

2010 No. 431

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment) Regulations 2010

Made - - - - 22nd February 2010

Laid before Parliament 25th February 2010

Coming into force - - 1st April 2010

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 1 of the Police Pensions Act 1976(a).

In accordance with section 1(1) of that Act, the Treasury(b) have consented to the making of these Regulations and the Secretary of State has consulted with the Police Negotiating Board for the United Kingdom(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Pensions (Amendment) Regulations 2010.

(2) These Regulations come into force on 1 April 2010 and, subject to paragraph (3), have effect from that date.

(3) Paragraph 4 of Schedule 1 has effect from 1st April 2004 until 30th September 2006(d).

(4) These Regulations extend to England and Wales.

Amendments to Regulations

2.—(1) Schedule 1 (which makes amendments to the Police Pensions Regulations 1987(e)) has effect.

(a) 1976 c. 35. Relevant extensions to the powers conferred by section 1 are in sections 1, 4, 6 and 7 of the Police Pensions Act 1976. Section 1 was amended by section 2(3) of the Police Negotiating Board Act 1980 (c. 10), paragraph 28 of Schedule 7 to the Police Act 1996 (c. 16) and section 1(1) of the Police and Firemen's Pensions Act 1997 (c. 52); section 7 was amended by paragraph 19 of Part II of Schedule 5 to the Police and Magistrates' Courts Act 1994 (c. 29), paragraph 29 of Schedule 7 to the Police Act 1996, section 1(2) of the Police and Firemen's Pensions Act 1997, section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), section 126(1) of and paragraph 6(1) and (2) of Schedule 4 to the Criminal Justice and Police Act 2001 (c.16), paragraph 6(1) of Schedule 3 to the International Development Act 2002 (c.1), paragraph 30 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraph 58 of Part 7 of Schedule 1 and Part 1(A) of Schedule 15 to the Police and Justice Act 2006 (c. 48), paragraph 11(2) of Part 2 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47) and paragraph 2(2) of Part 1 of the Schedule to S.I. 2007/1098.

(b) Formerly the Minister for the Civil Service: see S.I. 1981/1670.

(c) See section 61 of the Police Act 1996 c. 16.

(d) Retrospective effect is permitted by section 1(5) of the Police Pensions Act.

(e) S.I. 1987/257.

(2) Schedule 2 (which amends references to the Government Actuary in the Police Pensions Regulations 1987) has effect.

(3) Schedule 3 (which makes amendments to the Police Pensions Regulations 2006(a)) has effect.

(4) Schedule 4 (which makes amendments to the Police (Injury Benefit) Regulations 2006(b)) has effect.

Home Office
15th February 2010

David Hanson
Minister of State

We consent

Dave Watts
Frank Roy

22nd February 2010

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

Regulation 2(1)

Amendments to the Police Pensions Regulations 1987

1. The Police Pensions Regulations 1987 are amended as follows.

2. For regulation A15(1) (alteration in police areas) substitute—

“(1) Where a police area is or has been combined with another police area by an order made under section 32 of the Police Act 1996, section 58 of the Local Government Act 1972(c), or section 17 of the Local Government Act 1992(d), the police force, police authority, police pension fund and police fund for the combined police area of which the first-named area for the time being forms part shall, for the purposes of these Regulations, be deemed to be the same force, authority, pension fund and police fund as the force, authority, pension fund and police fund for the first-named area.”.

3.—(1) Regulation A17 (retirement) is amended as follows.

(2) In paragraph (1)(e) omit “with such consent as is mentioned in paragraph (2)”.

(3) Omit paragraph (2).

4.—(1) Regulation B1 (policeman's ordinary pension) of the Police Pensions Regulations 1987 is amended as follows.

(2) After paragraph (3)(a) insert—

“(aa) being a chief officer of police, deputy chief constable, assistant chief constable, Commissioner of Police of the Metropolis, Deputy Commissioner of Police of the Metropolis, Assistant Commissioner of Police of the Metropolis, Deputy Assistant Commissioner of Police of the Metropolis, Commissioner of Police for the City of London, Assistant Commissioner of Police for the City of London or a commander and not being subject to any procedures under regulations made under section 50(2)(e) of the Police Act 1996, he retires or retired on or after attaining the age of 50 years having given to the police authority 6 months' written notice of his intention to retire;”.

(a) S.I. 2006/3415.

(b) S.I. 2006/932.

(c) 1972 c. 70.

(d) 1992 c. 19.

5. In regulation B5(2)(b) (policeman's deferred pension) omit "or to an award under regulation 11 of the Injury Benefit Regulations".

6.—(1) Regulation B7 (commutation – general provision) is amended as follows.

(2) After paragraph (4) insert—

“(4A) The police authority may, at the request of a regular policeman who retires or retired—

- (a) no more than one day before being entitled to reckon 30 years' pensionable service, and
- (b) before attaining the age of 50 years,

decide that the limitation contained in paragraph (4)(b) should not apply in his case.”.

7. For regulation B8 (commutation – small pensions) substitute—

“**B8.**—(1) Where the annual rate of any pension payable to or in respect of a regular policeman under this Part or regulation M1 or J1(2) does not exceed the small pensions commutation maximum, the police authority may pay the person entitled to the pension a lump sum of such an amount as the Scheme Actuary advises represents the capital value of the pension if—

- (a) that person consents, and
- (b) where the pension payable to that person is one which may not be less than that person's guaranteed minimum, he has reached state pension age.

(2) If—

- (a) a person is entitled to more than one pension under this Part or regulation J1(2), or
- (b) a person is entitled to more than one relevant award in respect of the same regular policeman, or
- (c) a pension credit member is entitled—
 - (i) to more than one pension under regulation M1, or
 - (ii) to one or more pensions under this Part or regulation J1(2) in addition to one or more pensions under regulation M1,

those pensions may only be commuted under this regulation if they do not in aggregate exceed the amount that is permitted to be commuted under all the commutation requirements that apply in the circumstances in question.

(3) The payment of a lump sum under this regulation in respect of a pension discharges the relevant police authority from all liability in respect of that pension.

(4) In this regulation—

“commutation requirements” means requirements permitting the commutation of small pensions that are imposed—

- (a) by regulation 19, 20 or 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996(a),
- (b) by regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997(b),
- (c) by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(c), or
- (d) by paragraph 7 of Schedule 29 to the Finance Act 2004(d) (which defines trivial commutation lump sums for the purposes of Part 1 of that Schedule);

(a) S.I. 1996/1172.

(b) S.I. 1997/785.

(c) S.I. 2000/1054.

(d) 2004 c. 12.

“relevant award” means an award under any of the following—

- (a) these Regulations;
- (b) the Police Pensions Regulations 2006;
- (c) the Police (Injury Benefit) Regulations 2006;
- (d) the Police Pensions (Additional Voluntary Contributions) Regulations 1991(a);

“small pensions commutation maximum” means the amount that is permitted to be commuted, having regard to all the commutation requirements that apply in the circumstances in question.”.

8.—(1) Regulation B11 (deduction of tax from certain awards) is amended as follows.

(2) In paragraph (1) omit from “repayment of contributions” to the end and insert “short service refund lump sum within the meaning of section 205 of the Finance Act 2004”.

(3) In paragraph (2) omit from “the tax for the time being” to the end and insert “the charge to income tax arising under that section”.

9. For regulation E3A(4) (lump sum death grant) substitute—

“(4) The grant is to be paid to any widow who qualifies for it; but if there is no such widow, the police authority may in their discretion pay the grant to the personal representatives.”.

10.—(1) Regulation E8 (increase of widow’s pension or child’s allowance during first 13 weeks) is amended as follows.

(2) In paragraph (2)(i) after “or his entitlement to” insert “an injury award under regulation 11 of the Injury Benefit Regulations or to”.

(3) In paragraph (2A)(b) for “regulations 49 to 52B of the Police Regulations 1987” substitute “Schedule 3 to the Police Regulations 2003(b)”.

11.—(1) Regulation E9(2) (increase of awards (other than flat-rate awards) by reference to the Pensions (Increase) Acts(c)) is amended as follows.

(2) Omit “Where the relevant award is a child’s allowance,”.

(3) For “so long as the allowance is payable” substitute “so long as the pension is payable”.

12.—(1) Regulation F3 (previous service reckonable without payment) is amended as follows.

(2) For paragraph (1)(e) substitute—

“(e) where he was previously engaged on a period of relevant service with the Police Service of Northern Ireland and he exercises the right of reversion to a home police force conferred by section 97(3) of the Police Act 1996 or, on that right arising, does not exercise it but joins another home police force, any period of pensionable service which was reckonable by him for the purposes mentioned in sub-paragraph (d), immediately before he left the Police Service of Northern Ireland.”.

13.—(1) Regulation F6 (previous service reckonable under current interchange arrangements) is amended as follows.

(2) In paragraph (1A) omit “, other than rights to benefits arising out of a freestanding additional voluntary contributions scheme”.

14. In regulation F8(1)(b) (transfer values payable between police authorities) omit “with such consent as is mentioned in regulation A17(2)”.

15. Regulation F10 (transfer values payable following cessation of contributions) in the proviso to paragraph (4) omit “disciplinary proceedings or”.

(a) S.I. 1991/1304.

(b) S.I. 2003/527.

(c) Namely the Pensions (Increase) Act 1971 (c. 56) and Pensions (Increase) Act 1974 (c. 9).

16. In regulation G4 (election not to pay pension contributions) in the proviso to paragraph (5), omit sub-paragraph (i).

17. Regulation J1(6)(a) (policeman with a guaranteed minimum for the purposes of the Social Security Pensions Act 1975(a)) is omitted.

18. In paragraph 8(2) and (3) of Schedule H (medical appeals), for “less than 11 days before the hearing (excluding weekends and public holidays)” substitute “less than 22 days (including weekends and public holidays) before the date appointed for the hearing”.

19. In Part I of Schedule J (special cases – exceptions and modifications) omit paragraph 9(4).

SCHEDULE 2

Regulation 2(2)

Amendments to references to the Government Actuary in the Police Pensions Regulations 1987

1. In the following provisions of the Police Pensions Regulations 1987 for “Government Actuary” substitute “Scheme actuary”—

- (a) regulation A10(4),
- (b) regulation B7(7),
- (c) regulation B9(8),
- (d) regulation B12(a),
- (e) regulation C6(3),
- (f) regulation C10,
- (g) regulation E3(2)(c),
- (h) regulation E6(3),
- (i) regulation E11,
- (j) regulation F11(7) (in each place),
- (k) regulation G6(4A) (in each place),
- (l) regulation G7(5),
- (m) regulation G8(3) and (7),
- (n) regulation K1(5)(b),
- (o) regulation M1(2),
- (p) regulation M2(2),
- (q) regulation M3(3)(b),
- (r) regulation M4(1),
- (s) regulation M18,
- (t) paragraph 3 of Part IV of Schedule B,
- (u) Part II of Schedule E,
- (v) Part III of Schedule E,
- (w) Paragraphs 6(2), 9A(2) and 10(2) of Section 1 of Part II of Schedule F,
- (x) Paragraphs 4 and 5 of Section 1 of Part IV of Schedule F,
- (y) Paragraph 1(aa)(iii) of Section 2 of Part IV of Schedule F.
- (z) Paragraph 3(4) of Part VI of Schedule J

(a) 1975 c. 60.

2. In Schedule A (glossary of expressions) in the appropriate place insert—
““the Scheme actuary” means the actuary for the time being appointed by the Secretary of State to provide a consulting service on actuarial matters relevant to these Regulations;”.

SCHEDULE 3

Regulation 2(3)

Amendments to the Police Pensions Regulations 2006

1. The Police Pensions Regulations 2006 are amended as follows.
2. In regulation 5(b) (transfers) omit the words from “subject” to the end.
3. In regulation 74(10)(b) and (c) (procedure and costs on appeals under regulation 72)—
 - (a) for “11” substitute “22”;
 - (b) for “excluding” substitute “including”.

SCHEDULE 4

Regulation 2(4)

Amendments to the Police (Injury Benefit) Regulations 2006

1. The Police (Injury Benefit) Regulations 2006 are amended as follows.
2. In paragraph 8(2) and (3) of Schedule 6 (medical appeals) for “less than 11 days before the hearing (excluding weekends and public holidays)” substitute “less than 22 days (including weekends and public holidays) before the date appointed for the hearing”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to the Police Pensions Regulations 1987 (“the 1987 Regulations”) to make the wording of those Regulations more consistent with that of the Police Pensions Regulations 2006.

The Regulations also amend the 1987 Regulations to give senior police officers the right to retire on or after reaching the age of 50 years, if they give 6 months notice to the police authority and are not subject to any disciplinary proceedings. This amendment has effect from 1st April 2004 until 30th September 2006 only. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

The Regulations amend the 1987 Regulations to allow a police authority to disapply the regulation which limits the size of lump sum for which a police officer with less than 30 years’ service can commute his or her pension, in the limited circumstance where the officer retires one day before reaching 30 years’ service, and below the age of 50.

The Regulations amend the 1987 Regulations, the Police Pensions Regulations 2006 and the Police (Injury Benefit) Regulations 2006 to enable a party to a medical appeal to recover from the other party any expenses incurred as result of the cancellation or postponement of an appeal

hearing, where the cancellation or postponement occurs less than 22 days before the hearing date and is the fault of that other party.

The Regulations also make related amendments to the 1987 Regulations, the Police Pensions Regulations 2006 and the Police (Injury Benefit) Regulations 2006.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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