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STATUTORY INSTRUMENTS

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**1991 No. 1304**

**The Police Pensions (Additional Voluntary Contributions) Regulations 1991**

**Citation and commencement**

1. These Regulations may be cited as the Police Pensions (Additional Voluntary Contributions) Regulations 1991, and shall come into force on 1st July 1991 but have effect as from 6th April 1990.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is to be construed as a reference to the regulation or Schedule which bears that number in these Regulations, and any reference to a numbered paragraph in a regulation or a Schedule to these Regulations is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, that Schedule.

(2) In these Regulations references to the Taxes Act are references to the Income and Corporation Taxes Act 1988<sup>(1)</sup> and references to the 1987 Regulations are references to the Police Pensions Regulations 1987<sup>(2)</sup>.

(3) In these Regulations, unless the context otherwise requires—

“approved scheme” means a retirement benefits scheme approved under Chapter 1 of Part XIV of the Taxes Act;

“basic contributions” means contributions paid pursuant to an election under regulation 4(1);

“basic contributor” is to be construed in accordance with regulation 7;

“cash equivalent” means a cash equivalent mentioned in paragraph 12(1) of Schedule 1A to the Social Security Pensions Act 1975<sup>(3)</sup>;

“central police officer” has the same meaning as in the 1987 Regulations;

“death benefit contributions” means contributions paid pursuant to an election under regulation 5(1);

“death benefit contributor” is to be construed in accordance with regulation 7;

“death benefit cover” is to be construed in accordance with regulation 5(1);

“earnings” and “emoluments” mean earnings and emoluments in respect of service as a pensionable policeman, disregarding, except where regulation 3 or 5 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990<sup>(4)</sup> applies, any excess in any tax year over the figure which is the permitted maximum for that year for the purposes of section 592(8B) of the Taxes Act<sup>(5)</sup> (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act);

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(1) 1988 c. 1.

(2) S.I. 1987/257; relevant amendments were made by S.I. 1990/805.

(3) 1975 c. 60; Schedule 1A was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 3, and amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraphs 29 and 30.

(4) S.I. 1990/586.

(5) Sections 590C and 592(8B) were inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 4 and 5(4).

“free-standing additional voluntary contributions scheme” means an approved scheme which falls within section 591(2)(h) of the Taxes Act;

“the Index” means the index of retail prices published by the Department of Employment;

“overseas policeman” has the same meaning as in the 1987 Regulations;

“participator” means a basic contributor or a person who has ceased to be a basic contributor but has not exercised any right to take a cash equivalent or to be paid a lump sum under regulation 14(1);

“pension investments” means investments made under regulations 9(1) and 10(2);

“pensionable policeman” means a person by whom contributions are for the time being payable under regulation G2 of the 1987 Regulations;

“retire” means become entitled to payment of a pension or gratuity under regulations B1 to B5 of the 1987 Regulations, and cognate expressions are to be construed accordingly;

“the Society” means The Equitable Life Assurance Society; and

“tax year” means the 12 months beginning with 6th April in any year.

### **Making and acceptance of elections**

3.—(1) Any election under these Regulations—

(a) is to be made by giving written notice to the police authority, and

(b) is, subject to paragraphs (2) to (4), to be accepted by the authority.

(2) No election under these Regulations is to be accepted if any limit imposed by regulation 8(4) or 13 (limits on contributions and benefits) would be exceeded.

(3) An election falling within regulation 16(2) (death benefit cover, continued death benefit cover and increased death benefit cover) is not to be accepted if—

(a) any information required under regulation 16(2) is not given, or

(b) the information given is such that the cover could not be secured by investment under regulation 9(3).

(4) A pension election under regulation 11(2) made after retirement may be accepted only if the police authority are satisfied as mentioned in regulation 11(2).

(5) The police authority are to give effect as soon as is reasonably practicable to any election accepted by them.

### **Election to pay basic contributions**

4.—(1) A pensionable policeman may at any time elect to pay basic contributions under these Regulations.

(2) The notice of such an election is to specify—

(a) the amount of each contribution, and

(b) the way in which the contributions are to be invested under regulation 9.

### **Elections in respect of death benefit cover**

5.—(1) A pensionable policeman may at any time elect to pay death benefit contributions to secure death benefit cover, that is to say the payment of a lump sum in the event of his dying in the circumstances specified in paragraph (2).

(2) The circumstances are that—

- (a) at the time of his death he is still a death benefit contributor, and
  - (b) his death occurs before his retirement date and is not the result of an injury received in the execution of his duty (within the meaning of regulation A11 of the 1987 Regulations).
- (3) A pensionable policeman's retirement date is the date on which he would be required by regulation A18(1) of the 1987 Regulations to retire assuming that there were no postponement under regulation A18(2) and no change of rank.
- (4) The notice of an election under paragraph (1) is to specify the amount to be secured, which must not be more than that which would be the permitted amount for the purposes of Part III of Schedule 2 if he were to die on the date on which the election takes effect.
- (5) An election under paragraph (1) ceases to have effect on the person's retirement date, but if the time at which he is required by regulation A18(1) of the 1987 Regulations to retire becomes later by reason of—
- (a) his being promoted, or
  - (b) a postponement under regulation A18(2),
- he may elect to pay further contributions to secure the continuance to the later date of his death benefit cover in force immediately before the change.
- (6) Any continued death benefit cover secured by an election under paragraph (5) lapses if the person retires before the date to which the cover was continued.

#### **Variation and cancellation of elections**

- 6.—(1) A basic contributor may at any time elect—
- (a) to alter the amount of his basic contributions, or
  - (b) to require them to be invested in future, under regulation 9, in a different way, or
  - (c) to require the police authority to realise any investment and to reinvest the proceeds, under regulation 9, in a different way, or
  - (d) to cancel his election under regulation 4(1).
- (2) A death benefit contributor may at any time elect—
- (a) to alter the amount to be secured, but not so as to exceed the amount which would be the permitted amount for the purposes of Part III of Schedule 2 if he were to die on the date on which the election takes effect, or
  - (b) to cancel his election under regulation 5(1).
- (3) A person paying further contributions under regulation 5(5) (continuance of death benefit cover during service after retirement age) may at any time make any election that he could have made under paragraph (2)(a) above if he had been paying death benefit contributions.

#### **Basic and death benefit contributors**

- 7.—(1) Subject to paragraph (3), a person is a basic contributor while an election under regulation 4(1) (regular contributions) has effect.
- (2) Subject to paragraph (3), a person is a death benefit contributor while an election under regulation 5(1) has effect.
- (3) A person who has ceased to be a pensionable policeman ceases to be either a basic contributor or a death benefit contributor.

### **Payment and amount of contributions**

- 8.**—(1) Basic contributions are payable to the police authority at intervals of not less than 4 weeks.
- (2) Death benefit contributions and further contributions under regulation 5(5) (continuance of death benefit cover) are payable to the police authority at the same times as basic contributions.
- (3) All contributions are to be deducted by the police authority from the person’s pay.
- (4) The total of the contributions of all kinds paid in any tax year must not exceed the lesser of (A-B-C) and D, where—
- A is 15 per cent of the person’s emoluments for that year,
  - B is the total of any contributions paid by him in the year to another approved scheme,
  - C is the total of the contributions paid by him in the year under the 1987 Regulations, and
  - D is the amount which would provide the maximum allowable benefits.
- (5) The maximum allowable benefits are—
- (a) where the person is a basic contributor only, a retirement pension the annual rate of which is likely to be the maximum allowed by regulation 13,
  - (b) where he is not a basic contributor but is paying contributions to secure death benefit cover, the maximum amount that can be secured having regard to regulations 5(4) and 6(2)(a), and
  - (c) where he both is a basic contributor and is paying contributions to secure death benefit cover, both the retirement pension mentioned in sub-paragraph (a) and the maximum amount mentioned in sub-paragraph (b).

### **Investment of contributions**

- 9.**—(1) Basic contributions are to be invested by the police authority in accordance with any election for the time being having effect under regulation 4(1) or 6(1)(b) or (c).
- (2) In paragraph (1) “invested” means invested with the Society in one or more of the following ways:
- (a) in The Equitable Life With-Profits Fund;
  - (b) in The Equitable Life Unit-Linked Managed Pensions Fund;
  - (c) for deposit by the Society with the Woolwich Building Society.
- (3) Death benefit contributions and further contributions under regulation 5(5) are to be invested by the police authority with the Society so as to secure death benefit cover of the amount required by any election for the time being having effect under regulation 5(1) or (5) or 6(2) or (3).

### **Inward transfers**

- 10.**—(1) A police authority may accept a transfer value from the administrator of—
- (a) a free-standing additional voluntary contributions scheme, or
  - (b) an approved scheme which provides additional benefits but does not fall within section 591(2)(h) of the Taxes Act,
- in respect of a basic contributor.
- (2) A transfer value accepted by a police authority is to be invested by them with the Society—
- (a) in such one or more of the ways mentioned in regulation 9(2) as may be specified in writing by the contributor, or

- (b) if he does not specify how the transfer value is to be invested, in the fund mentioned in regulation 9(2)(a).

### **Retirement pensions**

**11.**—(1) A retirement pension is a pension payable to the participator for life, commencing on the date of his retirement.

(2) During the month ending on the date of his retirement, a participator is to make a pension election; but if the police authority are satisfied that it was not reasonably practicable for an election to be made during that period they may accept one made after retirement.

(3) The notice of a pension election is to specify whether the annual rate of the retirement pension—

- (a) is to be fixed, or
- (b) is to vary in accordance with the Index, or
- (c) is to increase yearly by a specified percentage,

and from which of the pension providers it is to be purchased.

(4) The pension providers are the bodies listed in Schedule 1.

(5) The notice may also specify that if the participator dies within the period of 5 years beginning when the pension commenced the balance that would have been payable during the remainder of that period if the pension had continued at the rate in force at the time of his death is to be paid as a lump sum.

(6) Subject to paragraphs (7) and (8), the police authority are to realise the pension investments and apply the amount obtained to the purchase from the specified pension provider of a retirement pension in accordance with the notice of election.

(7) Subject to paragraph (8), the police authority—

- (a) if they do not accept a pension election made after retirement, shall, and
- (b) if—
  - (i) 6 months after retirement no election has been made, and
  - (ii) they are satisfied that there is no reasonable excuse for the delay,may in their discretion at any time,

apply the amount obtained to the purchase from any of the pension providers of such a retirement pension as appears to them to be suitable having regard to the participator's family circumstances and his age and health.

(8) If—

- (a) there are exceptional circumstances of serious ill-health, or
- (b) his aggregate pension benefits would be trivial,

the police authority may in their discretion realise the pension investments without purchasing any pension, and in that event the amount obtained becomes payable as a lump sum.

(9) Aggregate pension benefits are trivial if the annual rate of the retirement pension that could be purchased, together with the annual equivalent of all pension benefits payable to the participator from other sources, would not exceed—

- (a) £104, or

(b) if greater, any amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973(6).

(10) Except as provided in paragraph (8), a retirement pension may not in whole or in part be surrendered, commuted or assigned.

### **Lump sum death benefit**

**12** Where a person who is paying death benefit contributions or further contributions under regulation 5(5) dies and any lump sum secured by those contributions is obtained by the police authority from the Society the lump sum becomes payable.

### **Benefit limits**

**13.**—(1) Schedule 2 has effect for limiting the benefits that may be paid under these Regulations.

(2) The maximum annual rate of a retirement pension ascertained from Schedule 2 is increased—

(a) by 3 per cent for each complete year that has elapsed, or

(b) if a greater increase results, in proportion to the increase in the Index that has occurred, since the date on which the pension became payable.

### **Repayment in certain cases**

**14.**—(1) If a person—

(a) ceases to be a basic contributor before retiring, and

(b) does not acquire a right to a cash equivalent, and

(c) becomes entitled under regulation B6 of the 1987 Regulations to an award by way of repayment of his aggregate pension contributions,

the appropriate lump sum becomes payable.

(2) If a participator dies before retirement the appropriate lump sum becomes payable.

(3) The appropriate lump sum is the realisable value of the pension investments.

### **Payment by police authority**

**15.**—(1) Retirement pensions shall be paid by the police authority to the persons entitled to them.

(2) Lump sums payable—

(a) as mentioned in regulation 11(5), or

(b) under regulation 12 or 14(2),

shall be paid by the police authority to the deceased's widow or widower or, if there is no widow or widower, to the personal representatives.

(3) Lump sums payable under regulation 11(8) or 14(1) shall be paid by the police authority to the former basic contributor.

(4) If by reason of regulation 13 a benefit is not payable in full, the police authority shall pay to the person entitled to the benefit so much of the relevant amount as would—

(a) in the case of a retirement pension, if applied to its purchase, or

(b) in the case of a lump sum, if paid as part of it,

have caused the benefit to exceed the limit.

- (5) The relevant amount is—
  - (a) in the case of a retirement pension the amount obtained under regulation 11(6), and
  - (b) in the case of a lump sum payable under regulation 12 or 14, that sum.
- (6) The amount of any tax chargeable under the Taxes Act on a payment under this regulation shall be deducted by the police authority before payment.

### **Information**

**16.**—(1) A person making an election under these Regulations is to give the police authority such information as they may reasonably require for the purposes of their functions under these Regulations.

- (2) A person making—
  - (a) an election under regulation 5(1) or (5) (death benefit and continued death benefit cover), or
  - (b) an election under regulation 6(2)(a) (increased death benefit cover), or
  - (c) an election under regulation 6(3) corresponding to one that could have been made under regulation 6(2)(a),

is, in particular, to give the police authority such information about his health as they may reasonably require having regard to regulation 9(3) (investment so as to secure death benefit cover).

### **Appeals**

**17.**—(1) A person who is aggrieved by the refusal of the police authority to admit a claim to receive as of right a pension, or a larger pension than that granted, under these Regulations may, subject to paragraph (2), appeal—

- (a) if he was, or the claim is to a pension in respect of a person who was, a member of a police force within the meaning of the Police Act 1964(7), to the Crown Court, or
- (b) if he was, or the claim is to a pension in respect of a person who was, a member of a police force within the meaning of the Police (Scotland) Act 1967(8), to the sheriff having jurisdiction in the place where he last served as such a member, or
- (c) if he was, or the claim is to a pension in respect of a person who was, an overseas policeman, an inspector or assistant inspector of constabulary or a central police officer, to the Secretary of State.

(2) Paragraph (1) does not confer a right of appeal against anything done by the police authority in the exercise of a power conferred by these Regulations which is expressly declared by these Regulations to be a power which they are to exercise in their discretion.

- (3) In this regulation “pension” includes any lump sum payable under these Regulations.

### **Retrospective effect: incidental provision**

**18.**—(1) Any notice given after 5th April 1990 and before 1st July 1991 which, if these Regulations had been in force, would have constituted notice of an election under these Regulations is to be treated as having constituted notice of such an election.

(2) These regulations shall be treated as having come into force on 1st March 1990 in relation to any sum paid by a pensionable policeman in anticipation of these Regulations, and any such sum shall be treated as forming part of his pension investments.

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(7) 1964 c. 48.

(8) 1967 c. 77.

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- (3) A sum is one paid in anticipation of these Regulations if—
- (a) it was paid to the Society after 28th February 1990 and before 6th April 1990 on the understanding that if regulations providing for additional voluntary contributions were made it would be treated as consisting of contributions invested with the Society under the regulations, and
  - (b) it would not, if these Regulations had been in force during the tax year ending with 5th April 1990, have exceeded the limit imposed by regulation 8(4).

Home Office  
21st May 1991

*Kenneth Baker*  
One of Her Majesty's Principal Secretaries of  
State

We consent

4th June 1991

*Thomas Sackville*  
*Sydney Chapman*  
Two of the Lords Commissioners of Her  
Majesty's Treasury