STATUTORY INSTRUMENTS

1971 No. 1330

PENSIONS

The Increase of Pensions (Police and Fire Services) Regulations 1971

Made - - - -	*9th August* 1971
Laid before Parliament	*19th August* 1971
Coming into Operation	*1st September* 1971

In exercise of the powers conferred on me by section 5(3) of the Pensions (Increase) Act 1971(a), I hereby, with the consent of the Minister for the Civil Service, make the following Regulations:—

Citation

1. These Regulations may be cited as the Increase of Pensions (Police and Fire Services) Regulations 1971.

Operation

2. These Regulations shall come into operation on 1st September 1971.

Interpretation

3.—(1) Any reference in these Regulations to any enactment or instrument shall be construed as including a reference to that enactment or instrument as amended by or under any other enactment or instrument.

(2) Any reference in any of these Regulations to a paragraph or to a Regulation shall be construed, unless the context otherwise requires, as a reference to a paragraph of that Regulation or, as the case may be, to a Regulation contained in these Regulations.

(3) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"the Firemen's Pension Scheme" means a scheme from time to time in force under section 26 of the Fire Services Act 1947(b);

"pension" includes an allowance;

"the Police Pensions Regulations" means the Regulations from time to time in force under the Police Pensions Act 1948(c);

(a) 1971 c. 56.
(b) 1947 c. 41.
(c) 1948 c. 24.

"the Police Cadets (Pensions) Regulations" means the Regulations from time to time in force under section 35 of the Police Act 1964(a) or under section 27 of the Police (Scotland) Act 1967(b);

"the principal Act" means the Pensions (Increase) Act 1971;

"the Special Constables (Pensions) Regulations" means the Regulations from time to time in force under section 34 of the Police Act 1964 or section 26 of the Police (Scotland) Act 1967.

Pensions reduced on account of additional benefit

4.—(1) This Regulation shall apply to a pension payable in accordance with—

(*a*) the Police Pensions Regulations;

(*b*) the Special Constables (Pensions) Regulations;

(*c*) the Police Cadets (Pensions) Regulations, or

(*d*) the Firemen's Pension Scheme,

which is reduced in amount or is not payable on account of the payment of some additional benefit.

(2) Subject to paragraphs (6) and (7), in relation to a pension to which this Regulation applies, the basic rate, the 1969 standard and the 1971 rate shall be calculated (where Regulation 5 applies, having regard to paragraphs (3) and (4) thereof) as if no additional benefit were payable and there shall be construed accordingly—

(*a*) the reference to the annual rate on 31st August 1971 in section 6(3) of the principal Act, and

(*b*) the reference to the annual rate in the definition of the expression "basic rate" in section 17(1) of the principal Act.

(3) Subject to paragraphs (6) and (7), where the permitted reduction in the amount of a pension to which this Regulation applies exceeds—

(*a*) the 1969 standard or the 1971 rate, whichever is the greater, in the case of a pension which began before the year 1969, or

(*b*) the basic rate of the pension in any other case,

(having regard to the provisions of these Regulations and, in particular, to paragraph (5)) section 1 of the principal Act shall have effect as if it were provided therein that the increase payable thereunder should be reduced by the excess.

(4) Subject to paragraph (6), where the permitted reduction in the amount of a pension to which this Regulation applies exceeds the basic rate of the pension as authorised to be increased as mentioned in subsection (6) of section 2 of the principal Act (having regard to the provisions of these Regulations and, in particular, to paragraph (5)) the said section 2 shall have effect as if it were provided therein that any increase provided for by an order thereunder should be reduced by the excess.

(a) 1964 c. 48. (b) 1967 c. 77.

(5) For the purposes of paragraphs (3) and (4), without prejudice to paragraph (2), in determining the 1971 rate of the pension and in determining the basic rate of the pension as authorised to be increased as mentioned in paragraph (4) (in so far as that rate depends upon the 1971 rate) there shall be disregarded—

(*a*) any relevant increase (within the meaning of section 6 of the principal Act) payable to the pensioner on 31st August 1971 by reason that he had attained the age of 70 on or before that date, and

(*b*) the provisions of section 6(5) of the principal Act.

(6) If the modifications of the principal Act contained in paragraph (3) or, as the case may be, in paragraph (4) (in either case read with paragraphs (2) and (5)) would result in the increase of a pension under section 1, or the increase of a pension provided for by an order under section 2, being less than it would have been but for the modifications in question, then, for the purpose of calculating that increase, the said modifications shall not apply.

(7) If, in the case of a pension to which this Regulation applies, increases were in payment under the Pensions (Increase) Act 1956(**a**) or the Pensions (Increase) Act 1959(**b**) on 31st August 1971 and the increase of that pension under section 1 of the principal Act is less than those increases, the said section 1 shall, notwithstanding anything in the preceding provisions of this Regulation, have effect subject to such modifications as will secure that the increase thereunder is not less than those which would have been payable under the said Acts of 1956 and 1959 had the principal Act not been enacted.

(8) In this Regulation the expression "additional benefit" means—

(*a*) any benefit payable under the National Insurance Act 1965(**c**) together with any supplement thereto payable under section 2 of the National Insurance Act 1966(**d**);

(*b*) any benefit payable under the National Insurance (Industrial Injuries) Act 1965(**e**) together with any supplement payable therewith under the said section 2;

(*c*) any armed forces pension payable in pursuance of any Royal Warrant or other instrument;

(*d*) any family allowances payable under the Family Allowances Act 1965(**f**); or

(*e*) any payment of whatever nature, other than a pension payable as mentioned in paragraph (1) of this Regulation, which is made to the pensioner by a fire authority, by any other local authority or by a Minister of the Crown,

and the expression "permitted reduction" means the amount (expressed as an annual rate) by which a pension would fall to be reduced on account of the payment of additional benefit if the reduction were not limited by the size of the pension.

Police, special constabulary and police cadet supplemental pensions

5.—(1) This Regulation shall apply where a supplemental pension is payable in accordance with—

(*a*) the Police Pensions Regulations;

(*b*) the Special Constables (Pensions) Regulations; or

(*c*) the Police Cadets (Pensions) Regulations

(**a**) 1956 c. 39.
(**b**) 1959 c. 50.
(**c**) 1965 c. 51.
(**d**) 1966 c. 6.
(**e**) 1965 c. 52.
(**f**) 1965 c. 53.

whether or not the pension is reduced in amount or is not payable on account of the payment of some additional benefit within the meaning of Regulation 4.

(2) Section 3(2) of the principal Act shall have effect in relation to such a supplemental pension as if the pensioner had retired on account of physical or mental infirmity.

(3) Where, in accordance with the Regulations mentioned in paragraph (1)(*a*) or (*c*), the pensioner is entitled to some other pension, notwithstanding anything in those Regulations, the provisions of the principal Act and of Regulation 4 shall have effect (where paragraph (4) applies, subject to the provisions thereof) as if the supplemental pension and the other pension constituted separate awards.

(4) Where, in accordance with the Regulations mentioned in paragraph (1)(*a*), the pensioner is entitled to some other pension, for the purpose of ascertaining the 1971 rates of the supplemental and of the other pension under section 6 of the principal Act, the 1971 rate of the other pension shall be ascertained without regard to the supplemental pension but the difference between that rate and the 1971 rate of the combined pensions (where Regulation 4 applies to the supplemental pension, having regard to paragraph (2) thereof) shall be treated as the 1971 rate of the supplemental pension.

Flat-rate fire service pensions

6.—(1) This Regulation shall apply to a flat-rate pension which began, within the meaning of the principal Act, after the year 1943 and which is payable in accordance with—

(*a*) the Firemen's Pension Scheme, where in relation to the pension that Scheme is subject to the modifications set out in section 27(3) of the Fire Services Act 1947;

(*b*) the Fire Brigades Pensions Act 1925**(a)**;

(*c*) the Police Pensions Act 1921**(b)**—

(i) in respect of a person to whom the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations 1941**(c)** applied at the time of his death or retirement; or

(ii) as applied by the Leicester Fire Brigade Provisional Order Confirmation Act 1925**(d)**; or

(iii) as applied by section 80 of the Birmingham Corporation Act 1922**(e)**;

(*d*) the Police Act 1890**(f)**—

(i) as applied by section 13 of the Salford Improvement Act 1893**(g)**; or

(ii) as applied by section 63 of the Bolton Tramways and Improvement Act 1897**(h)**; or

(iii) as applied by section 187 of the Derby Corporation Act 1901**(i)**; or

(iv) as applied by section 50 of the Leicester Corporation Act 1908**(j)**; or

(v) as applied by section 46 of the Birmingham Corporation Act 1914**(k)**;

(a) 1925 c. 47.
(b) 1921 c. 31.
(c) S.R. & O. 1941/1271 (1941 I, p. 328); and *see* S.R. & O. 1945/1649 (1945 I, p. 389).
(d) 1925 c. lxxvi.
(e) 1922 c. lxxvi.
(f) 1890 c. 45.
(g) 1893 c. xxxi.
(h) 1897 c. cxxxiv.
(i) 1901 c. cclxvii.
(j) 1908 c. lvi.
(k) 1914 c. cvi.

(*e*) regulations made under section 8 of the Metropolitan Fire Brigade Act 1865(a);

(*f*) regulations made under section 88 of the West Ham Corporation Act 1925(b).

(2) In relation to a pension to which this Regulation applies, section 8(2) of the principal Act shall have effect as if it provided that the pension should be deemed to have begun during the year 1943.

Fire service widows' and children's augmented awards

7.—(1) This Regulation shall apply to a gratuity payable in accordance with the Firemen's Pension Scheme which is comprised in a widow's augmented award or a child's special gratuity and, in either case, is computed, directly or indirectly, by reference to a rate of emoluments as at the date of the husband's or father's death.

(2) In relation to a gratuity to which this Regulation applies, where the husband or father had ceased to serve before he died, sections 8(2) and 9(2)(*a*) of the principal Act shall have effect as if they provided that the gratuity should be deemed to have begun on the day of his death.

R. Maudling,
One of Her Majesty's Principal
Secretaries of State.

9th August 1971.

Consent of the Minister for the Civil Service given under his Official Seal on 9th August 1971.

(L.S.)

J. E. Herbecq,
Authorised by the
Minister for the Civil Service.

EXPLANATORY NOTE

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

These Regulations provide that the provisions of the Pensions (Increase) Act 1971 shall apply in relation to certain police, special constabulary, police cadet and fire service pensions subject to modifications and adaptations.

Regulation 4 provides that in calculating the basic rate, the 1969 standard and the 1971 rate of a pension (by reference to which the amount of an increase under section 1, or under an order under section 2, of the Act of 1971 is determined)

(a) 1865 c. 90. (b) 1925 c. cxii.

no account shall be taken of reductions in the pension made on account of the payment of certain national insurance and other additional benefits but that, in certain cases, the increase is to be abated on account of such payment.

Regulation 5 provides that where a police or police cadet award comprises a supplemental and some other pension, those pensions are to be increased separately.

Regulation 6 relates to certain flat-rate fire service pensions which are payable at basic rates laid down at various dates before 1944; it provides that they shall be treated (for the purpose of determining entitlement to, and the amount of, increases) as having begun in 1943.

Regulation 7 relates to certain widows' and children's gratuities computed by reference to a rate of emoluments at the date of the husband's or father's death; it provides that they shall be treated (for the like purpose) as having begun on the day of his death.