

EXPLANATORY MEMORANDUM TO
THE POLICE PENSIONS (CONTRIBUTIONS AND PENSIONABLE EARNINGS)
(AMENDMENT) (ENGLAND AND WALES) REGULATIONS 2023

2023 No. 213

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 These regulations make amendments to the Police Pensions Regulations 2015 (S.I. 2015/445). Firstly, they allow employee contributions to continue to be lawfully collected beyond 31 March 2023 with no imposed end date. Secondly, they amend the definition of pensionable earnings, to ensure that the pension accrued by part-time members is based on all the plain-time hours that they work.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument amends the Police Pensions Regulations 2015 (“the 2015 Regulations”), in two respects.

6.2 The amendments to regulation 33 make clear that for part-time police officers additional hours (up to a certain limit) are pensionable

6.3 The amendments to regulation 124 remove an end date for member contribution rates so that member contributions can be collected under the 2015 Regulations after 31 March 2023.

7. Policy background

What is being done and why?

Pensionable Pay

- 7.1 Since 2007, the principle has been established that a part-time police officer is entitled to count additional hours (i.e., hours worked in addition to their part-time hours) for the purposes of pension accrual (up to a limit of 40 hours per week). The Home Office had issued guidance in 2007 on interpreting the police pensions schemes in accordance with this principle. However, it has recently come to light that this interpretation has not been applied consistently for 2015 scheme members across administrators.
- 7.2 Therefore, to be compliant with the principles established on part-time pensionable pay, the 2015 Regulations are amended (backdated with effect from 1 April 2015) so that it is clear the pensionable pay includes the relevant additional hours worked by part-time members to ensure that the pension they accrue is based on all the plain-time (i.e. all the hours that attract their usual hourly rate of pay, which is the rate received for their part-time hours and any additional hours) hours that they have worked. This is intended to avoid any potential confusion on the part of administrators or further legal challenges on this issue.

Members Contribution rates

- 7.3 The existing member pension contribution rates, set out in the 2015 Regulations, expire on 31 March 2023. The expiry date needs to be amended to ensure that police forces can continue to lawfully collect contributions from scheme members and that the 2015 scheme continues to be adequately funded. The value of member contributions to the 2015 pension scheme is estimated to be circa £41 million per month. Members currently pay an effective rate of 12.44% (if their salary is equal to or below £27,000), 13.44% (if above £27,000 but below £60,000) and 13.78% (if above £60,000). The Home Office does not propose any change to the rates themselves.
- 7.4 This instrument extends the current member contribution rates for the Police Pension Scheme 2015 from 1 April 2023, with no end date imposed, to create a legislative basis for collecting member contributions. This amendment will ensure stability regarding the cost of police pensions.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument makes reasonably limited amendments to the 2015 Regulations, and this is not considered to be a suitable opportunity to consolidate these amendments with other amendments made to those Regulations.

10. Consultation outcome

Pensionable pay

- 10.1 Section 21 of the Public Service Pensions Act 2013 requires the Home Office to consult either those who are likely to be affected, or representatives of those persons

likely to be affected before amending these regulations. The Home Office sought views from the SAB on proposed amendments to the Police Pensions Regulations 2015 to ensure that the pension accrued by part-time members is based on all the plain-time hours that they work.

- 10.2 The Home Office considers that this can be achieved by amending the definition in regulation 33, by clarifying that all “pay” a member receives is pensionable.
- 10.3 Members did not raise any technical issues on the proposed draft regulations.
- 10.4 The Police Superintendents’ Association and Police Federation of England and Wales collectively responded to the consultation on 10 January 2023 agreeing in principle to a proposed amendment on the definition of pensionable pay in the 2015 Regulations to ensure that part-time hours worked (up to 40 hours each week) are classed as pensionable, backdated to 1 April 2015.
- 10.5 The Home Office has concluded that, the most appropriate course of action is to implement the changes required to the 2015 Regulations making all pay pensionable up to 40 hours per week.

Member contribution rates

- 10.6 As the member pension contribution rate is a protected element under section 22 of the Public Service Pensions Act 2013 the Home Office has an obligation to consult with the representatives of those who will be affected by these changes with a view to reaching an agreement on any amendment.
- 10.7 The Regulations were subject to consultation with the Police Pensions Scheme Advisory Board (SAB).
- 10.8 The consultation commenced on 01 December 2022 and ended on 12 January 2023. one response was received. Section 22 (4) of the Public Service Pensions Act 2013 requires a report to set out the reasons why the Home Secretary proposes to make the regulations having regard to the desirability of not making a change to the protected elements of a scheme within the protected period.
- 10.9 Members did not raise any technical issues on the proposed draft regulations.
- 10.10 The Police Superintendents’ Association and Police Federation of England and Wales collectively responded to the consultation on 10 January 2023 agreeing in principle to a proposed collection of the member contribution rates with no imposed end date, on the understanding that the proposed change will not adversely impact the operation of the current and future valuations.
- 10.11 The Home Office concluded that the most appropriate course of action is to extend the existing contribution rates without an imposed end date for the collection of member contributions.

11. Guidance

- 11.1 No Home Office guidance is to be issued on this instrument.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector for not making the changes to the Police Pension Regulations 2015, would be police pension scheme managers not being able to collect

member contributions after Friday 31st March 2023. Implementing the amendment to collect member contributions from 1st April 2023 will allow the 2015 Police Pension Scheme to be continually funded without an arbitrary end date.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no impact.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no proposals to actively monitor or review the outcome of the changes made by this Statutory Instrument.

15. Contact

15.1 Sara Alderman at the Home Office, email sara.alderman@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Peter Spreadbury, Deputy Director for the Police Workforce and Professionalism Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Chris Philp MP, Minister of State for Crime, Police and the Fire Service at the Home Office can confirm that this Explanatory Memorandum meets the required standard.