1961. No. 177 **[NC]**

ULSTER SPECIAL CONSTABULARY: PENSIONS

REGULATIONS, DATED 3RD AUGUST, 1961, MADE BY THE MINISTER 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 Brian Faulkner, 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 eight of the Constabulary Act (Northern Ireland), 1922(**b**), and by sub-section (4) of section four 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, 1961, and shall be construed as one with the Ulster Special Constabulary Pensions Regulations, 1950 to 1961, and those Regulations and these Regulations may be cited together as the Ulster Special Constabulary Pensions Regulations, 1950 to 1961.

Interpretation

2.—(1) In these Regulations, unless the contrary intention appears, a reference to a regulation shall be interpreted as a reference to a regulation in the Ulster Special Constabulary Pensions Regulations, 1950(**d**), and a reference to a Schedule shall be interpreted as a reference to a Schedule to the said Regulations.

(2) In these Regulations the expressions "1951 Regulations(**e**)", "1952 Regulations(**f**)" and "1956 Regulations(**g**)" mean the Ulster Special Constabulary Pensions (Amending) Regulations made in the year mentioned. The expression "1954 Regulations" means the Ulster Special Constabulary Pensions (Amending) Regulations, 1954(**h**), and the expression "1959 (No. 2) Regulations" means the Ulster Special Constabulary Pensions (Amending) (No. 2) Regulations, 1959(**i**).

Amendments of the Regulations

3. For paragraph (1) of Regulation 1 as amended by Regulation 1 of the 1954 Regulations there shall be substituted the following paragraph:—

"(1) Where a person becomes permanently disabled in consequence of an injury which he received in the execution of his duty as a member, or as a member of the Royal Ulster Constabulary before transfer to the force, and which was not wholly or mainly due to his own serious and culpable negligence or misconduct, he shall, subject to the provisions of these Regulations, be entitled to an award—

(*a*) if he is a member, with effect from his retirement; or

(**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.
(**e**) S.R. & O. (N.I.) 1951, No. 123.
(**f**) S.R. & O. (N.I.) 1952, No. 157.
(**g**) S.R. & O. (N.I.) 1956, No. 75.
(**h**) S.R. & O. (N.I.) 1954, No. 30.
(**i**) S.R. & O. (N.I.) 1959, No. 89.

(*b*) if he is no longer a member, with effect from the date when he becomes disabled, which date shall, if it cannot be ascertained, be taken to be that on which the claim that he has become disabled is first made known to the Inspector General."

4. At the beginning of paragraph (2) of Regulation 2 (which relates to the duration and amount of awards) there shall be inserted the words "Subject to the provisions of these Regulations".

5. For Regulation 3 there shall be substituted the following Regulation:

"AWARDS ON RETIREMENT AND DEMOBILISATION

Award on Retirement

3.—(1) A person who as a full-time member retires from the force shall receive a gratuity provided that at the date of retirement either—

(*a*) he has attained the age of sixty years; or

(*b*) he is permanently disabled and is not entitled to an award under the provisions of Regulation 4.

(2) The amount of any gratuity awarded under paragraph (1) shall be determined—

(*a*) in accordance with paragraph 1 of Part II of the First Schedule; or

(*b*) where the date of retirement is the 1st July, 1949, or any later date, in accordance with paragraph 1 of Part IIA of the said Schedule."

6. In paragraph (1) of Regulation 4 (which relates to the award of a supplemental pension) for the words "without his own default (hereinafter in this Regulation referred to as "the relevant injury")" there shall be substituted the words "(hereinafter in this Regulation referred to as "the relevant injury") and the said injury was not wholly or mainly due to his own serious and culpable negligence or misconduct".

7. After Regulation 4 there shall be added the following Regulation:

"*Award on demobilisation*

4A.—(1) A person who as a part-time member has been mobilised for full-time service and who is (or was on any date after 30th June, 1951) demobilised shall, subject to the conditions as to qualifying service set out in the succeeding provisions of this Regulation, receive a gratuity provided that—

(*a*) the demobilisation has not been due to his voluntarily relinquishing mobilised service or to his being removed from such service on account of misconduct; and

(*b*) he is not entitled to an award under the provisions of Regulation 4.

(2) The gratuity referred to in paragraph (1) shall be an ordinary gratuity where at the date of demobilisation the person is entitled to reckon at least seven years' pensionable service and shall be of an amount determined in accordance with paragraph 1 of Part IIA of the First Schedule.

(3) The gratuity referred to in paragraph (1) shall be a special gratuity where at the date of demobilisation the person is not entitled to reckon at least seven years' pensionable service but where he has rendered full-time service in a mobilised capacity for a continuous period of at least six months after 11th December, 1956, and before 1st April, 1961.

(4) A special gratuity awarded under the provisions of paragraph (3) shall be of an amount calculated at the rate of £4 for each completed month which the person is entitled to reckon as pensionable service:

Provided that for the rate of £4 there shall be substituted the rate of £5 for each completed month of such service as a Platoon Sergeant."

8. For Regulation 5 as set out in the 1951 Regulations there shall be substituted the following Regulation:

"*Award where no other award is payable*

5. Where a member retires from the force, or being a part-time member mobilised for full-time service is demobilised, he shall receive an amount equal to the amount of his aggregate pension contributions in respect of the relevant period of service as defined in paragraph (5) of Regulation 56, except in so far as such period may be reckonable as pensionable service for the purpose of some other award under these Regulations."

9.—(1) For paragraph (2) of Regulation 9, as set out in Regulation 2 of the 1956 Regulations (which relates to a member's ordinary pension) there shall be substituted the following paragraph:—

"(2) An ordinary pension shall be of an amount determined in accordance with Parts I, III and V of the First Schedule or, where the date of retirement is later than 30th June, 1949, in accordance with Parts IA, III and V of the said Schedule; but, in the case of a person entitled to reckon less than thirty years' pensionable service who retires after 7th August, 1961, no payments shall be made on account of the pension in respect of the period, if any, before he has attained the age of fifty years."

(2) At the end of the said Regulation 9 there shall be added the following paragraphs:—

"(4) Where a permanent member is suspended from duty under the provisions of the Royal Ulster Constabulary Disciplinary Regulations as applied to Special Constables by virtue of Regulation 5 of the Ulster Special Constabulary (Appointment and Position) Regulations, 1950(a), paragraph (3) shall apply to such member as though for the words "one month's written notice" there were substituted the words "three months' written notice"."

"(5) In relation to a person who is serving as a permanent member on 7th August, 1961, the limitation imposed by paragraph (2) on the making of payments in respect of a period before a person has attained the age of fifty years shall not apply on his first retiring from the force after that day; and a person who has retired with an ill-health pension and subsequently rejoins the force as a permanent member in the circumstances, and within the period, mentioned in paragraph (2) of Regulation 39, shall be treated for the purposes of this paragraph as if he had not retired but had served as a permanent member throughout the period for which he was in receipt of that pension."

10. In paragraph (1) of Regulation 16 as amended by the 1956 Regulations (which relates to the award of a widow's special pension) for the words "without his own default" there shall be substituted the words "and the said injury was not wholly or mainly due to his own serious and culpable negligence or misconduct".

(a) S.R. & O. (N.I.) 1950, No. 179.

11. In paragraph (1) of Regulation 26 as amended by the 1954 Regulations (which relates to the award of a child's special allowance) for the words "without his own default" there shall be substituted the words "as a member and the said injury was not wholly or mainly due to his own serious and culpable negligence or misconduct".

12. For Regulation 32A as set out in the 1951 Regulations there shall be substituted the following Regulation:

"**32A.** Where a part-time member who is mobilised for full-time service dies and at the date of his death had the service requisite for an award under Regulation 4A the Ministry shall, provided that no other award is payable under these Regulations (except under Regulation 33), pay to or for the benefit of his widow or to or for the benefit of his widow and child or children an amount equivalent to the amount of the gratuity to which he would have been entitled under the provisions of Regulation 4A had he ceased to be mobilised on the said date and had the cessation not been due to his voluntarily relinquishing mobilised service or to his being removed from such service on account of misconduct."

13. For Regulation 37B there shall be substituted the following Regulation:

"*Mobilised service reckonable as pensionable service*

37B.—(1) A part-time member shall be entitled to reckon as pensionable service for the purpose of a gratuity under the provisions of Regulation 4A, and for no other purpose, all his continuous mobilised service after the 21st November, 1921, except—

(*a*) any period of such service in respect of which he has already received a gratuity under the said provisions; and

(*b*) subject to paragraph (3), any period of such service in respect of which he has received an amount under the provisions of Regulation 5.

(2) In the application of this Regulation to the calculation of pensionable service, absence from mobilised service for a period not exceeding three years shall not be deemed to break the continuity of such service.

(3) The exception in sub-paragraph (*b*) of paragraph (1) shall not apply to any period of mobilised service if the member concerned pays to the Ministry, in such manner and within such period as the Ministry may approve, the amount which he received under Regulation 5 in respect of that period."

14. For Regulation 42 as amended by the 1952 Regulations there shall be substituted the following Regulation:

"**42.** Where a member or a person who has been a member is permanently disabled and has at any time brought about or seriously aggravated his disablement by his own serious and culpable negligence or misconduct, the Ministry may reduce the amount of any award or awards made to him under Regulation 3, Regulation 4 or Regulation 10 by an amount not exceeding one-half of that to which he would otherwise be entitled:

Provided that this Regulation shall not apply where the person concerned was a permanent member who would, if he had continued to serve instead of retiring with an award under Regulation 10, have been entitled to reckon twenty-five years' pensionable service."

15.—(1) In paragraph (2) of Regulation 46 as amended by the 1951 Regulations (which relates to the determination of medical questions), for the words "received without the default of the applicant" there shall be substituted the words "not wholly or mainly due to the applicant's own serious and culpable negligence or misconduct".

(2) In paragraph (3) of the said Regulation (which relates to the cancellation of an award) for the words "substantially contributed to the disablement by his own default" there shall be substituted the words "seriously aggravated his disablement by his own serious and culpable negligence or misconduct".

(3) In paragraph (4) of the said Regulation as amended by the 1951 Regulations (which relates to a refusal to be medically examined)—

(*a*) the words "of disablement or default" shall be omitted; and

(*b*) after the word "Regulations" there shall be inserted the words "which ought to be determined on medical grounds".

16.—(1) For paragraph (5) of Regulation 53 as set out in Regulation 7 of the 1959 (No. 2) Regulations (which relates to the allocation of part of a pension in favour of a dependant) there shall be substituted the following paragraph:—

"(5) Where a person retires or has retired and a notice of allocation given by him has become or becomes effective, 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 of the beneficiary before that date)."

(2) In paragraph (6) of the said Regulation 53 for the words "which is reduced" there shall be substituted the words "which falls to be reduced".

17.—(1) In paragraph (1) of Regulation 56 (which contains definitions)—

(*a*) for the definition of "the force" there shall be substituted the following definition:—

" 'the force' means the Ulster Special Constabulary";

(*b*) for the definition of "member" there shall be substituted the following definition:—

" 'member' means a member of the Ulster Special Constabulary"; and

(*c*) at the end of the definition of "mobilisation" there shall be added the words "and demobilisation, mobilised and demobilised shall be construed accordingly".

(2) For paragraph (3) of the said Regulation 56 (which relates to persons treated as being in receipt of a supplemental pension) there shall be substituted the following paragraph:—

"(3) For the purposes of these Regulations a person shall be treated as being in receipt of an ordinary or, as the case may be, supplemental pension if he would be in receipt of such a pension—

(*a*) in the case of an ordinary pension, had he attained the age of fifty years, or

(*b*) in the case of a supplemental pension, had the aggregate of any of the payments described in paragraph (3) of Regulation 4 been less than the standard amount appropriate to his case."

(3) In paragraph (5) of the said Regulation as amended by the 1951 Regulations and the 1956 Regulations (which relates to the calculation of aggregate pension contributions)—

(*a*) after the word "retirement" there shall be inserted the word "demobilisation";

(*b*) after the word "Ministry" in sub-paragraph (ii) there shall be inserted the words "under paragraph (3) of Regulation 37B or"; and

(*c*) for the proviso there shall be substituted the following proviso:—

"Provided that for the purpose of this paragraph no account shall be taken of any period of mobilised service in respect of which a gratuity becomes payable under Regulation 4A or Regulation 32A, or in respect of which an award has been made under Regulation 5, the amount of which has not been repaid under paragraph (3) of Regulation 37B."

(4) For paragraph (7) of the said Regulation there shall be substituted the following paragraph:—

"(7) A reference in these Regulations to a person being disabled shall be construed as follows—

(*a*) permanent disablement means disablement which exists at the time when the question arises for decision and which at that time is likely to be permanent;

(*b*) disablement means—

(i) in the case of a permanent or full-time member, inability to perform the ordinary duties of such a member;

(ii) in the case of a part-time member, impairment of his earning capacity in his ordinary profession, trade or occupation or in some analogous class of employment;

(*c*) where it is necessary to determine the degree of a person's disablement it shall be determined by reference to the degree to which his earning capacity has been affected as a result of the injury in respect of which the award is made, and a person shall be deemed to be totally disabled if, and only if, as a result of such an injury, either he is incapable by reason of the disablement of earning any money in any employment, or is receiving treatment as an in-patient at a hospital."

Dated this 3rd day of August, 1961.

Brian Faulkner,
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.*)

The Regulations have the following effect:—

1. They re-define the degree of responsibility to be attributed for pension purposes to a member of the Ulster Special Constabulary in respect of an injury received on duty.