# 1960 No. 2286 (S. 123)

## The National Insurance (Modification of the Police Pensions Provisions) (Scotland) Regulations, 1960

| | |
|---|---|
| *Made* - - - - | *7th December,* 1960 |
| *Laid before Parliament* | *14th December,* 1960 |
| *Coming into Operation* | *1st January,* 1961 |

Whereas the Treasury has determined under subsection (4) of section 69 of the National Insurance Act, 1946(a), that the Secretary of State is the appropriate Minister to make regulations under that subsection modifying the scheme for the provision of pensions and other benefits established by the Police Pensions Act, 1948(b), and the regulations made thereunder:

Now, therefore, in exercise of the powers conferred on me by the said subsection (4), as extended by section 15 of the National Insurance Act, 1959(c), I hereby make the following regulations:—

*Citation and Commencement*

**1.** These regulations may be cited as the National Insurance (Modification of the Police Pensions Provisions) (Scotland) Regulations, 1960, and shall come into operation on the 1st day of January, 1961.

*Interpretation*

**2.**—(1) In these regulations the following expressions shall have the meanings respectively which they have for the purposes of the Police Pensions (Scotland) Regulations—

" aggregate pension contributions in respect of the relevant period of service "

" armed forces "

" ill-health gratuity "

" ill-health pension "

" pensionable service "

" police authority "

" short service gratuity "

" supplemental pension "

" regular policeman ".

(2) In these regulations the following expressions shall have the meanings respectively which they have for the purposes of the National Insurance Act, 1959—

" employed contributor's employment "

" graduated contribution "

" graduated retirement benefit "

" non-participating employment "

" payment in lieu of contributions ".

(3) In these regulations any reference to insured pensionable age is a reference to the age of sixty five years in the case of a man or sixty years in the case of a woman.

(a) 9 & 10 Geo. 6. c. 67. (b) 11 & 12 Geo. 6. c. 24. (c) 7 & 8 Eliz. 2. c. 47.

(4) In these regulations any reference to a participating period of relevant employment is a reference to a period of employed contributor's employment after the 5th day of April, 1961, and before insured pensionable age other than—

(*a*) service in the armed forces ; and

(*b*) non-participating employment at the end of which no payment in lieu of contributions falls to be made ;

and for the purposes of this paragraph a period of employed contributor's employment or of non-participating employment shall be treated as continuing during periods of holiday, temporary incapacity for work and similar temporary interruptions.

(5) In these regulations any reference to the Police Pensions (Scotland) Regulations is a reference to the regulations for the time being in force under the Police Pensions Act, 1948, other than those regulations which extend to England and Wales only.

(6) In these regulations any reference to the secured portion of a pension is a reference to the portion of the pension which equals the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining insured pensionable age, in return for a payment in lieu of contributions in respect of the whole of any period of non-participating employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension, being a period of non-participating employment at the end of which no payment in lieu of contributions in fact fell to be made ; and any reference to the unsecured portion of a pension shall be construed accordingly. For the purposes of this paragraph a period of non-participating employment shall be treated as continuing during periods of holiday, temporary incapacity for work and similar temporary interruptions.

(7) For the purposes of these regulations, the annual rate of graduated retirement benefit shall be determined as if there were fifty two weeks and one-sixth of a week in each year.

(8) In these regulations, any reference to any enactment is a reference to that enactment as amended by or under any subsequent enactment.

(9) The Interpretation Act, 1889(a), shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

*Awards to which Regulations apply*

**3.** These regulations shall apply to pensions, gratuities and other awards, other than supplemental pensions, granted to or in respect of regular policemen on retirement or dismissal on or after the 3rd day of April, 1961, under the Police Pensions (Scotland) Regulations.

*Forfeiture and Suspension*

**4.**—(1) Except for such causes as may be prescribed by regulations made under paragraph (*c*) of subsection (1) of section 8 of the National Insurance Act, 1959, the secured portion of a pension to which these regulations apply, shall not be capable of being forfeited or, save as respects any period before insured pensionable age, suspended.

(a) 52 & 53 Vict. c. 63.

(2) Without prejudice to the generality of paragraph (1) of this regulation, as respects a pension to which these regulations apply—

(*a*) subsections (1) and (2) of section 4 of the Police Pensions Act, 1948, (which relate to the temporary and permanent forfeiture by police authorities of police pensions) shall apply only to the forfeiture, whether temporary or permanent, of the unsecured portion of the pension, and to temporary forfeiture of the secured portion of the pension for a period before insured pensionable age, or during the imprisonment or detention in legal custody of the pensioner; and a police authority in determining under the said subsection (2) whether a forfeiture shall be permanent or temporary and affect the pension in whole or in part, may make different determinations in respect of the secured and unsecured portions of the pension;

(*b*) paragraphs (3) and (4) of Regulation 38 of the Police Pensions (Scotland) Regulations, 1955(**a**) (which relate to the cancellation of ill-health and supplemental pensions) shall apply only to the unsecured portion of the pension, but where, but for the provisions of this sub-paragraph, the whole pension would cease, the secured portion of the pension shall not be payable in respect of any period before insured pensionable age;

(*c*) paragraph (1) of Regulation 49 of the said Regulations of 1955 (which relates to the application of a sum due on account of a pension in satisfaction of certain debts) shall apply only to a sum due on account of the unsecured portion of the pension or due in respect of a period before insured pensionable age on account of the secured portion of the pension;

(*d*) paragraph 4 of Part II of the First Schedule to the said Regulations of 1955 (which provides for the payment to an ill-health pensioner who does not rejoin his police force on cancellation of his pension of an amount equal to the excess, if any, of his aggregate pension contributions over the payments made to him in respect of the pension) shall have effect as if—

(i) the reference therein to the cancellation of an ill-health pension were a reference to the cancellation of the unsecured portion of such a pension, and

(ii) the reference therein to the aggregate amount paid in respect of an ill-health pension were a reference to the aggregate of that amount and the actuarial value of the secured portion of the pension, in so far as it is payable under sub-paragraph (*b*) of this paragraph, determined in accordance with tables prepared by the Government Actuary;

(*e*) Part III of the First Schedule to the said Regulations of 1955 as amended by Regulation 19 of the Police Pensions (Scotland) Regulations, 1956(**b**) (which relates to reductions in ordinary ill-health and short-service pensions in respect of periods beyond insured pensionable age) shall apply only to the unsecured portion of the pension.

*Retention of part of award against payment in lieu of contributions*

**5.**—(1) Where a payment in lieu of contributions falls to be made by a police authority in respect of a regular policeman and—

(*a*) a short service gratuity is payable by that authority on his retirement, or

(*b*) an ill-health gratuity is so payable and the police authority determines that the provisions of this regulation shall apply, or

(**a**) S.I. 1955/485 (1955 II, p. 1959). (**b**) S.I. 1956/434 (1956 II, p. 1842).

(*c*) an amount equal to his aggregate pension contributions in respect of the relevant period of service is payable by the police authority to him or his dependants on his retirement or dismissal,

the police authority shall retain out of the award in question an amount equal to the amount which could be retained out of the award by the police authority under subsection (4) of section 10 of the National Insurance Act, 1959, if the award were a refund of payments to which that subsection applies.

(2) Where a payment in lieu of contributions may fall to be made by a police authority in respect of a regular policeman and such an award as is mentioned in paragraph (1) of this Regulation is payable as mentioned therein, the police authority may retain out of the award in question an amount equal to the amount which they would retain under the said paragraph (1) if the payment in lieu of contributions in fact fell to be made so, however, that if the said payment does not fall to be made within the period of seventy-eight weeks from the date when the person concerned ceases to be a regular policeman or within such short period as the police authority may determine, then any retention by the police authority under this paragraph shall cease to have effect and the retained part of the award shall become payable.

(3) Without prejudice to the generality of paragraphs (1) and (2) of this regulation, the provisions of Regulation 7 and paragraph (4) of Regulation 48 of the Police Pensions (Scotland) Regulations, 1955, and of Part II of the First Schedule thereto shall have effect subject to the provisions of the said paragraphs (1) and (2).

*Abatement of Pension in relation to participating service otherwise than as a regular policeman*

**6.**—(1) Where a person in receipt of a pension to which these regulations apply has been in service or employment otherwise than as a regular policeman—

(*a*) in respect of which he was subject to superannuation arrangements,

(*b*) by virtue of which he is entitled to reckon pensionable service for the purposes of the pension, and

(*c*) the period of which includes a participating period of relevant employment,

then for the purpose of abating the pension in relation to that participating period of relevant employment, any provision of the said arrangements in operation when he left the said service or employment, the effect of which is that pensions payable thereunder are to be reduced in connection with the operation of the National Insurance Act, 1959, shall apply subject to the necessary adaptations and modifications as though the provision were contained in these regulations and as if—

(i) the pension were payable under the said arrangements; and

(ii) any other period of service or employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension were a period of non-participating employment at the end of which no payment in lieu of contributions falls to be made.

(2) A police authority, in determining any question arising under paragraph (1) of this regulation and relating to a particular service or employment, shall be entitled to treat as conclusive any relevant certificate issued, with the agreement of the person concerned, by his employer in that service or employment.

(3) Where for the purposes of the superannuation arrangements applicable to such service or employment as is mentioned in paragraph (1) of this regulation the person concerned was entitled to reckon service by virtue of some previous service or employment, that previous service or employment shall be treated for the purposes of this regulation as if it were part of the service or employment first mentioned in this paragraph.

(4) Without prejudice to the generality of paragraphs (1), (2) and (3) of this regulation the provisions of Parts I and II of the First Schedule to the Police Pensions (Scotland) Regulations, 1955, shall have effect subject to the provisions of the said paragraphs. Abatement of a pension in accordance with this regulation shall be without prejudice to the reduction of the pension in accordance with Part III of the said Schedule as amended by Regulation 19 of the Police Pensions (Scotland) Regulations, 1956 and with the provisions of Regulation 4 (2) (*e*) of these regulations.

*Abatement of pension in relation to participating service as a regular policeman*

**7.**—(1) Where a person in receipt of a pension to which these regulations apply is entitled to reckon as pensionable service for the purposes of the pension a period of employment as a regular policeman which is a participating period of relevant employment, then in relation to that period the unsecured portion of the pension shall be reduced in accordance with the provisions of paragraph (2) of this regulation.

(2) Where the unsecured portion of a pension is reduced in accordance with the provision of this paragraph, the annual rate of that portion of the pension shall be reduced in respect of any period beyond insured pensionable age by the annual rate of the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining pensionable age, in return for a payment in lieu of contributions in respect of the whole of the period referred to in paragraph (1) of this regulation.

(3) Without prejudice to the generality of paragraphs (1) and (2) of this regulation the provisions of Parts I and II of the First Schedule to the Police Pensions (Scotland) Regulations, 1955, shall have effect subject to the provisions of the said paragraphs, but the abatement of a pension in accordance with this regulation shall be without prejudice to the reduction of the pension in accordance with Part III of the said Schedule, as amended by Regulation 19 of the Police Pensions (Scotland) Regulations, 1956 and with the provisions of Regulation 4 (2) (*e*) of these regulations.

*Abatement of pension when secured portion of ill-health pension is also payable*

**8.**—(1) Where a person in receipt of the secured portion of an ill-health pension the unsecured portion of which has ceased to be payable is also in receipt of some other pension to which these regulations apply and is entitled to reckon for the purposes of that other pension the period of pensionable service which was reckonable for the purposes of the ill-health pension, then, notwithstanding anything in the Police Pensions (Scotland) Regulations, the annual rate of the unsecured portion of that other pension shall be reduced by the annual rate of the secured portion of the ill-health pension.

(2) Without prejudice to the generality of paragraph (1) of this regulation the provisions of Parts I and II of the First Schedule to the Police Pensions (Scotland) Regulations, 1955, shall have effect subject to the provisions of the said paragraph.

Dated this 7th day of December, 1960.

*John S. Maclay,*
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

---

## EXPLANATORY NOTE

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

These regulations modify the Police Pensions Act, 1948, and the regulations made thereunder in connection with the operation of the provisions of the National Insurance Act, 1959; by virtue of Regulation 3 the present regulations apply to awards, other than supplemental pensions, granted under the Police Pensions (Scotland) Regulations on a person ceasing to be a regular policeman on or after 3rd April, 1961.

By virtue of section 7 (2) of the Act of 1959 an employment may not be contracted out of the graduated National Insurance scheme unless persons in that employment qualify for equivalent pension benefits. The conditions to be satisfied if a retirement pension under an occupational pension scheme is to be treated as an equivalent pension benefit are set out in section 8 (1); the pension, or part thereof, must (subject to retirement) start not later than insured pensionable age (paragraph (*a*)), must be payable for life unless terminated or suspended for prescribed causes (paragraphs (*b*) and (*c*)) and must be payable at not less than a specified rate (paragraph (*d*)). Regulation 4 secures that these conditions shall be satisfied in relation to a police pension; paragraph (1) provides that a part of such a pension (being a part payable at not less than the specified rate and referred to in the Regulations as the secured portion) shall not, except for a cause prescribed under section 8 (1) (*c*), be forfeited or, save as respects a period before insured pensionable age, suspended. (The expression "secured portion" is defined in Regulation 2 (6).) Paragraph (2) makes consequential amendments to section 4 of the Police Pensions Act, 1948, and to the Police Pensions (Scotland) Regulations, 1955.

Regulation 5 provides for the retention of part of certain awards under the Police Pensions (Scotland) Regulations against a payment in lieu of contributions payable under the Act of 1959.

Regulations 6 and 7 provide that where account is taken of a period of service or employment for the purposes both of a police pension and of graduated retirement benefit under the National Insurance scheme, the police pension shall be abated.

Regulation 8 provides that where account is taken of a period of service or employment for the purposes both of an ill-health pension, being a pension of which the secured portion is payable by virtue only of Regulation 4 (2) (*b*), and of some other police pension, the latter shall be abated by the secured portion of the former.