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STATUTORY INSTRUMENTS

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**2011 No.**

**POLICE, ENGLAND AND WALES**

**The Police (Injury Benefit) Regulations 2011**

<i>Made</i> - - - -	2011
<i>Laid before Parliament</i>	2011
<i>Coming into force</i> - -	2011

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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1, 3, 4, 5 and 6 of the Police Pensions Act 1976(a).

In accordance with section 1(1) of that Act, the Treasury(b) have consented to the making of these Regulations and the Secretary of State has consulted with the Police Negotiating Board for the United Kingdom.

**PART 1**  
**GENERAL PROVISIONS**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Police (Injury Benefit) Regulations 2011 and come into force on xxxx 2011.

(2) These Regulations extend to England and Wales.

**Revocations, amendments and transitional provisions**

2.—(1) Subject to paragraph (2)—

- (a) the 2006 Regulations 2006 are revoked;
- (b) the 1987 Regulations are amended in accordance with Schedule 1.

(2) Nothing in these Regulations shall apply, and the 2006 Regulations shall continue to have effect, in any case where—

- (a) an injury to a member of a police force came to the attention of a police authority before xxxx 2011; or
- (b) an injury was received by a member of a police force who retired or otherwise ceased to be a member of a police force before xxxx 2011.

**Meaning of certain expressions and references - general provisions**

3. In these Regulations, unless the context otherwise requires—

- (a) the expressions contained in the glossary set out in Schedule 2 shall be construed as provided in that Schedule;
- (b) any reference to a member of a police force, 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.

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(a) 1976 c.35. Section 1 is amended by section 2(3) of the Police Negotiating Board Act 1980 (c.10), paragraph 28 of Schedule 7 to the Police Act 1996 (c.16) and section 1(1) of the Police and Firemen's Pensions Act 1997 (c.52); section 7 is amended by paragraph 19 of Part II of Schedule 5 to the Police and Magistrates' Courts Act 1994 (c.29), paragraph 29 of Schedule 7 to the Police Act 1996, section 1(2) of the Police and Firemen's Pensions Act 1997, section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c.32), section 126(1) of and paragraph 6(1) and (2) of Schedule 4 to the Criminal Justice and Police Act 2001 (c.16) and paragraph 6(1) of Schedule 3 to the International Development Act 2002 (c.1). Functions under the Act as regards Scotland are transferred by article 2 of and Schedule 1 to S.I. 1999/750.

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

**Meaning of certain expressions in relation to persons who are not members of a home police force**

4.—(1) Except where the context otherwise requires, for the purposes of these Regulations an inspector of constabulary or a police officer engaged on relevant service shall be deemed to be a member of a home police force.

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

(3) For the purposes of these Regulations a specified employee of SOCA shall be deemed to be a member of a home police force, except where the context otherwise requires.

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

- (a) a reference in these Regulations to a force shall be construed as a reference to SOCA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to SOCA.

(5) For the purposes of these Regulations an employed constable of NPJA shall be deemed to be a member of a home police force, except where the context otherwise requires.

(6) In relation to an employed constable of NPJA—

- (a) a reference in these Regulations to a force shall be construed as a reference to NPJA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to NPJA.

**Pensionable and average pensionable pay and aggregate pension contributions**

5.—(1) For the purposes of calculating an award to or in respect of a member of a police force his pensionable pay shall be calculated—

- (a) in a case where his pension contributions were payable under regulation G2 of the 1987 Regulations, in the same way as if the award were one payable under the 1987 Regulations, in accordance with regulation G1(1) and (1A) of those Regulations;
- (b) in a case where his pension contributions were payable under regulation 7 of the 2006 Regulations, in the same way as if the award were payable under the 2006 Regulations, in accordance with regulation 23 of those Regulations.

(2) For the purposes of calculating an award to or in respect of a member of a police force his average pensionable pay shall be calculated—

- (a) in a case as is mentioned in paragraph (1)(a), in the same way as if it were an award payable under the 1987 Regulations, in accordance with regulation G1(2) to (9) of those Regulations, and as if—
  - (i) the relevant date for the purposes of the said regulation were the date of his last day of service as a regular policeman in the force of the police authority by whom the award is payable, and
  - (ii) the provisions specified in paragraph 4(4) of Part VI of Schedule J (part-time service) to the 1987 Regulations included the following provisions of these Regulations, that is to say regulations 15(2) and (3) (amount of adult survivor's special award), 16(2)(a) (amount of adult survivor's augmented award) and 18(3), (4), (5) and (6) (amount of child's special allowance), and paragraphs 1, 2 and 4 of Schedule 5 (adult dependent relative's special pension);
- (b) in a case such as is mentioned in paragraph (1)(b), in the same way as if it were an award payable under the 2006 Regulations, in accordance with regulation 25 of those Regulations, and as if—

- (i) the period of twelve months mentioned in regulation 24(1) of those Regulations were the period of twelve months ending with the date of his last day of service as a regular police officer in the force of the police authority by whom the award is payable, and
- (ii) the provisions specified in regulation 25(4) of the 2006 Regulations (average pensionable pay) included the provisions of these Regulations mentioned in sub-paragraph (a)(ii).

(3) For the purposes of an award calculated in accordance with paragraphs (1) and (2), references in such provisions of the 1987 Regulations or, as the case may be, of the 2006 Regulations as are mentioned in those paragraphs to a person's pensionable service shall in the case of a regular policeman or regular police officer who has made an election under regulation G4(1) of the 1987 Regulations or, as the case may be, regulation 9(1) of the 2006 Regulations include references to the pensionable service which would have been reckonable by him if he had not made such an election.

(4) For the purposes of calculating an award to or in respect of a regular police officer his aggregate pension contributions shall be calculated—

- (a) in a case where his pension contributions were payable under regulation G2 of the 1987 Regulations, in the same way as if it were an award payable under the 1987 Regulations, in accordance with regulation A10 of those Regulations;
- (b) in a case where his pension contributions were payable under regulation 7 of the 2006 Regulations, in the same way as if it were an award payable under the 2006 Regulations, in accordance with regulation 26 of those Regulations.

#### **Weekly rate of pensions and allowances**

6.—(1) Where the rate at which a pension or allowance is payable or the amount thereof is expressed as an annual rate or amount then, for the purposes of these Regulations, the weekly rate or amount of that pension or allowance shall be determined as if there were 52 1/6 weeks in each year.

(2) Where for the purpose of calculating an award to an adult survivor, child or adult dependent relative it is necessary to determine average pensionable pay for a week, it shall be taken to be average pensionable pay divided by 52 1/6.

#### **Qualifying injury**

7.—(1) A reference in these Regulations to a qualifying injury means an injury received—

- (a) by a member of a police force,
- (b) in the execution of his duty as a constable, and
- (c) without his own default.

(2) Subject to paragraph (4), an injury shall be treated as received by a person in the execution of his duty as a constable if—

- (a) the person was on duty when he received the injury, and it was wholly or mainly attributable to duty;
- (b) the person was not on duty when he received the injury, but—
  - (i) he received the injury while on a journey necessary to enable him to report for duty at, or return home from, a place of duty other than his usual place of duty, or
  - (ii) he would not have received the injury had he not been known to be a constable, or
  - (iii) the injury is the result of an act done with the intention of causing fear or harm and directed at the police service, the police force or persons associated with either; or
- (c) the police authority is of the opinion that sub-paragraph (a) or (b) may be satisfied, and that the injury should be treated as one received in the execution of duty.

(3) For the purposes of paragraph (2)(b)(i) a person's usual place of duty is the police establishment in which he is stationed for the purposes of the determination made by the Secretary of State under regulation 35(1) of the Police Regulations 2003<sup>(a)</sup> (expenses) in relation to accommodation expenses.

(4) An injury shall not be treated as received by a person in the execution of his duty as a constable if it was received in the course of or as a result of—

- (a) an investigation of the person's conduct, or proceedings resulting from such an investigation, or
- (b) a dispute between him and another member of the police force or the police force itself, or proceedings resulting from such a dispute.

(5) An injury shall be treated as received by a person without his own default unless the injury is wholly or mainly due to his own culpable negligence or culpable misconduct.

(6) In paragraph (5)—

- (a) "culpable negligence" means conduct falling significantly below what can be expected of a reasonable person in the circumstances, and includes a failure to disclose a pre-existing medical condition of which the person was aware; and
- (b) "culpable misconduct" means a deliberate breach of the Standards of Professional Behaviour in the Schedule to the Police (Conduct) Regulations 2008<sup>(b)</sup>:

Provided that an act done in circumstances where one or more of the conditions in sub-paragraphs (a) to (c) of regulation 16(1) (adult survivor's augmented award) is satisfied shall not be regarded as culpable negligence or culpable misconduct.

#### **Qualifying injury – supplemental**

**8.—**(1) In the case of a person who is a member of a police force but is not a constable, paragraphs (1) to (4) of regulation 7 (qualifying injury) shall have effect as if the references to a constable were references to such an officer or employee.

(2) In the case of a person who is a specified employee of SOCA—

- (a) paragraphs (1) to (4) of regulation 7 shall have effect as if references to duty, being on duty and the execution of duty were references to acting within the scope of his employment; and
- (b) in addition to the circumstances set out in paragraph (2) of regulation 7, an injury shall be treated as received by the person while acting within the scope of his employment if he received the injury while exercising any of his powers outside the scope of his employment.

(3) In paragraph (2)(b), "powers" means any of the powers or privileges that the specified employee of SOCA has having been designated under section 43 of the Serious Organised Crime and Police Act 2005 as a person having the powers of a constable.

(4) In the case of a person who is an employed constable of NPIA, paragraph (2)(a) and (b) of regulation 7 shall have effect as if references to duty and being on duty were references to acting within the scope of the person's employment.

(5) Notwithstanding anything in the 1987 Regulations relating to a period of service in the armed forces, an injury received in the execution of duty as a member of the armed forces shall not be deemed to be a qualifying injury.

(6) In the case of a regular policeman who has served as a police cadet in relation to whom the Police Cadet (Pensions) Regulations had taken effect—

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(a) S.I. 2003/527.  
(b) S.I. 2008/2864.

- (a) a qualifying injury within the meaning of those Regulations shall be treated for the purposes of these Regulations as if it had been received by him as mentioned in paragraph (1) of regulation 7; and
- (b) where such a qualifying injury is so treated, any reference to duties in regulation 16(1) (adult survivor's augmented award) shall be construed as including a reference to duties as a police cadet; and in this paragraph the reference to the Police Cadets (Pensions) Regulations is a reference to the Regulations from time to time in force made, or having effect as if made, under section 52 of the Police Act 1996.

### **Disablement**

9.—(1) Subject to paragraph (2), 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) In the case of a person who is totally disabled, paragraph (1) shall have effect, for the purposes of regulations 13 and 20 of these Regulations, as if the reference to “that disablement being at that time likely to be permanent” were a reference to the total disablement of that person being likely to be permanent.

(3) 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 police authority for that person to refuse.

(4) Disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a member of the force except that, in relation to the child or to the widower or surviving civil partner of a woman member of a police force, it means inability, occasioned as aforesaid, to earn a living.

(5) “Totally disabled” means incapable by reason of the disablement in question of earning any money in any employment and “totally disabled” shall be construed accordingly:

Provided that a person shall be deemed to be totally disabled if, as a result of a qualifying injury, he is receiving treatment as an in-patient at a hospital.

(6) Where a person has retired 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 known to the police authority.

(7) In this regulation, “infirmity” means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

### **Disablement, death or treatment in hospital the result of an injury**

10.—(1) Subject to paragraph (2), disablement or death or treatment at a hospital shall be deemed for the purposes of these Regulations to be the result of an injury if the injury has caused or substantially contributed to the disablement or death or the condition for which treatment is being received.

(2) A qualifying injury shall not be regarded as having caused or substantially contributed to disablement, death or a condition for which treatment is being received if—

- (a) the person concerned had a pre-existing medical condition which rendered him liable to suffer disablement or death or to require treatment in hospital at any time; and
- (b) the injury was not received in the course of operational duties.

(3) In paragraph (2)(b) “operational duties” means—

- (a) duties performed in circumstances where one or more of the conditions in sub-paragraphs (a) to (c) of regulation 16(1) (adult survivor's augmented award) is satisfied;
- (b) duties performed other than in a police establishment for the immediate purpose of—

- (i) preventing crime,
  - (ii) detecting crime,
  - (iii) protecting property, or
  - (iv) maintaining public order;
- (c) practical training for duties of a kind mentioned in sub-paragraphs (a) or (b) above.

#### **Time limit for claims**

**11.**—(1) Subject to paragraph (2), an award shall not be made under these Regulations unless the claim for the award is made known to the police authority within five years of the person in question ceasing to be a member of the police force maintained by the authority.

(2) Paragraph (1) shall not apply where the injury which is the subject of the claim is of a kind listed in Schedule 3.

## **PART 2**

### **AWARDS ON INJURY OR DEATH**

#### **Police officer's injury award**

**12.**—(1) This regulation applies to a person who ceases or has ceased to be a member of a police force and is permanently disabled as a result of a qualifying injury (in Schedule 4 referred to as the “relevant injury”).

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

- (a) a gratuity, and
- (b) an injury related income supplement.

(3) The gratuity and the injury related income supplement shall be calculated in accordance with Schedule 4.

(4) Where the person concerned ceased to serve before becoming disabled, no payment shall be made on account of the injury related income supplement in respect of any period before he became disabled

#### **Police officer's disablement gratuity**

**13.**—(1) This regulation applies to a person who—

- (a) receives or received a qualifying injury,
- (b) ceases or has ceased to be a member of a police force, and
- (c) within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result of that injury.

(2) Subject to the provisions of regulations 21 and 22 (abatement), the 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 five times the annual value of his average pensionable pay.

#### **Adult survivor**

**14.**—(1) For the purposes of these Regulations “adult survivor” means 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.



(2) An adult partner other than a spouse or civil partner shall not be regarded as an adult partner unless—

- (a) the officer concerned had made and sent to the police authority of the force in which he was then serving or by whom his pension was or would be payable a declaration, signed by the officer and the adult partner, that—
  - (i) the officer and the adult (i) partner 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 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);
  - (iv) the officer acknowledged an obligation to send to the police authority a signed notice of revocation should the relationship terminate;and had not revoked that declaration before his death; and
- (b) the adult partner has submitted a claim in writing to the police authority by whom such a pension would be payable and satisfied the authority—
  - (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 police authority may in their discretion accept a shorter period of cohabitation than that mentioned in paragraph (2)(b)(ii) where they are satisfied, in the particular circumstances of the case, that it is likely that the deceased officer and the adult partner concerned would have cohabited as partners for at least two years had the 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 police authority shall forthwith send to the officer concerned a written notification of its receipt.

#### **Adult survivor's special award**

**15.—**(1) This regulation applies to the adult survivor of a member of a police force who dies or has died as a result of a qualifying injury (“the deceased officer”).

(2) An adult survivor to whom this regulation applies shall, subject to paragraph (6), be entitled to an award which shall comprise—

- (a) an adult survivor's special pension calculated in accordance with paragraphs (3) to (5) subject, however, to regulation 27 (increase during first 13 weeks), and
- (b) subject to paragraphs (7) and (8), a gratuity calculated in accordance with regulation 20 (death gratuity).

(3) Subject to paragraphs (4) and (5), the weekly amount of an adult survivor's special pension shall be equal to 45% of the deceased officer's average pensionable pay for a week.

(4) Where, in respect of any week, a pension is payable to the widow in pursuance of section 67 of the Social Security Act 1975 in consequence of her husband's death and the amount of that pension exceeds that of a widow's pension under section 26 of that Act as specified in Part I of Schedule 4 thereto at the time of the husband's death, then the amount of her special pension in respect of that week shall be reduced by that excess.

(5) Where the provisions governing the amount of pensions under section 67 of the Social Security Act 1975 have changed after the death of the husband, the reduction under sub-paragraph (4) in respect of any week shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed.

(6) An adult survivor shall not be entitled to an adult survivor's special award unless the surviving spouse was married to the deceased officer, or the surviving civil partner and the deceased officer were civil partners, or the other surviving adult partner and the deceased officer were cohabiting (as the case may be), during a period—

- (a) before the deceased officer last ceased to be a regular police officer, if he received the injury while serving as such;
- (b) before the end of the continuous period of service during which he received the injury, in any other case.

(7) An adult survivor who, but for paragraph (6)(a), would be entitled to an award under paragraph (2) shall, instead, be entitled to a pension calculated in accordance with the provisions of paragraphs (8) to (12); and such pension shall be treated for the purposes of paragraph (14) and regulation 28 (increase during first 13 weeks) as if it were a special award under this regulation.

(8) The annual amount of a pension under paragraph (7) shall be one half of the appropriate proportion of the ill-health pension under regulation B3 of the 1987 Regulations to which the deceased officer would have been entitled had he, when he ceased to serve, retired because he was disabled in circumstances entitling him to such a pension.

(9) Subject to paragraphs (10), (11) and (12), for the purposes of paragraph (8) the appropriate proportion means the proportion which the deceased officer's pensionable service reckonable by reason of service or employment after 5th April 1978 bears to his total pensionable service; and for these purposes, in a case where the deceased officer had made an election under regulation G4 of the 1987 Regulations, his pensionable service shall be calculated as if such election had not been made.

(10) Where a pension becomes payable under paragraph (7) to a widower or to the surviving civil partner of a female police officer, paragraph (9) has effect with the substitution for "5th April 1978" of "16th May 1990" or, as the case may be, the day before the date from which service before 17th May 1990 counts in consequence of an election under regulation G6 of the 1987 Regulations (payments by women to enhance widowers' and surviving civil partners' awards).

(11) But where a pension becomes payable under paragraph (7) to the surviving civil partner of a female police officer and as a consequence of an election under the said regulation G6 paragraph (9) would, but for this paragraph, have effect with the substitution for "5th April 1978" of a date before 6th April 1988, then paragraph (9) shall have effect with the substitution for "5th April 1978" of "5th April 1988".

(12) Where a pension becomes payable under paragraph (7) to the surviving civil partner of a male police officer, paragraph (9) has effect with the substitution for "5th April 1978" of "5th April 1988".

(13) Where the deceased officer was entitled to an injury gratuity under regulation 11 then—

- (a) if it equalled, or exceeded, the gratuity under paragraph (2)(b), the gratuity under paragraph (2)(b) shall not be payable, and
- (b) in any other case, the gratuity under paragraph (2)(b) shall be reduced by the amount of the deceased officer's gratuity.

(14) The amount of an adult survivor's special pension or gratuity determined in accordance with the preceding provisions of this regulation shall be increased in accordance with regulation 29 (increase by reference to the Pensions (Increase) Acts).

#### **Adult survivor's augmented award**

**16.—**(1) This regulation applies to an adult survivor of a member of a police force whose death is the result of a qualifying injury 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) been satisfied.

(2) An award under regulation 15(2) to an adult survivor to whom this regulation applies shall comprise—

- (a) an adult survivor's special pension calculated as provided in regulation 15(3) to (5) but as if for the reference in regulation 15(3) to 45% of the deceased officer's average pensionable pay for a week there were substituted a reference to 50% of such pay, and
- (b) a gratuity calculated in accordance with regulation 20 (death gratuity).

#### **Child survivor**

**17.** For the purposes of these Regulations "child survivor" means—

- (a) a natural child, step-child or adopted child of the officer concerned (including a child conceived before the officer's death and born after that death to an adult survivor to whom regulation 15 applies); or
- (b) 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.

#### **Child survivor's special award**

**18.—(1)** This regulation applies to the child survivor of a member of a police force who dies or has died as a result of a qualifying injury.

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

- (a) a special allowance calculated in accordance with the following provisions of this regulation, subject to regulation 27 (increase during first 13 weeks), and;
- (b) where the member does not leave an adult survivor, a death gratuity under regulation 21.

(3) Where one of the child survivor's parents is alive, the special allowance in respect of the death of a member of a police force ("the relevant parent") shall, subject to paragraphs (4) and (7), be of an amount equal to 10% of the average pensionable pay for a week of the relevant parent.

(4) Where five or more special allowances are payable in respect of the death of the same person, an allowance determined in accordance with paragraph (3) shall be of an amount equal to 40% of the average pensionable pay for a week of the relevant parent divided by the total number of allowances so payable.

(5) Where the relevant parent was the child survivor's only surviving parent, or in respect of the period after the death of the child survivor's other parent, the special allowance shall, subject to paragraphs (6) and (7), be of an amount equal to 20% of the average pensionable pay for a week of the relevant parent.

(6) Where five or more special allowances are payable in respect of the death of the same person, an allowance determined in accordance with paragraph (5) shall be of an amount equal to 80% of

the average pensionable pay for a week of the relevant parent divided by the total number of allowances so payable.

(7) The amount of a special allowance determined in accordance with the preceding paragraphs of this regulation shall be increased in accordance with regulation 29 (increase by reference to the Pensions (Increase) Acts).

#### **Adult dependent relative's special pension**

**19.**—(1) This regulation applies in the case of a member of a police force who dies as the result of a qualifying injury 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 member who had attained the age of 19 years before the member's death;
- (b) subject to his having attained the age of 19 years, to any child of the member whether or nor he had attained that age before the member's death, or
- (c) where the member was a woman with an adult survivor who was permanently disabled at the time she died, to the adult survivor,

subject, in each case, to the person in question being substantially dependent on the member immediately before the member's death.

(2) If the police authority, having regard to all the circumstances of the case, so determine, they may grant a special pension to any such dependent relative.

(3) A dependent relative's special pension shall be calculated in accordance with Schedule 5 and, subject to paragraph 4 of that Schedule, shall be payable for such period or periods as the police authority may, in their discretion, from time to time determine.

#### **Death gratuity**

**20.**—(1) Subject to paragraph (2), this regulation applies to a member of a police force who dies or has died as a result of a qualifying injury.

(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 apply to him only if his death also occurred before any decision by a medical authority under regulation H1, H2 or H3 of the 1987 Regulations or, as the case may be, under regulations 71, 72 or 73 of the 2006 Regulations that he was totally and permanently disabled as a result of that injury; and where this regulation so applies it shall apply to the exclusion of regulation 13 (police officer's disablement gratuity).

(3) Subject to the provisions of regulations 21 and 22, where a member to whom this regulation applies—

- (a) leaves an adult survivor;
- (b) does not leave any such adult survivor, but leaves a child survivor; or
- (c) does not leave any such adult or child survivor, but leaves a dependent relative to whom a special pension may be paid under regulation 20,

the police authority shall pay to his adult survivor or, as the case may be, to his child survivor or dependent relative a gratuity calculated in accordance with the following provisions of this regulation.

(4) Where the member dies or has died within 12 months of receiving the qualifying injury and one of the conditions set out in regulation 16(1) (adult survivor's augmented award) is satisfied, the gratuity shall, subject to paragraph (8), be of an amount equal to whichever is the greater of the following amounts, namely—

- (a) 5 ¼ times his average pensionable pay;

- (b) the sum of three times his average pensionable pay and  $2\frac{3}{4}$  times the annual pensionable pay, at the time of the member's death, of a person holding the rank of constable in the metropolitan police force and entitled to reckon 30 years' service for the purposes of pay.

(5) Where the member dies or has died within 12 months of receiving the qualifying injury and none of the conditions set out in regulation 16(1) is satisfied, the gratuity shall, subject to paragraph (8), be of an amount equal to whichever is the greater of the following amounts, namely—

- (a) five times his average pensionable pay;
- (b) the sum of three times his average pensionable pay and twice the annual pensionable pay, at the time of the member's death, of a person holding the rank of constable in the metropolitan police force and entitled to reckon 30 years' service for the purposes of pay.

(6) Where the member dies or has died more than 12 months after receiving the qualifying injury and one of the conditions set out in regulation 16(1) is satisfied, the gratuity shall, subject to paragraph (8), be of an amount equal to whichever is the greater of the following amounts, namely—

- (a)  $4\frac{1}{4}$  times his average pensionable pay;
- (b) the sum of twice his average pensionable pay and  $2\frac{3}{4}$  times the annual pensionable pay, at the time of the member's death, of a person holding the rank of constable in the metropolitan police force and entitled to reckon 30 years' service for the purposes of pay.

(7) Where the member dies or has died more than 12 months after receiving the qualifying injury and none of the conditions set out in regulation 16(1) is satisfied, the gratuity shall, subject to paragraph (8), be of an amount equal to whichever is the greater of the following amounts, namely—

- (a) four times his average pensionable pay;
- (b) the sum of twice his average pensionable pay and twice the annual pensionable pay, at the time of the member's death, of a person holding the rank of constable in the metropolitan police force and entitled to reckon 30 years' service for the purposes of pay.

(8) In the case of a member any of whose service by virtue of which his pensionable service is reckonable was part-time, the gratuity shall be of an amount given by the formula—

$$\frac{GxR}{Q}$$

where—

G is the amount that the gratuity would be, in accordance with paragraphs (4) to (7), if all the service were full time service,

R is the period in years of the his pensionable service, and

Q is the period that would be the period in years of his pensionable service if periods of part-time service were reckonable as if they were periods of full-time service.

(9) In the case of a member who leaves two or more child survivors or two or more dependent relatives, the amount of the gratuity payable under this regulation shall be divided by the police authority equally among the children or dependent relatives (as the case may be).

#### **Abatement of certain gratuities in respect of gratuities otherwise payable**

**21.**—(1) The amount of any gratuity payable to a member of a police force under regulation 13 shall be reduced by deducting from it the amount of any gratuity paid, or treated as paid, to him under regulation 12 above or under regulation B2(4) or B3(4) of the 1987 Regulations or, as the case may be, regulation 44 or 45 of the 2006 Regulations.

(2) The amount of any gratuity payable to any person under regulation 20 in respect of the death of a member of a police force shall be reduced by deducting from it—

- (a) the amount of—
  - (i) any gratuities paid, or treated as paid, to the member or his estate under regulation 12 above or under regulation B2(4), B3(4) or E3 of the 1987 Regulations or, as the case may be, regulation 44 or 45 of the 2006 Regulations; and
  - (ii) any death grant paid under regulation E3A of the 1987 Regulations or, as the case may be, regulation 46 of the 2006 Regulations;
- (b) in the case of an adult survivor, where a gratuity under regulation 15(2) is payable to him or his estate—
  - (i) unless paragraph (ii) below applies, the amount of the gratuity;
  - (ii) where the said amount falls to be calculated in accordance with regulation 16(2), an amount equal to the amount of the gratuity which would be payable to him or his estate under regulation 15(2) if—
    - (A) regulation 16 had not applied;
    - (B) the deceased officer 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 deceased officer's average pensionable pay was greater than 2 ¼ times the annual amount of the ill-health pension which would have been payable under regulation B3 of the 1987 Regulations or, as the case may be, regulation 29 of the 2006 Regulations to the deceased officer if he had retired on the grounds of permanent disability on the day on which he had died (whether or not it was in fact greater); and
- (c) in the case of any other person, the amount of any gratuity paid to that person or his estate in respect of the death of that member under regulation E2 of the 1987 Regulations or, as the case may be, regulation 44 of the 2006 Regulations.

(3) In any case where, by reason of regulation 20(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 from it the amount of any gratuities paid as mentioned in paragraph (2).

#### **Abatement of awards in respect of damages or compensation**

**22.**—(1) The police authority shall take into account against any award payable under these Regulations any damages or compensation which are recovered by any person in respect of the death or disability to which the award relates, and the award may be withheld or reduced in 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;
- (b) "compensation" does not include an award of compensation made to a person in accordance with the Criminal Injuries Compensation Scheme if the amount of the award was reduced by the amount of any gratuity paid or payable to him under regulations 12 or 21.

(3) No payment in respect of an award under these Regulations shall be made to a person unless he has given to the police authority a written undertaking that if he recovers any damages or compensation in respect of the death or disability to which the award relates he will inform them

thereof and, unless the damages or compensation have been taken into account in pursuance of paragraph (1), will pay to the police authority such sum as they may demand 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;

and, in this paragraph, “the net amount” in relation to damages or compensation recovered by any person means the amount of the damages or compensation after deducting tax payable in the United Kingdom or elsewhere to which the damages or compensation are subject.

(4) The police authority shall not demand any payment in pursuance of such an undertaking as is mentioned in paragraph (3)—

- (a) after the death of the person to whom the payment in respect of a gratuity under regulation 13 or 20 was made, or
- (b) after the expiration of two years from the date on which the final determination of the amount of the damages or compensation first came to the knowledge of the police authority.

(5) For the purposes of deciding the amount by which an award is to be reduced under paragraph (1), or the amount that is to be paid under paragraph (3), the police authority may calculate, in accordance with tables prepared from time to time for the purpose by the Scheme actuary, the actuarial equivalent of any award, damages or compensation payable as a lump sum, and the capitalised value of any award, damages or compensation payable by periodical payments.

## PART 3

### SUPPLEMENTARY PROVISIONS

#### **Gratuity in lieu of adult survivor’s special pension**

**23.—**(1) Where on the death of the deceased officer before he attained state pensionable age an adult survivor became entitled to an adult survivor’s special pension under regulation 15, the police authority may, subject to regulation 25, commute for a gratuity that special pension or so much of it as may be commuted without contravening regulation 25:

Provided that a police authority shall not exercise their discretion under this paragraph unless—

- (a) the adult survivor consents, and
- (b) they are satisfied that there are sufficient reasons for so doing.

(2) Where the annual amount of any adult survivor’s special pension does not exceed £260, or any greater amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973<sup>(a)</sup> (other than a pension which does not exceed that amount by reason of the commutation of part thereof under paragraph (1)), the police authority may, at their discretion, commute it for a gratuity.

(3) A gratuity under this regulation shall be calculated in accordance with paragraph (5).

(4) Where an adult survivor is entitled to more than one adult survivor’s pension, under these Regulations or the 1987 Regulations or the 2006 Regulations, in respect of the death of the same person but, in pursuance of regulation 26, is not entitled to receive, in respect of any particular period, payment on account of more than one of those pensions, those adult survivor’s pensions shall be treated for the purposes of this regulation as a single adult survivor’s pension and, where one of those pensions is an adult survivor’s special pension under regulation 15 or 16, that single

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(a) 1973 c.38.

pension shall be treated for the purposes of paragraph (1) as if it were an adult survivor's special pension.

(5) A gratuity under this regulation shall be of an amount equal to 11 times the annual value of the special pension or, as the case may be, of that part thereof which is commuted or of such greater amount as may be agreed between the police authority and the adult survivor not exceeding the capitalised value of the pension or, as the case may be, that part thereof which is commuted, calculated in accordance with tables prepared from time to time for the purpose by the Scheme actuary.

#### **Gratuity in lieu of child's special allowance**

**24.**—(1) Where a child is entitled to a child's special allowance under regulation , the police authority may, subject to regulation 25, commute it for a gratuity:

Provided that a police authority shall not exercise their discretion under this paragraph unless—

- (a) the child's surviving parent or guardian consents or, where he has no such parent or guardian, the child himself consents, and
- (b) they are satisfied that there are sufficient reasons for so doing.

(2) Where the police authority are precluded by reason of the provisions of regulation 25 from exercising their discretion under paragraph (1) but otherwise would exercise it, they may, subject to those provisions, exercise that discretion in relation to part only of the allowance.

(3) A gratuity under this regulation shall be of such amount as may be agreed between the police authority and the child's surviving parent or guardian, or between the police authority and the child where he has no such parent or guardian, not exceeding the capitalised value of the special allowance or, as the case may be, that part thereof which is commuted, calculated in accordance with tables prepared from time to time for the purpose by the Scheme actuary.

#### **Limitation on discretion to grant a gratuity in lieu of an adult survivor's special pension or a child's special allowance**

**25.**—(1) This regulation applies in the case of a regular police officer who has died while in receipt of an ordinary, short service, ill-health or deferred pension awarded under the 1987 Regulations or the 2006 Regulations ("the principal pension").

(2) The police authority shall not under regulation 23 or 24 substitute for the whole or any part of an adult survivor's special pension or child's special allowance payable in respect of such a police officer a gratuity the actuarial equivalent of which (within the meaning of paragraph (3) when added to that of—

- (a) any other gratuity so substituted under regulation 23 or 24, and
- (b) any lump sum paid or payable under regulation B7 of the 1987 Regulations or regulation 38 of the 2006 Regulations, where a portion of the principal pension has been commuted,

exceeds a quarter of the capitalised value of the principal pension, any reduction therein under the said regulation B7 being ignored.

(3) For the purposes of this regulation the actuarial equivalent of a gratuity or lump sum and the capitalised value of the principal pension shall, in each case, be at the time of deceased officer's retirement, as calculated by the Scheme actuary.

#### **Prevention of duplication**

**26.**—(1) Subject to paragraph (2), 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—



- (a) each of the awards being an adult survivor's special or augmented award under regulation 15 or 16 or an adult survivor's pension under Part C of the 1987 Regulations or an adult survivor's pension under regulation 41 of the 2006 Regulations, or
- (b) each of the awards being a child survivor's special allowance under regulation 18 or a child's allowance under Part D of the 1987 Regulations or a child survivor's pension under regulation 42 of the 2006 Regulations or an adult dependent relative's special pension under regulation 19,

he shall be entitled to receive, in respect of that period, payment on account of one only of those awards; and the award payable shall be that from time to time selected by the person concerned or, 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.

(2) Nothing in paragraph (1) shall prevent a person from being entitled to receive more than one such award as is mentioned in sub-paragraph (a) or (b) of that paragraph if—

- (a) the awards in question are calculated, directly or indirectly, by reference to different periods of pensionable service, and
- (b) no award in question falls to be increased in accordance with regulation E8, or to be determined in accordance with regulation E10, of the 1987 Regulations.

**Increase of adult survivor's special pension or child survivor's special allowance during first 13 weeks**

**27.—**(1) This regulation applies to an adult survivor's special pension or augmented pension under regulation 15 or 16 and to a child's special allowance under regulation 18 where the person in respect of whose death the award is payable was, immediately before his death—

- (a) serving as a member of a police force, or
- (b) in receipt of a pension under regulation 11 or Part B of the 1987 Regulations or Part 4 of the 2006 Regulations,

and, for the purposes of sub-paragraph (b), the provisions of regulation A8 of the 1987 Regulations shall be disregarded.

(2) An adult survivor's special or augmented pension to which this regulation applies shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, the aggregate amount of the pension and of any children's special allowances under regulation 18 or children's allowances under Part D of the 1987 Regulations or regulation 42 of the 2006 Regulations payable in respect of the same person's death is not less than—

- (a) in the case mentioned in paragraph (1)(a), the police officer's relevant emoluments for a week immediately before he died, or
- (b) in the case mentioned in paragraph (1)(b), the weekly amount of his pension together with any increase in that pension, immediately before he died, under the Pensions (Increase) Acts;

and, for the purposes of sub-paragraph (b)—

- (i) there shall be disregarded any reduction in the police officer's pension in consequence of paragraph 7 of Schedule 4, and
- (ii) where the police officer died while in receipt of both an ordinary, short service or ill-health pension awarded under Part B of the 1987 Regulations or, as the case may be, Part 4 of the 2006 Regulations and an injury related income supplement under regulation 12, the reference therein to the weekly amount of his pension shall be construed as a reference to the aggregate weekly amount of the pension and the supplement.

(3) For the purposes of paragraph (2)(a) a police officer's relevant emoluments for a week are—

- (a) his pensionable pay for the week, and
- (b) so much as is attributable to the week of any allowances to which he was entitled under regulation 38 of and Schedule 3 to the Police Regulations 2003(a).

(4) Where a child's special allowance to which this regulation applies is payable in respect of the death of a person who did not leave an adult survivor entitled to a special or augmented pension which was payable for a continuous period of 13 weeks the special allowance shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, it is not less than the amount specified in paragraph (2)(a) or (b) except that, where two or more such special allowances are payable in respect of the death of the same person, each allowance shall be so increased that it is of that amount divided by the number of such allowances:

Provided that where an adult survivor's special or augmented pension is payable in respect of any such week, a child's special allowance in respect of the death of the same person shall not be so increased in respect of that week.

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

**28.**—(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, it shall be increased by the amount, if any, by which a corresponding pension, within the meaning of the Pensions (Increase) Act 1971(b), 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;
- (b) it were one of the pensions specified in paragraph 43 of Part II of Schedule 2 to the Pensions (Increase) Act 1971;
- (c) it were not a pension to which section 1(2)(a) of the Pensions (Increase) Act 1974(c) applies, and
- (d) it began, within the meaning of the Pensions (Increase) Act 1971, and became payable when the relevant award so began and became payable.

(2) Where the relevant award is a child's special allowance, the Pensions (Increase) Acts as applied by paragraph (1) 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 special allowance is payable.

## **PART 4**

### **APPEALS AND MEDICAL QUESTIONS**

#### **Deciding questions in relation to awards**

**29.**—(1) Subject to the provisions of this part, the question whether a person is entitled to any, and if so what, award under these Regulations shall be determined in the first instance by the police authority, and in considering a claim for such an award the police authority shall first decide whether the member of a police force in question has received a qualifying injury.

(2) Where the police authority has determined that a person has received a qualifying injury, they shall refer the relevant medical questions for decision to a duly qualified medical practitioner

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(a) S.I. 2003/527; Schedule 3 was amended by S.I. 2005/2834.  
(b) 1971 c.56.  
(c) 1974 c.9.

selected by them (“the selected medical practitioner”) in accordance with the following provisions of this regulation.

(3) Where the police authority are considering eligibility for an injury related income supplement under regulation 12, the relevant medical questions are—

- (a) whether the person concerned is disabled;
- (b) whether the disablement is permanent;
- (c) whether the disablement is the result of the qualifying injury; and
- (d) the person’s loss of earning capacity,

and where the authority are considering whether such a supplement should be revised in accordance with regulation 36, the only relevant medical question is the person’s loss of earning capacity.

(4) Where the police authority are considering eligibility for a disablement gratuity under regulation 13, the relevant medical questions are—

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

(5) Where the police authority are considering eligibility for any other award under these Regulations, the relevant medical question is whether the death is the result of the qualifying injury.

(6) Where a medical authority has made a final decision, for the purposes of Part H of the 1987 Regulations or Part 7 of the 2006 Regulations, as to whether a person is disabled or whether the disablement is permanent, that decision shall be binding for the purposes of these Regulations.

(7) The decision of the selected medical practitioner on the relevant medical questions shall be expressed in the form of a report and shall, subject to paragraph (8) and regulations 30 and 31, be final.

(8) Where a selected medical practitioner considering whether a person’s disablement is the result of a qualifying injury would, but for the presence of a pre-existing medical condition under regulation 10(2)(a), have answered that question in the affirmative, the practitioner shall note this finding in the report and go on to consider any further relevant medical question.

(9) Where a police authority receives a report from a selected medical practitioner containing a finding under paragraph (8), the police authority shall decide whether the injury was received in the course of duties specified in regulation 10(2)(b), and—

- (a) if it was so received, they shall proceed as if the practitioner had decided that the disablement is the result of the injury, but
- (b) if it was not so received, they shall proceed as if the practitioner had decided that the disablement is not the result of the injury.

(10) A copy of the selected medical practitioner’s report shall be supplied to the person who is the subject of the report.

(11) The police authority may decide to refer the relevant medical questions to a board of duly qualified medical practitioners instead of to a single selected medical practitioner, and in such a case references in this regulation, regulations 30 and 31 and paragraph 5(1)(a) and 5(2) of Schedule 6 to the selected medical practitioner shall be construed as if they were references to such a board

### **Appeal to board of medical referees**

**30.—**(1) Where a person is dissatisfied with the decision of the selected medical practitioner as set out in a report under regulation 29(7), he may, within 28 days after he has received a copy of that report or such longer period as the police authority may allow, and subject to and in

accordance with the provisions of Schedule 6, give notice to the police authority 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 police authority may allow) that person has supplied to the police authority a statement of the grounds of his appeal, the police authority shall notify the Secretary of State accordingly and the police authority shall refer the appeal to a board of medical referees, appointed in accordance with arrangements approved by the Secretary of State, to decide.

(3) The decision of the board of medical referees shall, if it disagrees with any part of the report of the selected medical practitioner, be expressed in the form of a report of its decision on any of the questions referred to the selected medical practitioner on which it disagrees with the latter's decision, and the decision of the board of medical referees shall, subject to the provisions of regulation 31, be final.

#### **Further reference to medical authority**

**31.**—(1) A court hearing an appeal under regulation 33 or a tribunal hearing an appeal under regulation 34 may, if they consider that the evidence before the medical authority who has given the final decision was inaccurate or inadequate, refer the decision of that authority to him, or as the case may be it, for reconsideration in the light of such facts as the court or tribunal may direct, and the medical authority shall accordingly reconsider his, or as the case may be its, decision and, if necessary, issue a fresh report which, subject to any further reconsideration under this paragraph, shall be final.

(2) The police authority and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him, or as the case may be it, for reconsideration, and he, or as the case may be it, shall accordingly reconsider his, or as the case may be its, decision and, if necessary, issue a fresh report, which, subject to any further reconsideration under this paragraph or paragraph (1) or an appeal, where the claimant requests that an appeal of which he has given notice (before referral of the decision under this paragraph) be notified to the Secretary of State, under regulation 31, shall be final.

(3) If a court or tribunal decide, or a claimant and the police authority agree, 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 board of medical practitioners selected by the court or tribunal or, as the case may be, agreed upon by the claimant and the police authority, and his, or as the case may be its, 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 who has given a final decision means the selected medical practitioner, if the time for appeal from his decision has expired without an appeal to a board of medical referees being made, or if, following a notice of appeal to the police authority, the police authority have not yet notified the Secretary of State of the appeal, and the board of medical referees, if there has been such an appeal.

#### **Refusal to co-operate in medical examination**

**32.**—(1) This regulation applies where a relevant medical question is referred to a medical authority under regulation 29, 30 or 31 and the person concerned wilfully or negligently fails to—

- (a) submit himself to a medical examination;
- (b) attend an interview; or
- (c) consent to the disclosure of medical records

which the medical authority considers necessary in order to enable him to make his decision.

(2) Where this regulation applies—

- (a) if the relevant medical question arises otherwise than on an appeal to a board of medical referees, the police authority may make their determination on such evidence and medical advice as they in their discretion think necessary; and
- (b) if the relevant medical question arises on an appeal to a board of medical referees, the appeal shall be deemed to be withdrawn.

#### **Appeal by a member of a home police force**

**33.** Where a member of a home police force, or a person claiming an award in respect of such a member, is aggrieved by the refusal of the police authority to admit a claim to receive as of right an award or a larger award than that granted, or by a decision of the police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 9(3), or by the forfeiture under regulation 38 by the police authority of any award granted to or in respect of such a member, he may, subject to regulation 35, appeal to the Crown Court and that court, after enquiring into the case, may make such order in the matter as appears to it to be just.

#### **Appeal by inspector of constabulary or police officer engaged on relevant service and any other overseas policeman**

**34.—(1)** This regulation applies in relation to an inspector of constabulary or a police officer engaged on relevant service and any other overseas policeman, and any such person is in this regulation referred to as an officer to whom this regulation applies.

(2) Where an officer to whom this regulation applies, or a person claiming an award in respect of such an officer, is aggrieved by the refusal of the Secretary of State as police authority to admit a claim to receive as of right an award or a larger award than that granted, or by a decision of the Secretary of State as police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 9(3), or by the forfeiture under regulation 38, by the Secretary of State as police authority, of any award granted to or in respect of such an officer, he may, subject to regulation 35, give notice of appeal to the Secretary of State; and any such notice shall be in writing and shall specify the grounds of the appeal.

(3) The Secretary of State, on receiving such notice of appeal, shall appoint an appeal tribunal (in paragraphs (4) to (9) referred to as the tribunal), consisting of three persons, including a barrister or solicitor of not less than seven years' standing and a retired member of a police force who, before he retired, held a rank not lower than that of superintendent.

(4) 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 thereof to the appellant and to the Secretary of State as police authority (in paragraphs (5) and (8) referred to as the parties).

(5) Either party may be represented before the tribunal by counsel, by a solicitor or by such other person as appears to him appropriate, adduce evidence and cross-examine witnesses.

(6) In the case of an appeal under this regulation the tribunal shall have regard to the practice of the Crown Court in the case of an appeal under regulation 33 or regulation H5 of the 1987 Regulations and the rules of evidence applicable in the case of such an appeal shall apply in the case of an appeal under this regulation.

(7) Subject to the preceding provisions of this regulation, the tribunal shall determine its own procedure.

(8) 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, which order shall state the reasons for the decision; and each of the parties shall be entitled to a copy of any such order.

(9) 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**

35.—(1) An appeal shall not lie under regulation 33 or 34 against anything done by a police authority in the exercise of a power conferred by these Regulations which is expressly declared thereby to be a power which they are to exercise in their discretion.

(2) Subject to regulation 31(1), in any proceedings under regulation 33 or 34 the court or tribunal shall be bound by any final decision of a medical authority within the meaning of regulation 31.

## **PART 5**

### **REVISION AND WITHDRAWAL OR FORFEITURE OF AWARDS**

#### **Reassessment of injury related income supplement**

36.—(1) Subject to the provisions of this Part, where an injury related income supplement is payable under these Regulations, the police authority shall, at such intervals as may be suitable, consider whether the pensioner's loss of earning capacity has altered; and if after such consideration the police authority find that the pensioner's loss of earning capacity has substantially altered, the supplement shall be revised accordingly.

(2) Where the person concerned is not also in receipt of an ordinary, ill-health or short-service pension under the 1987 Regulations or the 2006 Regulations, if on any such reconsideration it is found that his disability has ceased, his injury related income supplement shall be terminated.

(3) Where payment of an ill-health pension is terminated in pursuance of regulation K1(4) of the 1987 Regulations or regulation 51(5) or (6) of the 2006 Regulations, there shall also be terminated any injury related income supplement under regulation 12 above payable to the person concerned.

(4) Where early payment of a deferred pension ceases in pursuance of regulation K1(7) of the 1987 Regulations or regulation 51(8)(d) of the 2006 Regulations, then any injury related income supplement under regulation 12 above payable to the person concerned shall also be terminated.

#### **Withdrawal of injury award during service as a regular police officer**

37.—(1) Subject to paragraphs (2) and (3), a police authority by whom an injury related income supplement is payable under regulation 12 (police officer's injury award) or a special pension is payable under regulation 19 (adult dependent relative's special pension) may, in their discretion, withdraw the whole or any part of the supplement or pension for any period during which the recipient is serving as a regular police officer in any police force; and, where they have done so, they shall be discharged from any actual or contingent liability in respect of the supplement or pension or the part thereof withdrawn for the period in question.

(2) This regulation does not apply to a pension under regulation B9(7)(b) of the 1987 Regulations (allocation).

(3) This regulation shall not apply in relation to any period during which a person receiving a pension or supplement is serving as an employed constable of NPIA, where that period of service commenced on or before 31st August 2009.

#### **Forfeiture**

38.—(1) This regulation applies to a pension payable to or in respect of a member of a police force under regulation 12, regulation 15 or regulation 19.

(2) A police authority responsible for the payment of a pension to which this regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and,

in the case of an adult survivor's pension, that offence was committed after the death of the pensioner's spouse or, as the case may be, civil partner.

(3) The offence referred to in paragraph (2) are—

- (a) an offence of treason;
- (b) one or more offences under the Official Secrets Acts 1911 to 1989 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) A police authority responsible for payment to a member of a police force of a pension to which this regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the grantee has been convicted of an offence committed in connection with his service as a member of a police force which 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.

(5) The police authority may, to such extent as they at any time in their discretion think 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 police authority shall be discharged from all actual or contingent liability in respect of that pension.

## PART 6

### PAYMENTS BY AND TO POLICE AUTHORITIES

#### **Authorities responsible for payment of awards**

**39.**—(1) An award which is payable to or in respect of a person by reason of his having served as a regular police officer shall be payable by the police authority of the force in which he last served as such.

(2) An award which is payable to or in respect of a person by reason of his having been injured while serving as a member of a police force other than a regular police officer shall be payable by the police authority of the force in which he was serving when he received the injury.

#### **Funds out of which and into which payments are to be made**

**40.**—(1) All payments for the purposes of these Regulations made by or to a police authority shall be paid out of or into the police fund except in so far as is otherwise provided by the following paragraphs and by the Police Pension Fund Regulations 2007.

(2) There shall be paid out of moneys provided by Parliament any award to or in respect of a person who last served as commissioner of police of the metropolis before 1st April 2006.

(3) There shall be paid out of moneys provided by Parliament or, as the case may be, into the Consolidated Fund all payments for the purposes of these Regulations made by or to the Secretary of State by reason that he is treated as the police authority in relation to an inspector of constabulary or a police officer engaged on relevant service.

#### **Payment and duration of awards**

**41.**—(1) Subject to the provisions of these Regulations, in particular of regulation 12(4) (limitation on payment of an injury related income supplement to a person who ceased to serve before becoming disabled) and Part 5 (revision and withdrawal or forfeiture of awards), the injury

related income supplement of a member of a police force under these Regulations shall be payable in respect of each year as from the date of his retirement.

(2) Subject to the provisions of these Regulations, an adult survivor's special pension or child's special allowance shall be payable in respect of each week as from the death of the spouse or, as the case may be, the deceased civil partner, other adult partner or parent or, in the case of a special allowance payable to a posthumous child, as from the birth of the child.

(3) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 19(3) (adult dependent relative's special pension), and
- (b) Part 5 (revision and withdrawal or forfeiture of awards),

a pension or allowance shall be payable for life and shall be discharged by payments in advance at such reasonable intervals as the police authority may, in their discretion, determine except that payment on account of a pension or allowance may be delayed, in whole or in part, pending the determination of any question as to the liability of the police authority in respect thereof, 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 supplement, pension or allowance, 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 under these Regulations shall become payable as soon as the entitlement to it arises and shall be paid forthwith in one sum except that—

- (a) payment on account thereof may be delayed, in whole or in part, pending the determination of any question as to the liability of the police authority in respect thereof, and
- (b) where the police authority are 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**

**42.**—(1) This regulation applies to the payment of any award under these Regulations to or in respect of a member of a police force, and any reference in it to the beneficiary is a reference to the person to whom, this regulation apart, the award is payable.

(2) Where the beneficiary is a minor, the police authority 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.

A person who receives any sum in pursuance of this paragraph shall, subject to and in accordance with any directions of the police authority, apply the said sum for the benefit of the minor.

(3) 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<sup>(a)</sup>, the police authority may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the authority to be beneficially entitled to the personal estate of the deceased or, as the authority 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 authority may determine.

(4) Where it appears to the police authority that the 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

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(a) 1965 c.32.



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

A person who receives any sum in pursuance of sub-paragraph (a) shall, subject to and in accordance with any directions of the police authority, apply the said sum for the benefit of the beneficiary or his dependants.

(5) Where, as a result of any fraud, theft or negligence on the part of a regular 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 under these Regulations, in lieu of paying the whole or any part of any sum on account of the award to that beneficiary, the police authority may, if they think fit but subject to paragraph (6), 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, namely—

- (a) the amount which is the actuarial value, at the time of the first retention, of the sums then or prospectively due to the regular police officer on account of the award, and  
(b) the amount of the said 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 police authority by an order of a competent court.

(6) Where the police authority exercise the power conferred by paragraph (5) they shall furnish the regular police officer concerned with a certificate showing the amount retained and the effect on the award.

(7) A police authority shall obtain a good discharge by paying or applying any sum in the manner provided by this regulation.

Home Office  
2011

Minister of State

We consent

2011

Two of the Lords Commissioners of Her Majesty's Treasury

## SCHEDULE 1

Regulation 2(1)(b)

### AMENDMENTS TO THE 1987 REGULATIONS

1. In regulation B5(2)(b) (policeman's deferred pension) for "regulation 11" substitute "regulation 12".

2. In regulation B6(1)(b) (award by way of repayment of aggregate pension contributions) for "regulation 11" substitute "regulation 12".

3. In regulation B7(8)(b) (commutation - general provision) for "regulation 11" substitute "regulation 12".

4. In regulation B8 (commutation - small pensions)—

- (a) in paragraph (1) for "regulation 11" substitute "regulation 12"; and

(b) in paragraph (3) for “regulation 11” substitute “regulation 12”.

**5.** In regulation C1(1)(b) (widow’s ordinary pension) for “injury pension under regulation 11” substitute “injury related income supplement under regulation 12”.

**6.** In regulation C6 (widow’s requisite benefit and temporary pension)—

- (a) in paragraph (1) for “regulation 13” substitute “regulation 15”;
- (b) in paragraph (2) for “injury pension under regulation 11” substitute “injury related income supplement under regulation 12”; and
- (c) in paragraph (4)(b) for the words following the words “such a pension under regulation 11 of the Injury Benefit Regulations but for his entitlement to additional benefit within the meaning of paragraph 7(3) of Schedule 3” substitute “an injury related income supplement under regulation 12 of the Injury Benefit Regulations but for his entitlement to additional benefit within the meaning of paragraph 7(3) of Schedule 4”.

**7.** In regulation C7(1) (widow’s award where no other award payable) for “regulation 13” substitute “regulation 15”.

**8.** In regulation D1(b) (child’s ordinary allowance) for “injury pension under regulation 11” substitute “injury related income supplement under regulation 12”.

**9.** In regulation E3(2)(a) (gratuity - estate) for “injury pension under regulation 11” substitute “injury related income supplement under regulation 12”;

**10.** In regulation E7 (prevention of duplication)—

- (a) in paragraph (1)(a) for “regulation 13” substitute “regulation 15”, and
- (b) in paragraph (1)(b) for “regulation 17” substitute “regulation 18” and for “regulation 20” substitute “regulation 19”.

**11.** In regulation E8 (increase of widow’s pension or child’s allowance during first 13 weeks)—

- (a) in paragraph (2)(i) for “Schedule 3” substitute “Schedule 4”; and
- (b) in paragraph (2)(ii) for “an injury pension under regulation 11” substitute “an injury related income supplement under regulation 12”.

**12.** In regulation J1(guaranteed minimum pension)—

- (a) in paragraph (2)(b) for “an injury pension under regulation 11” substitute “an injury related income supplement under regulation 12”;
- (b) in paragraph (2)(c)(ii) for “an injury pension under regulation 11” substitute “an injury related income supplement under regulation 12”, and for “regulation 39” substitute “regulation 37”;
- (c) in paragraph (3) for “injury pension under regulation 11” substitute “injury related income supplement under regulation 12”;
- (d) in paragraph (3)(a) for “an injury pension under regulation 11” substitute “an injury related income supplement under regulation 12”;
- (e) in paragraph (4)(a) for “a widow’s special pension under regulation 13” substitute “an adult survivor’s special pension under regulation 15”;
- (f) in paragraph 4A(a) for “regulation 20” substitute “regulation 19”;
- (g) in paragraph (5) for “regulation 13” substitute “regulation 15”;
- (h) in paragraph (5A) for “regulation 20” substitute “regulation 19”.

**13.** In Schedule A (glossary of expressions), in the entry for the Injury Benefit Regulations, for “2006” substitute “2010”.

14. In paragraph 1(2)(b) of Part I of Schedule C (widow's ordinary pension) for "injury pension under regulation 11" substitute "injury related income supplement under regulation 12".

15. In paragraph 1 of Part I of Schedule D (child's ordinary allowance)—

- (a) in sub-paragraph (4) for "injury pension under regulation 11" substitute "injury related income supplement under regulation 12"; and
- (b) in sub-paragraph (5) for "injury pension under regulation 11" substitute "injury related income supplement under regulation 12".

16. In paragraph (3)(1)(b) of Part I of Schedule D for "injury pension under regulation 11" substitute "injury related income supplement under regulation 12".

## SCHEDULE 2

Regulation 3(a)

### GLOSSARY OF EXPRESSIONS

In these Regulations, unless the context otherwise requires, the following expressions shall be construed as follows—

"the 1987 Regulations" means the Police Pensions Regulations 1987

"the 2006 Regulations" means the Police (Injury Benefit) Regulations 2006;

"adult survivor" has the meaning assigned to it by regulation 14(1);

"aggregate pension contributions", for the purpose of calculating an award, has the meaning assigned to it by regulation 5(4);

"average pensionable pay" has the meaning assigned to it by regulation 5(2);

"board of medical referees" has the meaning assigned to it by paragraph 3 of Schedule 6;

"child survivor" has the meaning assigned to it by regulation 17;

"disablement" and cognate expressions have the meanings assigned to them by regulation 9;

"home police force" means any police force within the meaning of the Police Act 1996(a);

"husband" includes wife;

"infirmary" has the meaning assigned to it by regulation 9;

"injury" includes any injury or disease, whether of body or of mind;

"loss of earning capacity" means the degree to which a person's earning capacity has been affected by a qualifying injury";

"member of a police force" includes—

- (a) the commissioner of police for the City of London;
- (b) an inspector of constabulary; and
- (c) a police officer engaged on relevant service;

"overseas corps" means any body in which persons such as are mentioned in section 1(1) of the Police (Overseas Service) Act 1945(b) are serving and in relation to which regulations made under section 1(2) of that Act have been made;

"overseas policeman" means—

- (d) a member of an overseas corps, or
- (e) an officer to whom section 10 of the Overseas Development and Co-operation Act 1980(a) or the Overseas Service Act 1958(b) applies or applied and whose service as

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(a) 1996 c.16.

(b) 1945 c.17.

such an officer is or was for the time being service in respect of which section 11 of the said Act of 1980 or section 5 of the said Act of 1958 has or had effect;

“overseas service” means service as an overseas policeman;

“pensionable pay” has the meaning assigned to it by regulation 5(1);

“the Pensions (Increase) Acts” means the Pensions (Increase) Act 1971(c) and the Pensions (Increase) Act 1974(d);

“public holiday” means Christmas Day, the 26th December (if it falls on a Saturday or Sunday), the 1st January (if it so falls), Good Friday or a bank holiday;

“qualifying injury” has the meaning assigned to it by regulation 7(1);

“regular police officer” or “regular policeman” means—

(f) a member of a home police force;

(g) an inspector of constabulary; and

(h) a police officer engaged on relevant service and any other overseas policeman;

“the Scheme actuary” means the actuary for the time being appointed by the Secretary of State to provide a consulting service on actuarial matters relevant to these Regulations;

“step-child” includes a person who is the child of the civil partner or other adult partner of the member of a police force concerned, but is not the child of that member;

“widow” includes widower;

“wife” includes husband.

### SCHEDULE 3

Regulation 11(2)

#### INJURIES NOT SUBJECT TO TIME LIMIT FOR CLAIMS

Where a person has received an injury of a kind listed below, regulation 11(1) shall not prevent an award being made under these Regulations—

- end stage HIV infection
- Other blood-borne viruses e.g. Hepatitis C
- Cancer
- Post Traumatic Stress Disorder
- Brain Injuries

### SCHEDULE 4

Regulation 12(3)

#### POLICE OFFICER’S INJURY AWARD

1. A gratuity under regulation 12 shall be calculated by reference to the person’s loss of earning capacity and his average pensionable pay and shall be—

- (a) in the case of a police officer all of whose service by virtue of which his pensionable service is reckonable was full-time, the amount specified as appropriate to his loss of earning capacity in column (2) of the Table in paragraph 3, and

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(a) 1980 c.63.  
(b) 1958 c.14.  
(c) 1971 c.56.  
(d) 1974 c.9.

- (b) in the case of a police officer any of whose service by virtue of which his pensionable service is reckonable was part-time, the amount given by the formula—

$$\frac{G \times R}{Q}$$

where—

G is the amount that the gratuity would be if all the service were full-time service,

R is the period in years of his pensionable service, and

Q is the period that would be the period in years of his pensionable service if periods of part-time service were reckonable as if they were periods of full-time service.

2. If in a case where any of the police officer's service by virtue of which his pensionable service is reckonable was part-time service, the amount of the gratuity calculated in accordance with paragraph 1 would be less than it would have been if the person had become entitled to receive the gratuity at an earlier date, then that amount shall be substituted for it.

3. An injury related income supplement shall be calculated by reference to the person's loss of earning capacity, his average pensionable pay and his age at the time when the pension is calculated or re-calculated, and, subject to the following paragraphs, shall be—

- (a) in the case of a police officer all of whose service by virtue of which his pensionable service is reckonable was full-time, of the amount of his minimum income guarantee specified as appropriate to his loss of earning capacity in column (3) or (4) of the following Table, and
- (b) in the case of a police officer any of whose service by virtue of which his pensionable service is reckonable was part-time, of the amount given by the formula—

$$\frac{M \times R}{Q}$$

where—

M is the amount that his minimum income guarantee would be if all the service were full-time service and R and Q are the same as in paragraph 1;

<i>(1) Loss of earning capacity</i>	<i>(2) Gratuity expressed as % of average pensionable pay</i>	<i>(3) Minimum income guarantee expressed as % of average pensionable pay (aged under 65 years)</i>	<i>(4) Minimum income guarantee expressed as % of average pensionable pay (aged 65 years or over)</i>
10% or less (very slight loss)	12.5%	0%	0%
More than 10% but not more than 25% (slight loss)	12.5%	25%	12.5%
More than 25% but not more than 50% (minor loss)	25%	50%	25%
More than 50% but not more than 75% (major loss)	37.5%	75%	37.5%

More than 75% (severe loss)	50%	85%	50%
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4. If in a case where any of the police 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 paragraph 3 would be less than it would have been if the person had become entitled to receive the pension at an earlier date, then that amount shall be substituted for it.

5. In paragraphs 2, 3 and 4, references to a person's pensionable service shall in the case of a regular police officer who has made an election under regulation G4(1) of the 1987 Regulations be construed as references to the service which would have been reckonable by him if he had not made such an election.

6.—(1) The amount of an injury related income supplement, calculated as aforesaid, shall be reduced, where the person concerned received the relevant injury (within the meaning of regulation 12) during a period of service as a regular police officer, by three-quarters of any other pension calculated by reference to Schedule B to the 1987 Regulations.

(2) For the purposes of sub-paragraph (1), such other pension as is there mentioned which is reduced—

- (a) in accordance with the provisions of regulation B7 or B9 (commutation and allocation) of the 1987 Regulations;
- (b) in accordance with the provisions of Part VIII of Schedule B (reduction related to up-rating of widow's pension) to the 1987 Regulations; or
- (c) by virtue of a pension debit,

shall be deemed not to have been so reduced.

(3) In the case of a regular police officer who has made an election under regulation G4(1) of the 1987 Regulations, sub-paragraph (1) shall have effect as if for the reference to three-quarters of any other pension calculated by reference to pensionable service reckonable by reason of that period of service there were substituted a reference to the amount of any other pension which would have been so calculated had he not made such an election.

7.—(1) The amount of the injury pension in respect of any week, calculated as aforesaid, shall be reduced on account of any such additional benefit as is mentioned in sub-paragraph (3) to which the person concerned is entitled in respect of the same week and, subject to sub-paragraph (2), the said reduction shall be of an amount equal to that of the additional benefit or, in the case of benefit mentioned in sub-paragraph (3)(a) or (b), of so much thereof as is there mentioned.

(2) Where the provisions governing scales of additional benefits have changed after the person concerned ceased to be a member of a police force, the amount of the reduction in respect of any week on account of a particular benefit shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed, it being assumed, in the case of such benefit as is mentioned in sub-paragraph (3)(a)(ii), that it would have borne the same relationship to the former maximum amount thereof.

(3) The following benefits are the additional benefits referred to in this paragraph—

- (a) any industrial injuries benefit under section 94 of the Social Security Contributions and Benefits Act 1992(a) in respect of the relevant injury or so much of any such pension as relates to that injury (referred to in this sub-paragraph as the relevant part of the pension), together with—
  - (i) any increase in such pension by way of unemployability supplement under Part 1 of Schedule 7 to that Act or so much of any such increase as is proportionate to the relevant part of that pension so, however, that where the person concerned is entitled

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(a) 1992 c.4.

to an unemployability supplement which is increased under Part 1 of the said Schedule, the unemployability supplement shall be deemed not to have been so increased,

- (ii) any increase in such pension under section 94 of that Act (reduced earnings allowance) or so much of any such increase as is proportionate to the relevant part of that pension, and
  - (iii) so long as the person concerned is receiving treatment as an in-patient at a hospital as a result of the relevant injury, any increase in such pension under Part 3 of Schedule 7 to that Act (hospital treatments);
- (b) any reduced earnings allowance under section 94 of that Act in respect of the relevant injury or so much of any such allowance as relates to that injury;
- (c) until the first day after his retirement which is not, or is deemed not to be, a day of incapacity for work within the meaning of section 30A, or, as the case may be, a day on which he is incapable of work within the meaning of sections 68 and 69, of that Act—
- (i) any incapacity benefit under section 30A of that Act,
  - (ii) any severe disablement allowance under sections 68 and 69, including, in each case, any increase under any provision of Part 4 of that Act (dependants).

(4) Where a person has become entitled to a disablement gratuity under Part 2 of Schedule 7 to the Social Security Contributions and Benefits Act 1992 in respect of the relevant injury, this paragraph shall have effect as if he were entitled during the relevant period to a disablement pension of such amount as would be produced by converting the gratuity into an annuity for the said period.

In this sub-paragraph the expression “the relevant period” means the period taken into account, in accordance with section 94 of that Act, for the purpose of making the assessment by reference to which the gratuity became payable.

**8.** No payment shall be made in respect of an injury pension for any week in which the aggregate reductions under paragraphs 6 and 7 exceed the amount of the pension calculated in accordance with paragraph 3.

**9.** In a case where—

- (a) a former police officer was in part-time service before the date on which the Police Pensions (Part-time Service) Regulations 2005(a) came into force, and
- (b) the amount of his award calculated in accordance with this Schedule would be less than it would have been if those Regulations had not been made,

then the award shall be of that amount instead.

## SCHEDULE 5

Regulation 19(3)

### ADULT DEPENDENT RELATIVE’S SPECIAL PENSION

**1.** Subject to paragraphs 2, 3 and 4, an adult dependent relative’s special pension shall be of a weekly amount equal to 45% of the average pensionable pay for a week of the member of a police force in respect of whose death it was granted (“the deceased”).

**2.** In respect of any week in respect of which there are payable in respect of the deceased’s death both—

- (a) an adult survivor’s special pension, and
- (b) an adult dependent relative’s special pension,

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(a) S.I. 2005/1439; the Regulations came into force on 22nd June 2005.

the adult dependent relative's special pension mentioned in sub-paragraph (b) shall not be of the amount mentioned in paragraph 1 but, subject to paragraphs 3 and 4, of an amount equal to 20% of the deceased's average pensionable pay for a week.

3. The amount of an adult dependent relative's special pension determined in accordance with paragraph 1 or 2 shall be increased in accordance with regulation 28 (increase by reference to the Pensions (Increase) Acts).

4.—(1) Where in respect of any week the aggregate amount of—

- (a) any adult survivor's special pension, and
- (b) any child survivor's special allowance,

payable in respect of the deceased's death equals or exceeds the amount of the deceased's average pensionable pay for a week, no adult dependent relative's special pension shall be payable in respect of that week.

(2) Where in respect of any week the aggregate amount of—

- (a) any adult survivor's special pension,
- (b) any child survivor's special allowance, and
- (c) any adult dependent relative's special pension,

payable in respect of the deceased's death would exceed the amount of the deceased's average pensionable pay for a week, the adult dependent relative's special pension shall be reduced by such factor as will ensure that that aggregate does not exceed that amount.

(3) For the purposes of this paragraph any increase in a pension or allowance in accordance with regulation 29 (increase by reference to the Pensions (Increase) Acts) shall be ignored.

## SCHEDULE 6

Regulation 30(1)

### MEDICAL APPEALS

1. Every notice of appeal under regulation 30(1) and statement of grounds under regulation 30(2) shall be in writing.

2. On receiving a notice of appeal against a report issued under regulation 29 and the appellant's statement of grounds for appeal, the police authority, unless regulation 31(2) applies, shall forward to the Secretary of State and a board of medical referees copies of those documents and all other documents determined as necessary by the Secretary of State.

3.—(1) The board of medical referees shall consist of not less than three medical practitioners appointed by, and in accordance with, arrangements approved by the Secretary of State, provided that—

- (a) at least one member of the board of medical referees shall be a specialist in a medical condition relevant to the appeal;
- (b) one member of the board of medical referees will be appointed chairman; and
- (c) where there is an equality of voting among members of the board of medical referees, the chairman shall have a second or casting vote.

(2) The board of medical referees shall appoint a time and place for hearing the appeal, at which it may interview or examine the appellant, and for any such further hearings as it may consider necessary and shall give not less than two months notice, or such shorter period as the police authority and appellant may agree, thereof to the appellant and police authority.

(3) The police authority and the appellant shall, not less than 35 days (including weekends and public holidays) before the date appointed for the hearing, inform the board of medical referees whether they intend to be represented at the hearing.



**4.—**(1) Where either party to the appeal intends to submit written evidence or a written statement at a hearing arranged under paragraph 3 that party shall, subject to sub-paragraph (2), submit it to the board of medical referees and the other party not less than 35 days before the date appointed for the hearing.

(2) Where any written evidence or statement has been submitted under sub-paragraph (1), any written evidence or statement in response may be submitted by the other party to the board of medical referees and the party submitting the first-mentioned evidence or statement at any time not less than seven days before the date appointed for the hearing.

(3) The board of medical referees may postpone or adjourn the date appointed for the hearing where any written evidence or statement is submitted in contravention of sub-paragraph (1) or (2) or it appears necessary to do so for the proper determination of the appeal.

(4) References in sub-paragraphs (1) and (2) to periods of days shall include weekends and public holidays.

**5.—**(1) Any hearing (including any examination) may be attended by—

(a) the selected medical practitioner; and

(b) a duly qualified medical practitioner appointed for the purpose by the appellant,

although they may only observe any examination.

(2) If the selected medical practitioner does not attend any examination then a duly qualified medical practitioner appointed for that purpose by the police authority may attend the examination as an observer.

(3) If any hearing includes an examination then only medical practitioners may be present for that part of the hearing.

**6.** The board of medical referees shall supply the police authority, the appellant and the Secretary of State with a written statement of its decision. Where the board of medical referees disagrees with any part of the selected medical practitioner's report, the board of medical referees shall supply a revised report.

**7.—**(1) There shall be paid to the board of medical referees—

(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.

(2) Any fees and allowances payable to the board of medical referees under sub-paragraph (1) shall, subject to paragraph 8(5), be paid by the police authority and shall be treated as part of the expenses of the police authority for the purposes of this Schedule.

**8.—**(1) Save as provided in this paragraph, the expenses of each party to the appeal shall be borne by that party.

(2) Where a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the police authority less than 11 days before the hearing (excluding weekends and public holidays) the board of medical referees shall require the police authority 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 hearing as the case may be.

(3) Where the board of medical referees determines that a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the appellant, less than 11 days before the hearing (excluding weekends and public holidays) the police authority may, subject to sub-paragraph (4), 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 authority thinks fit.

(4) If the board of medical referees, 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 cancellation, adjournment or postponement as the case may be, it shall state that this is the case and the police authority shall not require the payment of any such costs.

(5) Where the board of medical referees decides in favour of the police authority and reports that in its opinion the appeal was frivolous or vexatious, the authority may, subject to sub-paragraph (6), require the appellant to pay towards the cost of the appeal such sum not exceeding the board of medical referees' total fees and allowances as the authority thinks fit.

(6) If the board of medical referees, 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, it shall state that this is the case and the police authority shall not require the payment of any such costs.

(7) Where the board of medical referees decides in favour of the appellant, the police authority shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending any such hearing as is mentioned in paragraph 3.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*