EXPLANATORY MEMORANDUM

TO THE

POLICE SERVICE OF NORTHERN IRELAND AND POLICE SERVICE OF NORTHERN IRELAND RESERVE (INJURY BENEFIT) (AMENDMENT) (No. 2) REGULATIONS 2024

SR 2024 No. 147

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (detailed above) which has been laid before the Northern Ireland Assembly.

1.2 The Regulations are made under sections 25(1), 25(2)(k), 26(1) and 26(2)(g) of the Police Northern Ireland Act 1998([1]) ("The 1998 Act") and Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972([2]).

1.3 The Regulations are subject to the negative resolution procedure in the Assembly and are due to come into operation on 2 July 2024. The 21-day Rule will be breached in respect of these Regulations. This is considered necessary by the Department in order to ensure that the revocation contained in these Regulations is brought forward as soon as possible and replacement regulations are in place.

2. Purpose of the Instrument

2.1 The purpose of the Regulations is to: -

- place the "Guidance to Medical Practitioners on Injury on Duty Awards" on a statutory footing to ensure a consistent standardised application across all Injury on Duty Applications from the date on which this legislation comes into effect - 2 July 2024;
- revokes the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations 2024 whilst made were not laid and so do not have an S.R. number; and

([1]) 1998 c.32. Sections 25 and 26 are amended by section 78(1) of the Police (Northern Ireland) Act 2000 and section 26 is amended by 49(5) of that Act.
([2]) S. I. 1972/1073(N.I.10). Articles 14 and 15 enable regulations to have a retrospective effect. Article 15(c) was amended by section 74 of and paragraph 6 of Schedule 4 to the 1998 Act

- correct errors as identified by the Examiner of Statutory Rules in the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations 2021 No. 43.

3. Policy Background

3.1 The Department introduces this amendment as a minor policy adjustment to the current injury on duty legislation. Its legislative purpose is to ensure said medical guidance (Guidance to Medical Practitioners on Injury on Duty Awards) used by Selected Medical Practitioners (SMP) and Independent Medical Practitioners (IMR) when assessing injury on duty awards and appeals, across applicants and appellants, is applied fairly, uniformly, and consistently in all cases. This will avoid the potential risk of an SMP or IMR ignoring the guidance and applying their own standards at assessment.

3.2 The Department's view is that by placing the medical guidance (Guidance to Medical Practitioners on Injury on Duty Awards) on a statutory footing will prevent inconsistencies in the methodology applied to future injury on duty assessments and appeals and consequently protect public funding, address issues identified in the Chadwick and Harvison Judicial Review([3]) and the potential for inconsistent awards.

3.3 The Department acknowledges the medical guidance will evolve over time and both the Board and the Department will ensure the applicable version of this medical guidance will always be easily accessible to all parties.

4. Consultation

4.1 In accordance with Section 25(9)(a) of the 1998 Act, the Department of Justice has invited the views of the Police Advisory Board for England and Wales. In accordance with Section 26(6) of the 1998 Act it has consulted both the Board, the Police Association, and the Chief Constable of the Police Service of Northern Ireland.

([3]) IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND (judiciaryni.uk)

4.2 In accordance with section 72(2A) of the 1998 Act, the Department of Finance(4) has consented to the making of these Regulations.

4.3 The draft regulations were issued for consultation from 6 November 2023 to 5 January 2024. After consideration of the responses, a Departmental Consultation Response was published on the 31 May 2024.

5. Equality Impact

5.1. Consideration has been given to compliance with Section 75 of the Northern Ireland Act 1998 and no significant implications for equality issues have been identified by the Department.

6. Regulatory Impact

6.1 The Department does not consider that there is a need for a regulatory impact assessment for this instrument as it has no impact on businesses, charities, or voluntary bodies.

7. Financial Implications

7.1 There are no financial implications arising out of this Statutory Rule.

8. Section 24 of the Northern Ireland Act 1998

8.1 The proposed regulations are considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measures

10.1 Not applicable.

11. Additional Information

11.1 Not applicable.

([4])Departments Act (Northern Ireland) 2016 c.5 (N.I). Section 1(4) renamed as the Department of Finance and Personnel as the Department of Finance.