were a reference to the total disablement of that person being likely to be permanent.

PART II

BENEFIT ON DISABLEMENT OR DEATH

Disablement gratuity

4.—(1) This Regulation shall apply to a person who—

- (a) receives or received an injury without his own default in the execution of his duty, whether before, on or after 25th November 1982; and
- (b) on or after that date ceases or has ceased to be a member of a police force; and
- (c) on or after that date and within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result thereof.

(2) Subject to the following provisions of these Regulations, the police authority for the force in which a person to whom this Regulation applies last served shall pay to him a gratuity of an amount equal to whichever is the lesser of the following amounts, namely—

- (a) five times the annual value of his pensionable pay on his last day of service as a member of a police force;
- (b) the sum of four times his total remuneration during the 12 months ending with his last day of service as a member of a police force and the amount of his aggregate pension contributions in respect of the relevant period of service.

Death gratuity

5.—(1) Subject to paragraph (2), this Regulation shall apply to a member of a police force who—

- (a) receives or received an injury without his own default in the execution of his duty, whether before, on or after 25th November 1982; and
- (b) was serving as such a member on or after that date; and
- (c) within 12 months of so receiving that injury dies or has died as a result thereof.

(2) In the case of a person who had ceased to serve as a member of a police force before his death, this Regulation shall only apply to him if his death also occurred before any decision by a duly qualified medical practitioner under Regulation 71 of the principal Regulations that he was totally and permanently disabled as a result of that injury.

(3) Subject to the following provisions of these Regulations, where a member to whom this Regulation applies—

- (a) leaves a widow (unless, by reason of Regulation 33(2) or 34 of the principal Regulations, she would not qualify for a special award under Regulation 28 thereof); or
- (b) does not leave any such widow, but leaves a child (unless, by reason of Regulation 42 of the principal Regulations, that child would not qualify for a special allowance under Regulation 38 thereof); or
- (c) does not leave any such widow or child, but leaves a dependent relative to whom a special pension may be paid under Regulation 36 of the principal Regulations,

the police authority shall pay to his widow or, as the case may be, to the child or dependent relative a gratuity of an amount equal to whichever is the lesser of the following amounts, namely—

- (i) five times the annual value of his pensionable pay on his death or, if earlier, on his last day of service as a member of a police force;
- (ii) the sum of four times his total remuneration during the 12 months ending with his death, or, if earlier, with his last day of service as a member of a

police force and the amount of his aggregate pension contributions in respect of the relevant period of service.

(4) Where a member of a police force to whom this Regulation applies leaves two or more children or two or more dependent relatives, then the amount of the gratuity so payable shall be divided by the police authority among the children or dependent relatives (as the case may be) in their discretion.

PART III

GENERAL

Gratuities paid in anticipation

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

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

Abatement in respect of gratuities payable under the principal Regulations

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

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

- (a) the amount of any gratuities paid to the member or his estate under Regulation 20(4), 21(4), 22 or 43 of the principal Regulations;
- (b) in the case of a widow, where a gratuity under Regulation 28(2) of the principal Regulations is payable to her or her estate—
 - (i) unless sub-paragraph (ii) below applies, the amount of the gratuity;
 - (ii) where the said amount falls to be calculated in accordance with Regulation 29(3) of the principal Regulations, an amount equal to the amount of the gratuity which would be payable to her or her estate under the said Regulation 28(2) if—
 - (A) the said Regulation 29 had not applied;
 - (B) the husband had died while serving as a member of a police force (whether or not he was in fact so serving when he died); and
 - (C) the husband's average pensionable pay was greater than $2\frac{1}{4}$ times the annual amount of the ill-health pension which would have been payable under Regulation 20 of the principal Regulations to the husband if he had retired on the grounds of permanent disability on the day on which he had died (whether or not it was in fact greater); and
- (c) in the case of any other person, the amount of any gratuity paid to that person or his estate in respect of the death of that member under Regulation 39 or Regulation 43 of the principal Regulations.

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

Abatement in respect of damages or compensation

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

(2) For the purposes of this Regulation—

(a) a person shall be deemed to have recovered damages—

(i) whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce the claim; or

(ii) if they are recovered for that person's benefit in respect of a claim under the Fatal Accidents Act 1976 (a);

(b) "compensation" does not include an award of compensation made to a person by the Criminal Injuries Compensation Board if the amount of the award was reduced by the amount of any gratuity paid or payable to him under these Regulations.

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

(a) where the amount of the payment made by the police authority is less than the net amount of the damages or compensation, the amount of that payment;

(b) where the amount of that payment is not less than the net amount of the damages or compensation, an amount equal to the net amount of the damages or compensation.

(4) So far as any amount recoverable under this Regulation represents a payment made by the police authority from which income tax has been deducted before the payment, the proper allowance shall be made in respect of the amount so deducted; and, in this Regulation, "the net amount", in relation to damages or compensation recovered by any person, means the amount of the damages or compensation after deducting tax payable in the United Kingdom or elsewhere to which the damages or compensation are subject.

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

(a) after the death of the person to whom the payment was made, or

(b) after the expiration of 2 years from the date on which the final determination of the amount of the damages or compensation first came to the knowledge of the police authority.

Admissibility of certificates in evidence

9. A certificate issued by a police authority—

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

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

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

Application of principal Regulations

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

(a) 1976 c.30.

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

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

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

Home Office
2nd February 1987

Douglas Hurd
One of Her Majesty's Principal Secretaries of State

We consent

4th February 1987

Mark Lennox-Boyd
Tim Sainsbury
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for enhanced benefits in case of death or total disablement resulting from an injury received by a member of a police force in the execution of his duty. The benefit is in the form of a gratuity payable, in the case of death, to the widow, child or dependent relative of the member and, in the case of disablement, to the member himself. The gratuity is to be abated by the amount of any gratuity under Regulation 20, 21, 22, 28, 39 or 43, as the case may be, of the Police Pensions Regulations 1973 (the principal Regulations) and by the amount of any damages or compensation recovered in respect of the death or disability in question.

The Regulations are to be construed with the principal Regulations, which are applied in relation to awards under these Regulations with necessary modifications.

The Regulations come into force on 17th March 1987 and have effect as from 25th November 1982 (retrospection is authorised by section 1(5) of the Police Pensions Act 1976).