
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

PART 7

Retirement benefits

CHAPTER 5

Review of ill-health benefits

Review of lower tier ill-health pension

100.—(1) This regulation applies in relation to a person (P) who—

- (a) is receiving payment of a lower tier ill-health pension but not an enhanced upper tier ill-health pension; and
- (b) has not reached normal pension age under this scheme.

(2) The employer may periodically review whether P's medical unfitness has ceased or significantly worsened.

(3) A periodic review under paragraph (2) may be carried out at any time the employer in its discretion determines.

(4) The employer must carry out a review as to whether P's medical unfitness has ceased or significantly worsened if the employer is notified that P's medical unfitness has worsened.

(5) In carrying out a review under paragraph (2) or (4), the employer must refer the questions in regulation 107(2) (referral of medical questions for purpose of a review: lower tier ill-health pension) to a selected medical practitioner for decision.

(6) In this regulation, "medical unfitness" means inability occasioned by infirmity of mind or body to perform the ordinary duties of a member of the police force.

Cancellation of lower tier ill-health pension if medical unfitness ceases

101.—(1) This regulation applies if—

- (a) the employer carries out a review under regulation 100; and
- (b) the selected medical practitioner gives a report on the questions referred under regulation 107(2) containing the decision that P has ceased to be medically unfit for performing the ordinary duties of a member of the police force.

(2) The employer may give P notice that P may rejoin the police force—

- (a) within the period of 3 months beginning with the date on which P is given the notice; and
- (b) at a rank not lower than the rank which P held immediately before the ill-health pension became payable.

(3) The lower tier ill-health pension ceases to be payable to P on the earlier of—

- (a) the last day of the 3 month period; or

- (b) the day on which P rejoins the police force.
- (4) Paragraph (5) applies if—
 - (a) a lower tier ill-health pension ceases to be payable under paragraph (3)(a); but
 - (b) P is not entitled to receive payment of a full retirement pension under Chapter 2 (full retirement benefits) because P has less than 2 years qualifying service.
- (5) The employer must pay the difference to P if the aggregate of the following is less than P's aggregate pension contributions in respect of the relevant period of service—
 - (a) the sums paid in respect of the pension; and
 - (b) the actuarial value, determined by the scheme manager in accordance with actuarial tables, of any pension to which P is entitled under regulation 195 (guaranteed minimum under section 14 of PSA 1993).

Entitlement to enhanced upper tier ill-health pension following claim for payment

- 102.**—(1) This regulation applies if—
- (a) the employer carries out a review under regulation 100(4) (review of lower tier ill-health pension); and
 - (b) the selected medical practitioner gives a report on the questions referred under regulation 107(2) containing the decision that P is permanently medically unfit for engaging in any regular employment.
- (2) P is entitled to payment of an enhanced upper tier ill-health pension from the claim date, calculated in accordance with regulation 94 (annual rate of ill-health pension under this scheme) and payable in accordance with this regulation in addition to the lower tier ill-health pension.
- (3) The enhanced upper tier ill-health pension is payable in respect of each month as from the claim date.
- (4) P is not taken to claim payment of an enhanced upper tier ill-health pension if the claim date is more than 5 years after the date on which P became entitled to payment for life of the lower tier ill-health pension.
- (5) The time limit in paragraph (4) does not apply if P's medical unfitness is attributable to a progressive medical condition which, of its nature, could have been expected, as at the time of P's retirement, to affect P with increasing severity.
- (6) In this regulation—
- “claim date” means the date on which the employer is notified that P's medical unfitness has worsened; and
 - “progressive medical condition” means—
 - (a) a medical condition specified in Schedule 2 (progressive medical conditions); or
 - (b) a medical condition specified on a list published by the Scottish Ministers for the purpose of this regulation.

Entitlement to enhanced upper tier ill-health pension following periodic review

- 103.**—(1) This regulation applies if—
- (a) the employer carries out a periodic review under regulation 100(2) (review of lower tier ill-health pension); and
 - (b) the selected medical practitioner gives a report on the questions referred under regulation 107(2) containing the decision that P is permanently medically unfit for engaging in any regular employment.

(2) P is entitled to payment of an enhanced upper tier ill-health pension from the claim date, calculated in accordance with regulation 94 (annual rate of ill-health pension under this scheme) and payable in accordance with this regulation in addition to the lower tier ill-health pension.

(3) P is not entitled to payment of an enhanced upper tier ill-health pension under this regulation if the claim date is more than 5 years after the date on which P became entitled to payment for life of the lower tier ill-health pension.

(4) The time limit in paragraph (3) does not apply if P's medical unfitness is attributable to a progressive medical condition which, of its nature, could have been expected, as at the time of P's retirement, to affect P with increasing severity.

(5) The enhanced upper tier ill-health pension is payable in respect of each month as from the claim date.

(6) In this regulation, "claim date" means the date on which the employer refers the questions in regulation 107(2) (referral of medical questions for purpose of a review: lower tier ill-health pension) to a selected medical practitioner for decision.

Review and cancellation of enhanced upper tier ill-health pension

104.—(1) This regulation applies in relation to a person (P) who—

- (a) is receiving payment of both a lower tier ill-health pension and an enhanced upper tier ill-health pension; and
- (b) has not reached P's state pension age.

(2) The employer may periodically review whether the person's medical unfitness has ceased or significantly improved.

(3) A review may be carried out at intervals of no less than 5 years as the employer in its discretion determines.

(4) The employer must refer the questions in regulation 107(3) (referral of medical questions for purpose of a review: enhanced upper tier ill-health pension) to a selected medical practitioner for decision.

(5) If the selected medical practitioner gives a report on the questions referred under regulation 107(3) containing the decision that P has ceased to be medically unfit for engaging in any regular employment, P ceases to be entitled to payment of the enhanced upper tier ill-health pension.

(6) P ceases to be entitled to payment of the enhanced upper tier ill-health pension—

- (a) at the end of the period of 3 months beginning with the date of the report which contains the decision by the selected medical practitioner that P has ceased to be medically unfit for engaging in any regular employment; or
- (b) if earlier, the day on which P returns to eligible service.

(7) P remains entitled to payment for life of the lower tier ill-health pension unless—

- (a) the employer, on a review under another regulation in this Chapter, refers the questions under regulation 107(2) (referral of medical questions for purpose of a review: lower tier ill-health pension) to the selected medical practitioner for decision; and
- (b) the selected medical practitioner gives a report on those questions containing the decision that P has ceased to be medically unfit for performing the ordinary duties of a member of the police force.

(8) In paragraph (2), "medical unfitness" means inability occasioned by infirmity of mind or body to engage in any regular employment.

Cancellation of ill-health pension: failure to receive appropriate medical treatment

105.—(1) This regulation applies if—

- (a) the employer carries out a review under regulation 100 (review of lower tier ill-health pension) or 104 (review and cancellation of enhanced upper tier ill-health pension);
 - (b) the selected medical practitioner gives P a written notice stating the opinion that—
 - (i) P’s medical unfitness for performing the ordinary duties of a member of the police force would be expected to have ceased if P had received normal appropriate medical treatment; and
 - (ii) P is not receiving, or has not received, appropriate medical treatment; and
 - (c) the employer gives P a written notice stating the opinion that P’s failure to receive appropriate medical treatment is attributable to P’s wilfulness or negligence and giving notice of the employer’s powers under paragraph (2).
- (2) The employer may cease payment of the ill-health pension if the employer decides that—
- (a) P’s failure to receive appropriate medical treatment is attributable to P’s wilfulness or negligence; and
 - (b) P has persisted in that failure after receiving both—
 - (i) a written notice from the selected medical practitioner under paragraph (1)(b); and
 - (ii) a written notice from the employer under paragraph (1)(c).
- (3) In this regulation—
- “appropriate medical treatment” does not include medical treatment that the employer decides is reasonable for P to refuse⁽¹⁾; and
- “medical unfitness” means inability occasioned by infirmity of mind or body to perform the ordinary duties of a member of the police force.

Review and cancellation of full retirement pension which came into payment early on grounds of permanent medical unfitness

- 106.**—(1) This regulation applies in relation to a person (P) who—
- (a) is receiving payment of a full retirement pension which came into payment early on grounds of permanent medical unfitness⁽²⁾; and
 - (b) has not reached P’s state pension age.
- (2) The employer may periodically review whether P’s medical unfitness has ceased.
- (3) A review may be carried out at intervals of no less than 5 years as the employer in its discretion determines.
- (4) The employer must refer the questions in regulation 107(4) (referral of medical questions for purpose of a review: full retirement pension) to a selected medical practitioner for decision.
- (5) If the selected medical practitioner gives a report on the questions referred under regulation 107(4) containing the decision that the member has ceased to be medically unfit for engaging in any regular employment, the scheme manager must cease to make payments of the full retirement pension from the beginning of the next pay period.
- (6) In this regulation, “medical unfitness” means inability occasioned by infirmity of mind or body to engage in any regular employment.

(1) See provisions on appeals.

(2) See regulation 81(3) for when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

Referral of medical questions for purpose of a review

107.—(1) This regulation applies in relation to the following reviews.

(2) Where the employer is considering whether the medical unfitness of a person receiving payment of a lower tier ill-health pension but not an enhanced upper tier ill-health pension has ceased or significantly worsened, the employer must refer the following questions to a selected medical practitioner for decision—

- (a) whether the person continues to be medically unfit for performing the ordinary duties of a member of the police force; and
- (b) if so, whether—
 - (i) the person is also medically unfit for engaging in any regular employment; and
 - (ii) that medical unfitness is likely to be permanent.

(3) Where the employer is considering whether the medical unfitness of a person receiving payment of both a lower tier ill-health pension and an enhanced upper tier ill-health pension has ceased or significantly improved, the employer must refer the following questions to a selected medical practitioner for decision—

- (a) whether the person continues to be medically unfit for engaging in any regular employment; and
- (b) if not, whether the person continues to be medically unfit for the performance of the ordinary duties of a member of the police force.

(4) Where the employer is considering whether the medical unfitness of a person receiving payment of a full retirement pension which came into payment early on grounds of permanent medical unfitness has ceased, the employer must refer the question whether the person continues to be medically unfit for engaging in any regular employment to a selected medical practitioner for decision.

(5) If the selected medical practitioner decides that the question mentioned in paragraph (2)(a) or a question mentioned in paragraph (3) or (4) is answered in the affirmative, the selected medical practitioner does not need to consider the question as to the likelihood of that medical unfitness continuing permanently.

(6) The decision of the selected medical practitioner on a question referred under this regulation must take the form of a report.

(7) A copy of the report must be given to the employer and to the member.

- (8) That report is final, subject to—
 - (a) an appeal against the decision under Schedule 1; or
 - (b) the referral of the decision for reconsideration under Schedule 1.

Refusal to be medically examined

108. The employer may make a decision under this Chapter on such evidence and medical advice as the employer in its discretion thinks necessary if—

- (a) a question as to the medical unfitness of a member of the police force is referred to a selected medical practitioner for decision; and
- (b) the member wilfully or negligently fails to submit to any medical examination or to attend any interviews that the selected medical practitioner considers necessary in order to make a decision.

Decision of employer void if appeal against decision of selected medical practitioner is successful

- 109.**—(1) A decision of the employer under this Chapter is void if—
- (a) the selected medical practitioner decides that—
 - (i) the member is permanently medically unfit for performing the ordinary duties of a member of the police force; or
 - (ii) the member is permanently medically unfit for engaging in any regular employment;
 - (b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and
 - (c) the appeal board decides that the member is not so permanently medically unfit.
- (2) A decision of the employer under this Chapter is void if—
- (a) the selected medical practitioner decides that—
 - (i) the member is not permanently medically unfit for performing the ordinary duties of a member of the police force; or
 - (ii) the member is not permanently medically unfit for engaging in any regular employment;
 - (b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and
 - (c) the appeal board decides that the member is so permanently medically unfit.