1964. No. 159 **[NC]**

ULSTER SPECIAL CONSTABULARY

Pensions

REGULATIONS, DATED 28TH SEPTEMBER, 1964, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER THE SPECIAL CONSTABLES ACT 1914, AS EXTENDED AND AMENDED BY THE CONSTABULARY ACT (NORTHERN IRELAND) 1922 AND THE CONSTABULARY (PENSIONS) ACT (NORTHERN IRELAND) 1949.

I, the Right Honourable Robert William Brian McConnell, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by the Special Constables Act 1914(**a**), as extended and amended by section 8 of the Constabulary Act (Northern Ireland) 1922(**b**) and by section 4(4) of the Constabulary (Pensions) Act (Northern Ireland) 1949(**c**), and of all other powers enabling me in that behalf, do hereby make the following Regulations:—

Citation

1. These Regulations may be cited as the Ulster Special Constabulary Pensions (Amending) (No. 2) Regulations 1964, and shall be construed as one with the Ulster Special Constabulary Pensions Regulations 1950 to 1964, and those Regulations and these Regulations may be cited together as the Ulster Special Constabulary Pensions Regulations 1950 to 1964.

Commencement

2. These Regulations shall come into operation on 1st October, 1964, and shall have effect from 1st August, 1964.

Interpretation

3. In these Regulations, unless the contrary intention appears, a reference to a Regulation or a Schedule shall be interpreted as a reference to a Regulation or a Schedule in or to the Ulster Special Constabulary Pensions Regulations 1950(**d**).

AMENDMENTS OF THE REGULATIONS

4. In Regulation 4(3) (which relates to a member's supplemental pension) for the words "Regulation 13C, of Regulation 53" there shall be substituted the words "Regulation 13C, 13D or 53".

5. In Regulation 13C(1) (which relates to the commutation of part of a pension) for the words "who has served on or after the 1st April, 1958" there shall be substituted the words "who retires or retired on or after 2nd April, 1958, but before 1st August, 1964".

6. After Regulation 13C there shall be inserted the following Regulation:—

"New provisions as to commutation of part of a pension

13D.—(1) This Regulation shall apply to a permanent member to whom Regulations 9, 10, 11 and 12 apply who retires on or after 1st August, 1964.

(**a**) 4 & 5 Geo. 5. c. 61.
(**b**) 12 & 13 Geo. 5. c. 8 (N.I.).
(**c**) 1949. c. 9.
(**d**) S.R. & O. (N.I.) 1950, No. 97.

(2) A member to whom this Regulation applies may, in accordance with the provisions thereof, commute for a lump sum a portion of any pension, other than a supplemental pension, to which he is or may become entitled, provided, in the case of an ordinary pension, that he retires or retired either when entitled to reckon at least 30 years' pensionable service or in the circumstances mentioned in Regulation 11(1).

(3) For the purpose of commuting a portion of his pension a person shall give notice in writing (in this Regulation called 'notice of commutation') to the Ministry of his wish to surrender and commute for a lump sum such portion of his pension, not exceeding a quarter of the pension which would be payable but for the provisions of Regulation 53, as (subject to the limitation contained in Regulation 53A) he may specify.

(4) The notice of commutation shall be given by a person not earlier than 2 months before his intended retirement nor later than 6 months after his retirement.

(5) The notice of commutation given by a person shall become effective—

(*a*) as from the date of his retirement; or

(*b*) as from the date on which the notice is received by the Ministry, whichever is the later:

Provided that the notice of commutation shall not become effective if—

(i) it was given more than 2 months before his retirement, or

(ii) it relates to an ill-health pension which has sooner been terminated under Regulation 39.

(6) Where a person retires or has retired and a notice of commutation given by him becomes or has become effective, the Ministry shall reduce the pension to which the notice relates in accordance with the notice as from the time from which the notice is effective and shall pay to him a lump sum of such amount as is the actuarial equivalent of the surrendered portion of the pension at the date of his retirement, calculated from tables prepared by the Ministry:

Provided that where the notice is effective as from the date mentioned in paragraph (5)(*b*), the lump sum shall be reduced by an amount equal to the difference between the aggregate payments made in respect of the pension and the aggregate payments which would have been so made had it been reduced from the date of the retirement.

(7) Where an ill-health pension is terminated under Regulation 39, after a notice of commutation in relation to the pension has become effective, and if thereafter the person concerned becomes entitled to a pension, other than a supplemental pension, and is entitled to reckon for the purposes thereof the period of pensionable service reckonable for the purposes of the ill-health pension first mentioned in this paragraph, the other pension shall be reduced by the amount by which the ill-health pension would have been reduced if it had not been terminated as aforesaid.

(8) Where a person wishes to surrender and commute for a lump sum a portion of a pension which falls to be reduced under paragraph (7), he shall not specify in the notice of commutation a portion of the pension which, when aggregated with the said reduction, exceeds a quarter of the

pension which would be payable but for the provisions of paragraph (7) and of Regulation 53."

7. For Regulation 16 (which relates to widows' special pensions) there shall be substituted the following Regulation:—

"Widow's special pension

16.—(1) This Regulation shall apply to a widow of a member who dies or has died on or after 5th July, 1948, as the result of an injury received in the execution of his duty as a member which is not wholly or mainly due to his own serious and culpable negligence or misconduct.

(2) A widow to whom this Regulation applies shall be entitled to a widow's special pension.

(3) Without prejudice to Regulation 16A(2), a widow's special pension shall be calculated in accordance with Parts III and IX of the Second Schedule."

8. After Regulation 16 there shall be inserted the following Regulation:—

"Widow's augmented award where husband's death results from an attack or injury received in effecting an arrest, etc.

16A.—(1) This Regulation shall apply to a widow of a member whose death is the result of an injury received in the execution of his duty as a member which is not wholly or mainly due to his own serious and culpable negligence or misconduct and where—

(*a*) he was attacked by a person or persons in a manner which, in the opinion of the Ministry, was intrinsically likely to cause death and death ensued on or after 5th July, 1948, as a result of the attack, or

(*b*) the injury was received in the course of duties performed, in the opinion of the Ministry, for the immediate purpose of effecting an arrest or of preventing an escape or rescue from legal custody and death ensued on or after 1st August, 1964.

(2) A widow's special pension payable to a widow to whom this Regulation applies shall be calculated in accordance with Parts VII and IX of the Second Schedule in respect of any week for which the amount of the pension so calculated is greater than the amount calculated in accordance with Parts III and IX of the said Schedule.

(3) A widow to whom this Regulation applies whose husband dies on or after 1st August, 1964, shall be entitled to a gratuity, as hereinafter provided, in addition to a widow's special pension.

(4) The gratuity under paragraph (3) shall be of an amount equal to twice the annual pensionable pay (at the date of the death of the person in respect of whom the gratuity is payable) appropriate to a man holding the rank of a special constable in the force and entitled to reckon 30 years' service for the purposes of pay."

9. After Regulation 26 there shall be inserted the following Regulation:—

"Child's gratuity where parent dies as a result of an attack or injury received in effecting an arrest, etc.

26A.—(1) This Regulation shall apply to a child of a member who dies on or after 1st August, 1964, in the circumstances mentioned in Regula-

tion 16A(1) and does not leave a widow entitled to a gratuity under Regulation 16A(3):

Provided that this Regulation shall apply to a child who at the date of the parent's death has attained the age of 16 years only if at that date the child has not attained the age of 19 years and either is undergoing full-time education or is an apprentice.

(2) A child to whom this Regulation applies shall be entitled to a gratuity, as hereinafter provided, in addition to a child's special allowance.

(3) The gratuity under paragraph (2) shall be of the like amount as a widow's gratuity under Regulation 16A(3) except that, where two or more gratuities are payable under paragraph (2) in respect of the death of the same person, each gratuity shall be of the said amount divided by the number of such gratuities."

10. In Regulation 29 (which contains limitations on a child's entitlement to an allowance) after the word "allowance", in the three places where it occurs, there shall be inserted the words "or gratuity".

11. For Regulation 34(2) (which provides that certain gratuities shall be ignored for the purposes of the provision preventing double entitlement to awards) there shall be substituted the following provision:—

"(2) For the purposes of this Regulation a gratuity granted under paragraph 16A(3) or 26A(2) or substituted for part of a widow's pension or child's allowance under Regulation 18 or 28, as the case may be, shall be ignored."

12. For Regulation 47(4) (which relates to the payment of gratuities) there shall be substituted the following provision:—

"(4) A gratuity payable under these Regulations shall become payable as soon as the entitlement arises and shall be payable in one sum:

Provided that—

(*a*) in the case of a gratuity under Regulation 16A or 26A the Ministry may, pending the determination of any claim under the Criminal Injuries (Ireland) Acts for compensation in respect of the death of the member, defer payment or make such payment on account as they think fit; and

(*b*) where the Ministry 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 amount and over such reasonable period as they think fit."

13. For Regulation 53 (which relates to the allocation of part of a pension) there shall be substituted the following Regulation:—

"Allocation of part of a pension

53.—(1) This Regulation shall apply to a permanent member to whom Regulations 9, 10, 11 and 12 apply and who retires or retired on or after 2nd April, 1958.

(2) A member to whom this Regulation applies and who is entitled to reckon not less than 25 years' pensionable service may, in accordance with the provisions thereof, allocate a portion of any pension other than a

supplemental pension to which he may become entitled and, notwithstanding that he has already allocated a portion of such a pension, he may—

(*a*) allocate a further portion of that pension in favour of the beneficiary of the previous allocation; or

(*b*) where that beneficiary has died, allocate a further portion of that pension in favour of some other beneficiary.

(3) A member to whom this Regulation applies, may, in accordance with the provisions thereof, allocate a portion of a short service pension.

(4) For the purpose of allocating a portion of his pension a person shall—

(*a*) give notice in writing (in this Regulation called 'notice of allocation') to the Ministry, stating—

(i) his wish to surrender such portion of his pension as, subject to the limitations contained in paragraph (5) and in Regulation 53A, he may specify;

(ii) the person in whose favour the surrender is to take effect (in this Regulation called 'the beneficiary'), being his wife or some other person who the Ministry are satisfied is substantially dependent on him;

(iii) in the case of an allocation by a person entitled to reckon not less than 25 years' pensionable service, whether the notice of allocation is to become effective in accordance with (*a*) or (*b*) of paragraph (6); and

(*b*) satisfy the Ministry of his good health and for that purpose submit himself to such medical examination as the Ministry may require.

A person shall give notice of allocation before he retires, but except where, in such case as is mentioned in (*a*)(iii) of this paragraph the notice of allocation is to become effective in accordance with paragraph (6)(*a*), the notice shall be given not earlier than 2 months before the person's intended retirement.

(5) The total portion of a pension which may be surrendered by a person under this Regulation shall not exceed a third of the pension which would be payable in his case but for the provisions of this Regulation, of Regulation 13C, of Regulation 13D and of Part V of the First Schedule.

(6) Where a person has complied with the provisions of paragraph (4)(*a*) and (*b*) the Ministry shall forthwith send to him a written notification that they have accepted the notice of allocation, which shall become effective—

(*a*) in the case of an allocation by a person who was entitled to reckon not less than 25 years' pensionable service when he gave the notice of allocation and stated therein that the notice should become effective in accordance with this paragraph—

(i) as from the time when the notification is received by him or, if sent by post, as from the time when it would be delivered to him in the ordinary course of post, or

(ii) as from the date of his retirement,

whichever is the earlier;

(*b*) in any other case, if, and only if, he retires within 2 months of giving the notice of allocation and in such case as from the date of retirement.

(7) Where a person retires or has retired and a notice of allocation given by him becomes or has become effective—

(*a*) the pension to which the notice relates shall be reduced in accordance with the notice as from the date from which it is payable (notwithstanding the death before that date of the beneficiary specified in the notice); and

(*b*) the Ministry shall, as from the person's death, pay to the beneficiary specified in the notice, if that person survives him, a pension of such amount as is the actuarial equivalent of the surrendered portion of the pension so specified.

(8) For the purposes of paragraph (7)(*b*) the actuarial equivalent of the surrendered portion of the pension shall be calculated from the tables prepared by the Ministry and in force at the time when the notice of allocation became effective, which tables shall—

(*a*) take account of the age of the member and of the age of the beneficiary at that time; and

(*b*) make different provision according to whether the notice of allocation became effective in accordance with (*a*) or (*b*) of paragraph (6);

and separate calculations shall be made in respect of separate allocations.

(9) Where a person was entitled to reckon at least 25 years' pensionable service when he gave the notice of allocation and stated therein that it should become effective in accordance with (*a*) of paragraph (6), then, if he dies or died before retiring, the Ministry shall pay to the beneficiary the like pension as they would have paid by virtue of that notice if he had retired immediately before he died.

(10) Where under the provisions of Regulation 53 as originally made, the pension of a member has been reduced with effect from a date earlier than 2nd April, 1958, as a result of his having given notice of intention to surrender a portion thereof, his pension and the pension of the person nominated by him shall be determined in accordance with those provisions.

(11) Any reference in these Regulations to a widow's pension, however expressed, shall be construed as excluding a reference to a pension payable to a widow under this Regulation."

14. In Regulation 53A (which limits the right to commute or allocate part of a pension) after the words "Regulation 13C" there shall be inserted the words "or 13D".

Dated this 28th day of September, 1964.

R. W. B. McConnell,
Minister of Home Affairs
for Northern Ireland.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations make certain changes in the Ulster Special Constabulary pension scheme, the changes being effected by amendments of the Ulster Special Constabulary Pensions Regulations 1950, the principal Regulations relating to the scheme.

Regulation 6 introduces new arrangements for the commutation of part of a pension for a lump sum. The principal changes are (1) the permanent member concerned no longer has to satisfy the Ministry of his good health, and (2) the proportion of his pension which may be commuted, subject to certain provisions, is increased from a sixth to a quarter. Regulations 4, 5 and 14 contain incidental and consequential provisions.

Under the scheme as it is at present a widow of a member is entitled to a pension payable at a special rate if her husband dies as a result of an attack intrinsically likely to cause death. Regulation 8 provides that the widow shall also be entitled to this special rate if, on or after 1st August, 1964, her husband dies as a result of an injury received in the course of effecting an arrest or of preventing an escape or rescue from legal custody. It also provides that where death occurs on or after 1st August, 1964, as a result of such an attack or injury the widow shall be entitled not only to a pension at the special rate but also to a gratuity of an amount equal to twice the annual pay applicable to a special constable with 30 years' service. Regulation 9 provides that the like amount shall be payable by way of gratuities to the children of a member who dies in these circumstances but does not leave a widow. Such a child's gratuity is payable in addition to a child's special allowance. Regulations 7, 10, 11 and 12 contain incidental and consequential amendments.

Regulation 13 introduces new arrangements for the allocation of part of a pension in favour of a dependant. The principal change is to permit a member who has already allocated a part of his pension to allocate a further part in favour of another dependant if the beneficiary of the first allocation dies.

1964. No. 160

As this Order has been classified as local it is not printed at length in this volume. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading GAS.

1964. Nos. 161, 162, 163

These Orders have been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. Summaries are given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.