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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 201**

**PENSIONS**

**The Police Pensions (Scotland) Regulations 2007**

<i>Made</i>	- - - -	<i>7th March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th March 2007</i>
<i>Coming into force</i>	- -	<i>30th March 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 1 to 7 of the Police Pensions Act 1976<sup>(1)</sup>, and of all other powers enabling them in that behalf and after consultation with the Police Negotiating Board for the United Kingdom<sup>(2)</sup>, hereby make the following Regulations:

**PART 1**

**GENERAL PROVISIONS**

**Citation, commencement, effect and extent**

**1.**—(1) These Regulations may be cited as the Police Pensions (Scotland) Regulations 2007 and come into force on 30th March 2007 but have effect from 6th April 2006<sup>(3)</sup> subject to paragraph (2).

(2) The following regulations have effect from 30th March 2007—

- (a) regulation 13(3)(b); and
- (b) regulation 78(7).

(3) These Regulations extend to Scotland only.

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- (1) 1976 c. 35. Section 1 is 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 is 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 (c. 16), section 1(2) of the Police and Firemen's Pensions Act 1997 (c. 52), 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) and paragraph 6(1) of Schedule 3 to the International Development Act 2002 (c. 1). The functions of the Secretary of State under the Act as regards Scotland are transferred to Scottish Ministers by article 2 of and Schedule 1 to S.I. 1999/1750. The requirement for consent by the Minister for the Civil Service under section 1 of the Act was transferred to the Treasury by virtue of S.I. 1986/1670 and such consent is not required in the exercise by Scottish Ministers of the transferred functions by virtue of S.I. 1999/1750 and section 63 of the Scotland Act 1998 (c. 46).
- (2) See section 2(3) of the Police Negotiating Board Act 1980 (c. 10), which substituted the Police Negotiating Board for the Police Council for the United Kingdom.
- (3) Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976 (c. 35).

## **Meaning of certain expressions and references – general provision**

### **2. In these Regulations–**

- (a) the expressions contained in the glossary set out in Schedule 1 shall be construed as provided in that Schedule;
- (b) any reference to a member of a police force, however expressed, includes a reference to a person who has been such a member; and
- (c) any reference to an award, however expressed, is a reference to an award under these Regulations.

## **Meaning of certain expressions in relation to persons who are not members of a home police force**

3.—(1) For the purposes of these Regulations, an inspector of constabulary or a police officer engaged on relevant service shall be deemed to be a member of a home police force; and any reference to such a person transferring from one force to another, however expressed, shall be construed accordingly.

(2) In relation to an inspector of constabulary or an officer engaged on relevant service, any reference in these Regulations to the police authority shall be construed as a reference to the Scottish Ministers.

## **Disablement**

4.—(1) A reference in these Regulations to a person being permanently disabled is to be taken as a reference to that person being disabled at the time when the question arises for decision and to that disablement being at that time likely to be permanent.

(2) For the purposes of deciding if a person's disablement is likely to be permanent, that person shall be assumed to receive normal appropriate medical treatment for the disablement, and in this paragraph "appropriate medical treatment" shall not include medical treatment that it is reasonable in the opinion of the police authority for that person to refuse.

(3) Subject to paragraph (4), disablement means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a member of a police force or, as the case may be, to engage in any regular employment otherwise than as a regular police officer, except that in relation to a child survivor or an adult survivor of a member of a police force it means inability, occasioned by infirmity of mind or body, to earn a living.

(4) Where a person has retired or otherwise ceased to serve as a regular police officer before becoming disabled and the date on which that person becomes disabled cannot be ascertained, it shall be taken to be the date on which the claim that that person is disabled is first made to the police authority.

(5) In this regulation, "infirmity" means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

## **Transfers**

5. A reference to a regular police officer transferring from one force to another shall be construed as a reference to a regular police officer–

- (a) leaving a home police force for the purpose of joining another home police force as a regular police officer and joining that other force in that capacity, where–
  - (i) not being the chief constable of, or a constable on probation in, the force first mentioned in this paragraph, the person leaves that force after giving a month's notice

- in writing of their intention to do so to the police authority of that force, or such shorter period of notice as may have been accepted by that authority; or
- (ii) being the chief constable of, or a constable on probation in, that force, the person leaves that force with the written consent of the chief constable or, in the case of the chief constable, of the police authority of that force; or
- (b) at the end of a period of relevant service joining another home police force as a regular police officer subject, in the case of a person who was, at the time they left the home police force in which that person was serving immediately before engaging on that period of relevant service, the chief constable of that force, to their doing so with the written consent of the police authority of that force.

## PART 2

### ELIGIBILITY FOR PENSION AWARDS, PENSIONABLE SERVICE AND RETIREMENT

#### *Eligibility for pension awards*

#### **Application of Regulations**

6.—(1) These Regulations shall apply to a regular police officer who first became such on or after 6th April 2006.

(2) These Regulations shall also apply, subject to and in accordance with the provisions of Schedule 2, to a regular police officer who—

- (a) first became such before 6th April 2006 and retired or otherwise ceased to serve—
  - (i) with no entitlement to an award under the 1987 Regulations;
  - (ii) with an entitlement to an award by way of repayment of their aggregate pension contributions under regulation B6 of those Regulations;
  - (iii) with an entitlement to an ordinary pension under regulation B1 of those Regulations, a short service award under regulation B2 of those Regulations or an entitlement to a deferred pension under regulation B5 of those Regulations and, in any of those cases, the award is in payment (otherwise than where the deferred pension is in payment due to permanent disablement);
  - (iv) with an entitlement to an ordinary pension under regulation B1 of those Regulations or a deferred pension under regulation B5 of those Regulations and in either case the pension is not in payment; or
  - (v) with an entitlement to an ill-health award under regulation B3 of those Regulations or with an entitlement to a deferred pension under regulation B5 of those Regulations where the pension is in payment due to permanent disablement (whether the deferred pension came into payment immediately on retirement or ceasing to serve or on some later date);
- (b) at the date of such retirement or otherwise ceasing to serve was entitled to reckon less than 30 years' pensionable service under the 1987 Regulations; and
- (c) has, on or after 6th April 2006, rejoined the force in which that person was serving immediately before their retirement or otherwise ceasing to serve, or joined another force, otherwise than—

- (i) pursuant to regulation K1 of the 1987 Regulations where that person had not made an election under regulation G4(1) of those Regulations which was in effect immediately before their retirement;
  - (ii) pursuant to regulation K1 of the 1987 Regulations where that person retired before 6th April 2006 and they had made an election under regulation G4(1) of those Regulations which had not been cancelled before their retirement; or
  - (iii) upon reinstatement following a successful appeal against dismissal or requirement to resign where that person had not made an election under regulation G4(1) of the 1987 Regulations which was in effect immediately before their dismissal or requirement to resign.
- (3) These Regulations shall also apply, subject to and in accordance with the provisions of paragraph (4), to a regular police officer who—
- (a) first became such before 6th April 2006;
  - (b) was in service as such immediately before and on the said date; and
  - (c) either—
    - (i) had made an election under regulation G4(1) of the 1987 Regulations which had not been cancelled before that date; or
    - (ii) on or after 6th April 2006 makes an election under that provision.
- (4) In the case of an officer such as is mentioned in paragraph (3)—
- (a) the election mentioned in paragraph (3)(c)(i) shall, as from 6th April 2006, continue to have effect as if it had been made on that date under regulation 9(1), or as the case may be; or
  - (b) the election mentioned in paragraph (3)(c)(ii) shall have effect from the date on which it is made as if it had been made under regulation 9(1); and
  - (c) in either case, the officer may accordingly cancel the election in accordance with regulation 9(5), in which case the officer shall become eligible for awards to be payable to or in respect of that officer under these Regulations, subject to paragraph 9 of Schedule 2.
- (5) This paragraph applies to a regular police officer who cancels an election in the circumstances mentioned in paragraph (4) and who has an entitlement to an ordinary pension under regulation B1 of the 1987 Regulations or a deferred pension under regulation B5 of those Regulations and in either case the pension is not in payment.
- (6) This paragraph applies to a regular police officer—
- (a) by whom pension contributions were payable under regulation G2 of the 1987 Regulations as at 6th April 2006 (or would have been payable but for that officer's dismissal or requirement to resign and subsequent reinstatement following a successful appeal against that dismissal or requirement to resign);
  - (b) who continues to serve as such during the period beginning on that date and ending on the date of that officer's transfer election under paragraph (8) (or who would have continued to serve as such during that period but for that officer's dismissal or requirement to resign and subsequent reinstatement following a successful appeal against that dismissal or requirement to resign); and
  - (c) who does not, during the period mentioned in sub-paragraph (b), make an election under regulation G4 (1) of the 1987 Regulations.
- (7) This paragraph applies to a regular police officer such as is mentioned in paragraph (5) who cancels an election in the circumstances mentioned in paragraph (4) on a date before the expiry of the period of 3 months determined by the Scottish Ministers under paragraph 1 of Schedule 3, or such

longer period as the police authority may, by reason of exceptional circumstances in that officer's case, in their discretion allow.

(8) A regular police officer—

- (a) to whom these Regulations apply by virtue of paragraph (2)(a)(ii), (iv) or (v);
- (b) to whom paragraph (6) or (7) applies; or
- (c) who, on or after 6th April 2006, rejoined the force in which that officer was serving immediately before that officer's retirement pursuant to regulation K1 of the 1987 Regulations and who either had not made an election under regulation G4(1) of those Regulations which was in effect immediately before that officer's retirement or who retired before 6th April 2006 and had made an election under regulation G4(1) of those Regulations which had not been cancelled before that officer's retirement,

may make an election for the pensionable service that officer is entitled to reckon under those Regulations to be reckoned as pensionable service for the purposes of these Regulations ("a transfer election") subject to and in accordance with the provisions of Schedule 3.

(9) Where a regular police officer to whom paragraph (6) applies or is such as is mentioned in paragraph (8)(c) makes a transfer election, these Regulations shall apply to that officer who shall become eligible for awards to be payable to or in respect of that officer under these Regulations.

#### **Pension contributions payable by regular police officers**

7.—(1) Subject to paragraph (3), a regular police officer shall pay to the police authority pension contributions at the rate of—

- (a) in a case where the officer is ineligible under regulation 8 for a pension award payable on the ground of permanent disablement, 6 per cent of that officer's pensionable pay; and
- (b) in any other case, 9.5 per cent of that officer's pensionable pay.

(2) The pension contributions payable under paragraph (1) upon each instalment of pay shall fall due at the same time as the instalment and may, without prejudice to any other method of payment that may be agreed by the police authority in exceptional circumstances, be discharged by way of a deduction of the appropriate amount made by the police authority from the instalment.

(3) Paragraph (1) shall not apply in the case of a regular police officer who has made an election under regulation 9 which is, for the time being, in effect.

#### **Eligibility for pension awards payable on the ground of permanent disablement**

8.—(1) This regulation applies to—

- (a) a candidate for appointment to a police force (otherwise than on transfer from another force); and
- (b) a regular police officer who seeks under regulation 9(5) to cancel that officer's election that regulation 7(1) shall not apply in that officer's case.

(2) A person to whom this regulation applies shall, if required by the police authority in question, submit to an examination by a duly qualified medical practitioner selected by the authority ("the selected medical practitioner") in accordance with regulation 69 in order that the authority may determine that officer's eligibility to receive pension awards payable on the ground of permanent disablement.

(3) The police authority shall determine, by applying the opinion of the selected medical practitioner as set out in the selected medical practitioner's report and advice from the Scheme actuary, whether the risk presented by that person that that person will retire on the ground that that

person is permanently disabled is such that the likely cost of providing that person with benefits under these Regulations is disproportionately high.

(4) The determination of the police authority under paragraph (3) shall be subject to appeal by that person in accordance with regulation 70; and upon receipt of the final revised report or written statement of opinion prepared in accordance with that regulation, the police authority shall redetermine, by applying the opinion set out in the final revised report or written statement of opinion, and advice from the Scheme actuary, whether the risk presented by that person that that person will retire on the ground that that person is permanently disabled is such that the likely cost of providing that person with benefits under these Regulations is disproportionately high.

(5) The likely cost of providing a person with benefits under these Regulations shall be assessed as disproportionately high if it is more than 50 per cent greater than the likely cost of providing such benefits to a person who does not have an identified risk of retirement on that ground.

(6) A person who it is determined under paragraph (3) or (4) presents such a risk shall, in accordance with these Regulations, be ineligible for pension awards payable on the ground of permanent disablement.

(7) A police authority may in accordance with this regulation determine the eligibility of a person—

- (a) to whom this regulation applies by virtue of paragraph (1)(a) who was previously ineligible for pension awards payable on the ground of permanent disablement under this regulation or under regulation G7 of the 1987 Regulations; or
- (b) to whom this regulation applies by virtue of paragraph (1)(b) who was ineligible for pension awards payable on the ground of permanent disablement under regulation G7 of the 1987 Regulations, on the date of the election which the person is now seeking to cancel under regulation 9(5) of these Regulations,

to receive pension awards payable on the ground of permanent disablement; and in which case, that person shall submit to an examination as set out in paragraph (2).

(8) If a person mentioned in paragraph (7) is eligible to receive pension awards following a determination of the police authority under paragraph (3) or (4) (as applicable), that person shall be so eligible from the date of that determination:

Provided that—

- (a) that person shall only be so eligible in respect of that person's pensionable service from that date;
- (b) regulation 29 shall apply to that person from that date; and
- (c) in calculating that person's entitlement to any standard ill-health pension or any enhanced top-up ill-health pension the pensionable service that person is entitled to reckon as at the date of that person's retirement shall only comprise service from the date of the police authority's determination under paragraph (3) or (4) (as applicable).

### **Election not to pay pension contributions**

9.—(1) A regular police officer may at any time elect that regulation 7(1) shall not apply in that officer's case by notice in writing given to the police authority.

(2) Subject to paragraph (3), the date on which an election under paragraph (1) takes effect shall be the date on which an instalment of pay next falls due to that officer after the receipt of notice under paragraph (1).

(3) In the case of a regular police officer who has given notice under paragraph (1) within 3 months of the date on which that officer last became such and to whom regulation 15 does not apply, that officer's election under that paragraph shall be deemed to have taken effect on that date.

(4) In a case falling within paragraph (3), the police authority shall subject to regulation 35, pay to the regular police officer in question a sum equal to the sum of the pension contributions paid by that officer since the date on which the election is deemed to have taken effect.

(5) A regular police officer who has made an election under paragraph (1) may cancel such election by notice in writing given to the police authority and the election shall cease to have effect as from the date on which an instalment of pay next falls due to that officer after the receipt of such notice :

Provided that—

- (a) a regular police officer having cancelled that officer's election under paragraph (1) and subsequently made a further election under paragraph (1) shall not be entitled to cancel the further election during the same period of service as a regular police officer;
- (b) a regular police officer shall not, if the police authority so resolve, be entitled to cancel that officer's election under paragraph (1) unless that officer has undergone a medical examination in accordance with regulation 8 (and any fee payable in respect of such an examination and a report thereon shall be paid by the regular police officer concerned);
- (c) a regular police officer in respect of whom it is determined, following such a medical examination, that the likely cost of providing that officer with benefits under these Regulations is disproportionately high, shall (subject to any appeal under regulation 8(4)) be entitled to cancel that officer's election under paragraph (1) only subject to the condition that that officer shall not be eligible to receive pension awards payable on the ground of permanent disablement; and
- (d) a regular police officer who was ineligible to receive pension awards payable on the ground of permanent disablement under regulation 8 on the date of the officer's election under paragraph (1) shall upon cancellation of that election be ineligible to receive pension awards payable on the ground of permanent disablement

#### *Pensionable service*

#### **Reckoning of pensionable service**

**10.—(1)** The pensionable service reckonable by a regular police officer at any date (in these Regulations referred to as the “relevant date”) shall be determined in accordance with the succeeding provisions of these Regulations:

Provided that there shall not be reckonable by a regular police officer—

- (a) any period of unpaid maternity leave (not being a period which falls within the first 26 weeks of any period of maternity leave taken by a person in respect of whom no election under regulation 9 was effective immediately before the commencement of that period of unpaid maternity leave) or of unpaid parental leave in respect of which the conditions specified in paragraph (2) are not satisfied;
- (b) any period of unpaid sick leave in respect of which the conditions specified in paragraph (2) and the additional condition specified in paragraph (3) are not satisfied; or
- (c) any other period of unpaid leave.

(2) The conditions referred to in sub-paragraphs (a) and (b) of the proviso to paragraph (1) are that the person concerned—

- (a) was serving as a regular police officer during the period immediately preceding a period of maternity leave, parental leave, or sick leave which includes the period of unpaid maternity leave, unpaid parental leave, or unpaid sick leave in question and no election under

regulation 9 was effective in respect of that person immediately before the commencement of that period of unpaid leave;

- (b) in accordance with the provisions of paragraph (4) pays to the police authority a sum equal to the sum of the pension contributions which would have been payable for the period of unpaid maternity leave, unpaid parental leave, or unpaid sick leave in question if that person's notional pensionable pay during that period had been at the same rate as that person's pensionable pay (including any statutory maternity pay payable to a woman under the Social Security Contributions and Benefits Act 1992(4)) immediately before the commencement of the period of unpaid maternity leave, unpaid parental leave, or unpaid sick leave which constituted or included the period in question.

(3) The additional condition referred to in sub-paragraph (b) of the proviso to paragraph (1) is that the period of unpaid sick leave in question does not exceed 6 months and, when aggregated with any other period or periods of unpaid sick leave which fulfils, or all of which fulfill, the conditions specified in paragraph (2)(a) and (b), does not exceed 12 months.

- (a) (4) (a) The person concerned shall, by notice in writing given to the police authority within a period ending—

- (i) 3 months after the day on which the period of leave which constitutes or includes the period of unpaid leave in question ended; or

- (ii) on the day, if earlier, on which the person last serves as a regular police officer,

inform the police authority that that person wishes to make the payment referred to in paragraph (2)(b) and in respect of which period of leave, and which method of payment under sub paragraph (c) that person elects to use:

Provided that, where the person concerned dies before the end of the period specified in this sub-paragraph without having given such notice, notice shall be deemed to have been given in respect of any period of leave which would otherwise be reckonable by that person under this regulation and the person concerned shall be deemed to have elected to make payment by way of instalments under sub-paragraph (c);

- (b) On receipt of the notice referred to in sub-paragraph (a) the police authority shall calculate the amount due under paragraph (2)(b) and give written notice of that amount to the person concerned;
- (c) Payment under paragraph (2)(b) may be made by the person concerned either by way of a lump sum or by instalments on the same dates as pension contributions are payable by that person under regulation 7:

Provided that where the person concerned has elected to make payment by way of instalments under this sub-paragraph, the balance due after the payment of any of those instalments may be paid by way of a lump sum equal to that balance at any time before the due date (as defined in sub-paragraph (d));

- (d) The total amount due under paragraph (2)(b) shall be paid no later than 6 months after the person concerned is notified by the police authority as to the amount payable or, if that person retires or otherwise ceases to serve as a regular police officer before the expiry of that period, before the date on which that person retires or so ceases to serve ("the due date"):

Provided that, in a case where the person concerned retires or otherwise ceases to serve as a regular police officer before the total amount due has been paid under this sub-paragraph, any lump-sum payment made within 2 months of retiring or so ceasing to serve or of receiving notification from the police authority as to the amount payable, whichever is the later, shall be deemed to have been made by the due date;



- (e) Where the person concerned has not paid the full amount due in accordance with the foregoing provisions of this paragraph, the proportion of the unpaid leave in question which shall be reckonable as pensionable service shall be the same proportion as the amount which has been so paid bears to the total amount due:

Provided that where the person concerned dies before the due date there shall be reckonable the full period of unpaid leave in question notwithstanding that the amount due has, in full or in part, not been paid in accordance with the provisions of sub paragraphs (c) and (d);

- (f) A regular police officer shall be treated, for the purposes of calculating any award under these Regulations, as having made pension contributions throughout any period or periods of unpaid leave reckonable as pensionable service by virtue of payments made in accordance with this paragraph and any such period or periods shall be treated for those purposes as part of a continuous period ending with the last day of unpaid leave during the period of service as a regular police officer of the person concerned.

### **Current service**

**11.—**(1) Subject to the provisions of these Regulations, there shall be reckonable as pensionable service by a regular police officer in respect of that officer's service as such in the force in which the officer is or was serving on the relevant date, being service since the officer last joined or rejoined that force before that date, all such service:

Provided that no period of service shall be reckonable by a regular police officer during which pension contributions were not payable by that officer under regulation 7 and in respect of which no payment has been made under regulation 10(2)(b), except any period of unpaid maternity leave during the first 26 weeks of any period of maternity leave and any period during which pension contributions were not paid in the circumstances mentioned in the proviso to regulation 95(2).

- (2) This regulation has effect subject to regulation 14.

### **Previous service reckonable without payment**

**12.—**(1) There shall be reckonable by a regular police officer as pensionable service—

- (a) where from being a regular police officer in another force the officer transferred to the force in which the officer is or was serving on the relevant date, any period of pensionable service reckonable by that officer immediately before the transfer;
- (b) where the officer previously retired from a police force upon becoming entitled to a pension on the ground of disablement under regulation 21 and, following termination of that pension under regulation 51(5), (6) or (7), has rejoined that force or become a regular police officer in another force in which the officer is or was serving on the relevant date, any period of pensionable service which was reckonable by that officer immediately before that officer so retired;
- (c) where the officer previously ceased to serve in a police force as a regular police officer with an entitlement to a deferred pension which has not come into payment and has subsequently rejoined that force or become a regular police officer in another force in which the officer is or was serving on the relevant date, any period of pensionable service reckonable by that officer immediately before that officer so ceased to serve; and
- (d) where that officer previously ceased to serve in a police force as a regular police officer with an entitlement to a deferred pension which, in accordance with regulation 32, came into payment early on the ground of permanent disablement for engaging in any regular employment and that officer's pension has been terminated upon that officer rejoining that

officer's force or joining another force under regulation 51(5), any period of pensionable service reckonable by that officer immediately before that officer so ceased to serve:

Provided that, in a case such as is mentioned in the preceding sub-paragraphs, where the officer was during the period of pensionable service in question purchasing added years by periodical contributions, those added years shall be taken into account only to the extent that—

- (i) in a case falling within sub-paragraph (a), they would have been taken into account for the purposes of a deferred pension if the officer had become entitled to such a pension immediately before the end of that period of service;
- (ii) in a case falling within sub-paragraph (b), they are reckonable by virtue of regulation 60(5) and (6); and
- (iii) in a case falling within sub-paragraph (c), they were taken into account for the purposes of entitlement to the deferred pension mentioned in that sub-paragraph.

(2) In a case falling within paragraph (1)(c), the entitlement of the officer concerned to that deferred pension shall accordingly be relinquished.

(3) Where a regular police officer transferred as mentioned in paragraph (1)(a) during a leap year and throughout that leap year had continuous service as a regular police officer then, notwithstanding anything in paragraph (1)(a), the pensionable service reckonable by that officer by reason of that officer's continuous service in that year shall be a year's, and not 366 days', pensionable service.

(4) This regulation has effect subject to regulation 14.

#### **Previous service reckonable on payment**

**13.—**(1) There shall be reckonable by a regular police officer as pensionable service, in the circumstances specified in this regulation, the periods so specified before that officer last joined or rejoined the force before the relevant date, subject to that officer having made to the police authority the appropriate payment in accordance with the provisions of paragraph (6).

(2) Where the officer previously ceased to serve as a regular police officer without the payment of a pension or a transfer value (and without entitlement to a deferred pension) and has rejoined that officer's force or become a regular police officer in another force in which the officer is or was serving on the relevant date the period shall be any period of pensionable service reckonable by that officer at the time they so ceased to serve.

(3) In a case falling within paragraph (2), the amount of the appropriate payment shall be—

- (a) a sum equal to any award by way of repayment of aggregate pension contributions which the officer may have received on so ceasing to serve; and
- (b) where the appropriate payment is made more than a year after receipt of any such award, interest from the date of receipt of the award calculated at the rate of 5 per cent per year, compounded with yearly rests.

(4) The person concerned shall, by notice in writing given to the police authority within a period ending—

- (a) 6 months (or such longer period as the police authority in their discretion may allow) after the date on which the officer joined or rejoined the force in which the officer is serving on the relevant date; or
- (b) on the day, if earlier, on which the officer last serves as a regular police officer,

inform the police authority that that officer wishes to make the payment referred to in paragraph (1):

Provided that, where the person concerned dies before the end of the period specified in this paragraph without having given such notice, they shall be deemed to have given such notice.

(5) On receipt of the notice referred to in paragraph (4) the police authority shall determine the amount due under paragraph (3) and give written notice of that amount to the person concerned.

(6) Where a regular police officer undertakes to make an appropriate payment in accordance with paragraph (1), payment shall be made by regular instalments of such amount that the payment of the sum will be completed within a period of 2 years beginning with the date on which the officer receives the written notice referred to in paragraph (5), save that where the police authority are satisfied that completion of the payment within that period is causing, or is likely to cause, financial hardship they may allow such longer period as they may determine:

Provided that the officer may at any time discharge that officer's liability under the undertaking, in whole or in part, by paying the whole or part of the balance of the sum then outstanding.

(7) Subject to paragraphs (8) and (9), any payment under this regulation shall be made by the police officer to the police authority of the force in which the officer is serving when the payment falls to be made and, without prejudice to any other method of payment, the liability to make any such payment may be discharged by way of a deduction by the said authority from that officer's pay.

(8) If, before the officer has discharged that officer's liability under the undertaking, a regular police officer retires under regulation 21 or dies, all further liability under that undertaking shall cease and that officer's liability shall be deemed to have been fully discharged.

(9) If, before the officer has discharged that officer's liability under the undertaking, a regular police officer retires otherwise than under regulation 21 with an award other than one of the amounts of that officer's aggregate pension contributions in respect of the relevant period of service, the police authority by whom the award is payable shall be empowered to deduct the balance of the sum then outstanding from payments on account of the award.

(10) This regulation has effect subject to regulation 14.

### **Reckoning of part-time service**

**14.—**(1) In the case of a regular police officer who has spent one or more periods in part-time service, the number of days of pensionable service in any such period shall be calculated by the application of the following fraction—

$$\frac{(A \times 7)}{B}$$

where

A is the total number of determined hours of part-time service specified under the part-time appointment of that officer in the period in question and B is the number of hours per week if the service during that period were on a full-time basis.

(2) For the purposes of paragraph (1) a period of part-time service is to be taken to have ended and another such period to have begun on the occurrence of any change in the result achieved after applying that fraction.

### **Service reckonable by reason of transfer value**

**15.—**(1) This regulation applies to a regular police officer—

- (a) who before the officer last became a regular police officer before the relevant date was subject to pension arrangements in pursuance of which a transfer value may be paid to the police authority ("former pension arrangements"); and
- (b) in respect of whom a transfer value has, in pursuance of that officer's former pension arrangements, been paid to the police authority of the force in which the officer is serving on the relevant date.

(2) There shall be reckonable by a regular police officer to whom this regulation applies, in respect of that officer's former pension arrangements, a period of pensionable service calculated in accordance with tables and guidance issued for the purpose by the Scheme actuary, except that if the transfer value in question is paid and accepted under the public sector transfer arrangements, the period of pensionable service the officer concerned is entitled to reckon in respect of that officer's former pension arrangements shall be calculated in accordance with the rules applicable to those public sector transfer arrangements.

(3) The provisions of this regulation shall not apply where the regular police officer concerned had a guaranteed minimum in relation to the pension provided by the former pension arrangements unless—

- (a) the transfer value mentioned in paragraph (1)(b) is paid under the public sector transfer arrangements; or
- (b) were the transfer value mentioned in paragraph (1)(b) to be paid, such part of it as relates to pension benefit accrual before 6th April 1997 is at least as great as the product of—
  - (A) the annual amount of the pension to which the officer would, if that transfer value were paid, be entitled under regulation 43; and
  - (B) the factor specified in column 2 of the following table opposite their age, as set out in column 1 of that table, as at the date when the police authority is requested to accept that transfer value:

<i>Age</i>	<i>Appropriate factor</i>
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

(4) In this regulation, “the public sector transfer arrangements” means arrangements approved for the time being by the Minister for the Civil Service as providing reciprocal arrangements for the payment and receipt of transfer values for the purposes of these Regulations to or from other occupational pension schemes.

### **Reckoning of service for purposes of awards**

**16.—**(1) Notwithstanding any other provision of these Regulations, for the purposes of calculating all awards payable to or in respect of a regular police officer under these Regulations, the total service which may be reckoned as pensionable service by such an officer shall not exceed 35 years.

(2) For the purpose of calculating an award payable to or in respect of a regular police officer by reference to any period in years (including a period of pensionable service)—

- (a) that period shall be reckoned in completed years and a fraction of a year;
- (b) a part of a year shall be taken to be that fraction of a year whereof the denominator is 365 and the numerator is the number of completed days in that part and, accordingly, a part of a year which includes 29th February in a leap year and comprises 365 days shall be treated as a whole year.

## Retirement

### Retirement

**17.—**(1) Subject to paragraph (2), a reference in these Regulations to retirement includes a reference to retirement under regulation 18, 19, 20 or 21, but does not include a reference to—

- (a) leaving a police force on transferring from one force to another;
- (b) leaving a police force on joining an English or Welsh police force or the Police Service of Northern Ireland;
- (c) ceasing to serve as a regular police officer, otherwise than on retirement under regulation 21, from a date before that on which the officer concerned attains the age of 55 years (whether the officer so ceases to serve voluntarily, upon the expiry without extension (or further extension) of the period of an appointment for a fixed term in accordance with regulation 11 of the Police (Scotland) Regulations 2004<sup>(5)</sup> or upon being dismissed or required to resign); or
- (d) retirement within the meaning of section 4(4)(d) of the Police (Scotland) Act 1967<sup>(6)</sup> in a case where, under that section, the chief constable in question is required to retire before the date on which that chief constable attains the age of 55 years.

(2) A regular police officer who fulfils the qualifying service criterion and who is dismissed or required to resign, on or after the date on which the officer attains the age of 55 years, shall be deemed for the purposes of these Regulations to have retired under regulation 18 on the date that officer's dismissal or resignation took effect, having given such notice to the police authority of that officer's intention to retire as is mentioned in regulation 18(2) and with any necessary consent having been given under regulation 18(4).

(3) A regular police officer fulfils the qualifying service criterion if—

- (a) that officer has at least 2 years' qualifying service; or
- (b) regulation 15 applies to that officer.

(4) In paragraph (3), "2 years' qualifying service" has the meaning assigned to it by section 71(7) of the 1993 Act.

### Voluntary retirement

**18.—**(1) Subject to paragraphs (2) to (4), a regular police officer may retire on or after the date on which that officer attains the age of 55 years.

(2) A regular police officer who intends to retire under this regulation shall give the police authority written notice of that intention—

- (a) in the case of an officer of the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable at least 3 months before that officer's intended date of retirement: and
- (b) in the case of an officer of any other rank at least 1 month before that officer's intended date of retirement:

Provided that a police authority may, in their discretion, accept such shorter notice than that specified in sub-paragraph (a) or (b), as the case may be, as they may determine.

(3) For the purposes of this regulation—

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<sup>(5)</sup> [S.S.I. 2004/257](#).

<sup>(6)</sup> [1967 c. 77](#). Relevantly amended by the Anti-Terrorism, Crime and Security Act 2001 ([c. 24](#)), section 101 and Schedule 7, paragraphs 2 and 3 and [S.I. 2004/1573](#), article 12.

- (a) an inspector of constabulary shall be deemed to hold the rank and office of Chief Constable;
  - (b) an assistant inspector of constabulary shall be deemed to hold the rank of Chief Superintendent; and
  - (c) any other police officer engaged on relevant service shall be deemed to hold the rank in which the officer is entitled to revert to that officer's home police force at the end of that officer's period of relevant service.
- (4) A regular police officer who is suspended under the Conduct Regulations may retire under this regulation only if consent to do so is given—
- (a) by the police authority in the case of an officer falling within paragraph (2)(a); or
  - (b) by the chief constable in the case of an officer of any other rank.

#### **Compulsory retirement on account of age**

**19.**—(1) From 6th April 2006 to 30th September 2006, regulation A18(1) and (2) of the 1987 Regulations<sup>(7)</sup> (compulsory retirement on account of age) shall apply to every regular police officer.

(2) From 1st October 2006, subject to paragraph (3), every regular police officer shall be required to retire—

- (a) if that officer is of the rank of Constable, Sergeant, Inspector or Chief Inspector, on attaining the age of 60 years; and
- (b) if that officer holds any higher rank, on attaining the age of 65 years.

(3) The time at which, under paragraph (2), a person shall be required to retire may be postponed, if that person holds a rank above that of Superintendent, by the police authority, and, if that person holds the rank of Superintendent or any lower rank, by the chief constable.

#### **Compulsory retirement on grounds of efficiency of the force**

**20.**—(1) This regulation applies to a regular police officer of the rank of Chief Superintendent, Superintendent, Chief Inspector, Inspector, Sergeant or Constable who is entitled to reckon 35 years' pensionable service (or would have been so entitled if that officer had not made an election under regulation 9).

(2) If the police authority determine that the retention in the force of a regular police officer to whom this regulation applies would not be in the general interests of efficiency, that officer may be required to retire on such date, on or after the date on which that officer attains the age of 55 years, as the police authority determine.

#### **Compulsory retirement on the ground of disablement**

**21.**—(1) A police authority may require a regular police officer to retire on the date on which, having considered all the relevant circumstances, advice and information available to them, they determine that the officer ought to retire on the ground that the officer is permanently disabled for the performance of the ordinary duties of a member of the police force:

Provided that a retirement under this paragraph shall be void if, after the said date, on an appeal against the medical opinion on which the police authority acted in determining that the officer ought to retire, the appeal board decides that the appellant is not permanently so disabled.

(2) This paragraph applies to a regular police officer who is permanently disabled for the performance of the ordinary duties of a member of the police force but who, in accordance with a

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(7) [S.I. 1987/257](#); regulation A18 was amended by [S.I. 1998/577](#), and [S.S.I. 2004/486](#).

determination of the police authority in the circumstances of that officer's case, continues to serve as such.

(3) The police authority for the force in which a police officer to whom paragraph (2) applies is serving may consider, at such times as they may in their discretion determine, whether the disablement has ceased, significantly worsened or significantly improved.

(4) If on any such consideration the police authority, having considered all the relevant circumstances, advice and information available to them, determine that the officer ought to retire on the ground that the officer is permanently disabled for the performance of the ordinary duties of a member of the police force they shall require that officer to retire under paragraph (1) (subject to the proviso to that paragraph).

### **Effective date of retirement**

**22.** For the purposes of these Regulations—

- (a) a regular police officer shall be taken to retire or cease to serve immediately following that officer's last day of service; and
- (b) a regular police officer required to retire under regulation 19, 20 or 21 shall be deemed to retire on the date on which the officer is so required to retire and their last day of service shall be the immediately preceding day.

## **PART 3**

### **PENSIONABLE PAY AND CONTRIBUTIONS**

#### **Pensionable pay**

**23.** The pensionable pay of a regular police officer at any time means that officer's pay at the rate to which the officer is or was then entitled, account being taken of any retrospective increase in that rate, except that during a period of part-time service it means so much of that officer's pay at that rate as is attributable to that officer's determined hours specified under that officer's part-time appointment.

#### **Final pensionable pay**

**24.—(1)** The final pensionable pay of a regular police officer shall, subject to paragraphs (2) to (4), mean that officer's average pensionable pay—

- (a) in respect of the period of 12 months ending on the later of—
  - (i) the date of that officer's last day of service in a period during which pension contributions were payable by that officer under regulation 7; or
  - (ii) the last day in respect of which payment has been made under regulation 10(2)(b);
- (b) in respect of either of the 2 periods of 12 months that immediately preceded the period mentioned in sub-paragraph (a); or
- (c) taken as an annual average in respect of any 3 consecutive periods of 12 months, ending an exact number of years before the date mentioned in sub-paragraph (a), falling within the period of 7 years that immediately preceded the earlier of the 2 periods mentioned in sub-paragraph (b),

whichever is the greatest.

(2) Subject to paragraph (3), where a regular police officer, having made an election under regulation 9, has, within the period of 3 years immediately preceding that officer's last day of

service as such and at a time when that officer had an entitlement to a deferred pension, cancelled that election in accordance with regulation 9(5), then that officer's final pensionable pay shall be calculated—

- (a) in respect of the period of pensionable service the officer was entitled to reckon as at the date on which the election took effect, in accordance with paragraph (1), which shall apply, as if—
  - (i) for the purposes of paragraph (1)(a)(i) the date of that officer's last day of service were the date on which the election took effect; and
  - (ii) paragraph (1)(a)(ii) applied only in respect of any payment in respect of a period of unpaid maternity leave, unpaid parental leave or unpaid sick leave taken in the period before the election took effect; and
- (b) in respect of the period of pensionable service reckonable by reason of service beginning on the date on which the aforementioned cancellation of that officer's election took effect and ending on that officer's last day of service (including any service reckonable by virtue of the receipt by the police authority during that period of a transfer value), in accordance with paragraph (1) without any such modification as is specified in sub-paragraph (a).

(3) In a case where a regular police officer's final pensionable pay is calculated in accordance with paragraph (2), for the purposes of calculating any award under Part 4, that officer's final pensionable pay as calculated in accordance with sub-paragraphs (a) and (b) respectively shall be applied to the period of service mentioned in the sub-paragraph in question.

(4) Solely, for the purpose of determining the greatest amount under paragraph (1) (including in cases where that paragraph applies as set out in paragraph (2)(a) and (b)), the amount of the average pensionable pay of a regular police officer in respect of any period of 12 months to which paragraph (1)(b) or (c) relates shall be treated as increased by the same amount as that by which an annual pension of an amount equal to that average pensionable pay would have been increased under the Pensions (Increase) Act 1971<sup>(8)</sup> by the last day of the period referred to in paragraph (1)(a) (as modified, for cases within paragraph (2)(a)) if the said annual pension had come into payment on the day immediately following that on which the relevant period of 12 months to which paragraph (1) (b) or (c) relates ended.

### **Average pensionable pay**

**25.—**(1) Subject to paragraphs (2), (3) and (4), the average pensionable pay of a regular police officer in any of the periods of 12 months mentioned in regulation 24(1) shall be the aggregate of that officer's pensionable pay in respect of the period in question:

Provided that where the officer is entitled to reckon less than 12 months pensionable service, the aggregate shall be multiplied by the reciprocal of the fraction of the 12-month period during which the officer was entitled to pensionable pay.

(2) Where the amount of a regular police officer's average pensionable pay, determined in accordance with paragraph (1), is less than the amount it would have been had the officer not suffered a temporary stoppage or reduction in rate of pay by way of punishment or by reason of a period of sick leave, maternity leave, parental leave or any other period of leave which was unpaid or paid at a reduced rate being taken, it shall be increased by the difference between those 2 amounts.

(3) Where any period of 12 months mentioned in regulation 24(1) includes a period of unpaid maternity leave, unpaid parental leave or unpaid sick leave, in respect of which payment has been made under regulation 10(2)(b), the officer's pensionable pay during that period shall, for the purposes of determining average pensionable pay, be taken to be the pay to which the officer would have been entitled had the period of unpaid leave in question not been taken; and accordingly the

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(8) 1971 c. 56; relevantly amended by the Pensions (Increase) Act 1974 (c. 9).



aggregate of that officer's pensionable pay in respect of that period shall not be taken to exceed the amount which the officer would have received had the period of unpaid leave in question not been taken.

(4) Where any period of 12 months mentioned in regulation 24(1) includes one or more periods of part-time service, for the purposes of determining average pensionable pay the officer's pensionable pay in respect of any such period, as determined in accordance with paragraphs (1) to (3), shall be taken to be the pay to which the officer would have been entitled if that officer's part-time service had been full-time.

### **Aggregate pension contributions for purposes of repayment**

**26.—**(1) This paragraph applies for the purposes of calculating a payment under these Regulations by reference to the aggregate pension contributions of a regular police officer in respect of the relevant period of service.

(2) Where paragraph (1) applies, the relevant period of service shall be taken to be the period ending in the retirement or otherwise ceasing to serve as a regular police officer or the death, as the case may be, on which the award is payable and beginning with the date on which the officer became a regular police officer in the force from which that officer retired, in which that officer served until ceasing to serve as aforesaid or in which that officer died, as the case may be, or, if the officer has more than once been a regular police officer in that force, the date on which the officer last joined that force:

Provided that, in the case of a regular police officer who has made an election under regulation 9, the relevant period of service shall be taken to be the period, or last period, during which pension contributions were continuously payable by that officer under regulation 7 since the date on which, had no such election been made, the relevant period of service would be taken to have begun.

(3) Where paragraph (1) applies, the aggregate pension contributions in respect of the relevant period of service shall be taken to be the sum of the following amounts—

- (a) the aggregate of the pension contributions made in respect of that period by the person concerned to the police authority by whom the award is payable, including any payment made by that person under regulation 10(2)(b) in respect of a period of unpaid maternity leave, unpaid parental leave or unpaid sick leave;
- (b) the amount of any sums paid by the person concerned to the said police authority (including sums paid in pursuance of an undertaking) as a condition of being entitled to reckon pensionable service by reason of service before that period;
- (c) where the person concerned has transferred to the force of the police authority by whom the award is payable, any sum which had the person ceased to serve instead of transferring would have been calculable under this paragraph as aggregate pension contributions at the time of transfer;
- (d) where the person concerned, while a member of the force of that police authority, became entitled, in the circumstances mentioned in regulation 15(1), to reckon pensionable service by reason of a period of previous service or employment otherwise than as a regular police officer, the amount of any award by way of return of contributions or of any analogous payment which would have been made to that officer at the end of that period of previous service or employment had the person voluntarily ceased to serve or retired from employment in circumstances entitling that officer to such an award or payment under that officer's former pension arrangements;
- (e) where the person concerned previously retired with a pension on the ground of disablement under regulation 21 from the force of the police authority by whom the current award is payable, that pension was terminated under regulation 51 and that officer rejoined

that officer's former force or joined another force, any sum which would have been calculable under this paragraph as aggregate pension contributions at the time of the previous retirement; and

- (f) all payments made by the person concerned to a police authority in accordance with an election under regulation 56.

(4) If the regular police officer is a pension debit member, the amount of that officer's aggregate pension contributions under this regulation shall be reduced by such amount as is assessed in accordance with guidance issued by the Scheme actuary.

## PART 4

### PENSION AWARDS

#### *Personal pensions*

#### **Police officer's ordinary pension**

**27.—**(1) This regulation applies to a regular police officer who fulfils the qualifying service criterion and who retires or has retired in accordance with regulation 18, 19 or 20:

Provided that this regulation shall not apply to a regular police officer who has made an election under regulation 9 which had effect at the time of that officer's retirement.

(2) Subject to the provisions of these Regulations, a regular police officer to whom this regulation applies shall be entitled to an ordinary pension of an amount calculated in accordance with regulation 28.

#### **Calculation of ordinary pension**

**28.—**(1) A regular police officer's ordinary pension shall be—

- (a) an annual sum payable for life calculated by multiplying an amount equal to  $\frac{1}{70}$  of that officer's final pensionable pay by the number of years of pensionable service the officer is entitled to reckon; and
- (b) a lump-sum payment calculated by multiplying an amount equal to  $\frac{4}{70}$  of that officer's final pensionable pay by the number of years of pensionable service the officer is entitled to reckon:

Provided that a lump-sum payment payable to an officer who rejoined that officer's former force or joined another force having previously received a lump-sum payment by reason of entitlement to an ill-health pension under regulation 29 or to early payment of a deferred pension on the ground of permanent disablement under regulation 32 (where that pension has been terminated under regulation 51) shall be reduced by an amount equal to the amount of that previous lump-sum payment, increased by the same amount as that by which an annual pension of an amount equal to that previous lump sum payment would have increased under the Pensions (Increase) Act 1971 by the date on which the award comes into payment if that annual pension had come into payment on the day on which the previous lump-sum payment was made.

(2) Where a regular police officer has rejoined that officer's former force or joined another police force more than once having previously received on more than one occasion a lump-sum payment by reason of entitlement to an ill-health pension under regulation 29 or to early payment of a deferred pension on the ground of permanent disablement under regulation 32 (where each pension has been terminated under regulation 51) the lump sum payment payable to the officer under paragraph (1)(b) shall be reduced in accordance with the proviso to paragraph (1) with references to a previous lump-

sum payment being construed as references to the officer's most recent lump-sum payment, and of the amount it would have been if the officer had not prior to that received any lump-sum payment.

### **Police officer's ill-health pension**

**29.—(1)** This regulation applies to a regular police officer who retires or has retired under regulation 21:

Provided that this regulation shall not apply to a regular police officer—

- (a) who has made an election under regulation 9 which had effect at the time of that officer's retirement;
- (b) who under regulation 8 is ineligible for pension awards payable on the ground of permanent disablement; or
- (c) who has attained the age of 55 at the time of that officer's retirement, and in such a case that policeman shall be entitled to an ordinary pension under regulation 27 instead of an ill-health pension as provided in this regulation.

(2) Subject to the provisions of these Regulations, a regular police officer to whom this regulation applies shall be entitled to an ill-health pension as provided in this regulation.

(3) In the case of a regular police officer who, at the time of their retirement—

- (a) (i) fulfills the qualifying service criterion; or  
(ii) is disabled as the result of an injury received without that officer's default in the execution of duty; and
- (b) in either case, is permanently disabled for the performance of the ordinary duties of a member of the police force but is not permanently disabled for engaging in any regular employment otherwise than as a regular police officer,

the award under paragraph (2) shall be an ill-health pension calculated in accordance with regulation 30 ("a standard ill-health pension").

(4) In the case of a regular police officer who, at the time of that officer's retirement, falls within paragraph (3)(a) but is permanently disabled both for the performance of the ordinary duties of a member of the police force and for engaging in any regular employment otherwise than as a regular police officer, the award under paragraph (2) shall comprise—

- (a) a standard ill-health pension; and
- (b) an additional pension calculated in accordance with regulation 31 ("an enhanced top-up ill-health pension").

### **Calculation of standard ill-health pension**

**30.** A police officer's standard ill-health pension shall be an annual sum payable for life and a lump-sum payment, calculated in accordance with regulation 28 as if the officer had been entitled to an ordinary pension at the date of that officer's retirement.

### **Calculation of enhanced top-up ill-health pension**

**31.—(1)** A police officer's enhanced top-up ill-health pension shall be an annual sum payable for life and a lump-sum payment, calculated by deducting the annual sum and lump-sum payment payable as that officer's standard ill-health pension from the annual sum and lump sum respectively as calculated in accordance with paragraphs (2) to (6) ("enhanced top-up totals").

(2) A police officer's enhanced top-up totals shall be calculated in accordance with regulation 28 as if the officer had been entitled to an ordinary pension at the date of that officer's retirement, but

for the purposes of that calculation the pensionable service the officer concerned is entitled to reckon as at the date of that officer's retirement shall be treated as having been increased in accordance with the provisions of paragraphs (3) or (4), subject to paragraph (6), as the case may require.

(3) In the case of an officer entitled to reckon less than 5 years' pensionable service as at the date of that officer's retirement, either—

- (a) the period of that officer's pensionable service shall be multiplied by 4; or
- (b) there shall be added to that service a period equivalent to half of the pensionable service the officer would have become entitled to reckon in respect of the period beginning with the date of the officer's retirement and ending on the day immediately before that on which the officer would attain the age of 55 years, had the officer continued to serve and to pay pension contributions in accordance with regulation 7 ("prospective service"),

whichever amounts to the lesser period.

(4) In the case of an officer entitled to reckon 5 or more years' pensionable service as at the date of that officer's retirement, there shall be added to that service a period equivalent to half of that officer's prospective service.

(5) In the case of an officer who has spent one or more periods in part-time service as such, in determining the number of years of pensionable service that the officer is entitled to reckon as at the date of that officer's retirement for the purposes of paragraphs (3) and (4), a period of service by virtue of which that officer's pensionable service is reckonable as if it were a period of full-time service (but this paragraph does not apply so as to affect any other references to pensionable service in paragraphs (3), (4) and (6)).

(6) In the case of an officer who has spent one or more periods in part-time service as such, the period of prospective service for the purposes of paragraph (3)(b) or (4), as the case may be, shall be calculated as if, during the period beginning with the date of the officer's retirement and ending on the day immediately before that on which the officer would attain the age of 55 years, the officer would have served part-time for the same proportion of that period as that officer's total pensionable service before that officer's retirement bears to the total pensionable service that officer would have been entitled to reckon before that officer's retirement if all that service had been full-time.

(7) If in a case where any of the officer's service by virtue of which that officer's pensionable service is reckonable was part-time service, the amount of the pension calculated in accordance with the preceding paragraphs would be less than it would have been if that officer had become entitled to receive the pension at an earlier date, then the pension shall be of that amount instead.

### **Police officer's deferred pension**

**32.—**(1) This regulation applies to a regular police officer who fulfils the qualifying service criterion and who—

- (a) ceases to serve as such otherwise than on retirement under regulation 18, 19, 20 or 21; or
- (b) makes an election under regulation 9, in circumstances—
  - (i) in which no transfer value under regulation 78 has been, or is required to be, paid in respect of that officer; and
  - (ii) which do not entitle that officer to any pension award under any of the preceding provisions of this Part or regulation 43.

(2) A regular police officer to whom this regulation applies shall, on so ceasing to serve or, as the case may be, on making such election, be entitled to a deferred pension as provided in this regulation.

(3) In the case of a regular police officer who falls within paragraph (1)(b) and who cancels that officer's election in accordance with regulation 9(5) before that officer's deferred pension has come into payment, that officer's entitlement to the said deferred pension shall be relinquished.

(4) A deferred pension shall be calculated in accordance with paragraph (5); but no payment shall be made on account of the pension in respect of the period before the officer in question attains the age of 65 years or, if that officer sooner becomes permanently disabled for engaging in any regular employment and the officer is not ineligible under regulation 8 for a pension award on the ground of permanent disablement, before the officer becomes so disabled (subject to regulation 54).

(5) A police officer's deferred pension shall be an annual sum payable for life and a lump-sum payment, calculated as if the deferred pension were an ordinary pension calculated under regulation 28.

### **Early payment of deferred pension subject to actuarial reduction**

**33.**—(1) Subject to paragraphs (2) and (3), a regular police officer who is entitled to a deferred pension payable, in accordance with regulation 32(4), upon that officer attaining the age of 65, may elect for immediate payment of that pension subject to an actuarial reduction:

Provided that no payment shall be made in respect of the period before the officer concerned attains the age of 55 years.

(2) An election under paragraph (1) shall be made by giving written notice to the police authority at least 1 month before the date on which the officer concerned wishes such payment to commence.

(3) The actuarial reduction shall be calculated by the police authority in accordance with tables prepared by the Scheme actuary.

(4) Where a regular police officer who has made an election under paragraph (1) dies, any survivor's pension payable in respect of that officer shall be calculated as if no such election had been made.

### **Repayment of aggregate pension contributions**

**34.**—(1) This regulation applies to a regular police officer who retires, ceases to serve as such or who makes an election under regulation 9 (other than as set out in regulation 9(3)), in circumstances—

- (a) in which no transfer value under regulation 78 has been, or is required to be, paid in respect of that officer; and
- (b) which do not entitle that officer to a pension award under any of the preceding provisions of this Part.

(2) A regular police officer to whom this regulation applies shall be entitled to a lump sum payment of an amount equal to that officer's aggregate pension contributions in respect of that officer's relevant period of service, calculated in accordance with regulation 26.

### **Deductions of tax from awards under regulation 9(4) or 34**

**35.** The police authority may deduct from any payment by way of an award under regulation 9(4) or 34—

- (a) that part of any contributions equivalent premium paid in respect of the regular police officer as is permitted under section 61 of the 1993 Act<sup>(9)</sup>; and
- (b) the tax for the time being chargeable on that award under section 205 of the Finance Act 2004<sup>(10)</sup>.

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<sup>(9)</sup> 1993 c. 48. Section 61 was amended by the Pensions Act 1995, Schedule 5, paragraph 55, by the Child Support, Pensions and Social Security Act 2000, Schedule 5, Part 1, paragraph 5(2) and by the Pensions Act 2004, Schedule 12, paragraphs 9 and 12.

<sup>(10)</sup> 2004 c. 12.

### **Pension debit members – personal awards**

- 36.** Where a pension debit member is entitled to an award under regulation 27, 29, 32 or 34–
- (a) the award shall be calculated by reference to the member’s rights under these Regulations as reduced by virtue of section 31 of the 1999 Act<sup>(11)</sup> and in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary; and
  - (b) regulations 37 and 38 have effect accordingly.

### **Exchange of lump sum for additional periodical payments**

**37.**—(1) This regulation applies to the lump-sum element of an ordinary pension or a deferred pension under this Part (which is not a deferred pension that becomes payable by reason of permanent disablement under regulation 32(4)), but in relation to a deferred pension to which this regulation applies, paragraphs (3), (4) and (5) shall have effect as if any reference in them to retirement or the date of retirement were a reference to the coming into payment of the pension or the date of that coming into payment.

(2) A regular police officer may, subject to and in accordance with this regulation, exchange for additional annual pension payments the whole or part of a lump-sum element to which this regulation applies to which the officer may become entitled.

(3) For the purpose of exchanging a portion of that officer’s pension in accordance with this regulation a person shall give notice in writing to the police authority before but not earlier than 4 months before that officer’s intended date of retirement of that officer’s wish to surrender and exchange for additional annual pension payments the whole or such part as that officer may specify of the lump-sum payment to which that officer would otherwise become entitled:

Provided that the notice of exchange shall not be effective if it was given more than 4 months before the date of that officer’s retirement.

(4) Where a person retires having given an effective notice of exchange the police authority shall withhold the whole or the specified part of the lump-sum payment in accordance with the notice and shall pay to that person additional annual pension payments of such amount as represents the actuarial equivalent of the surrendered lump sum or portion of the lump sum at the date of that officer’s retirement, calculated from tables prepared by the Scheme actuary.

(5) Sums paid or payable as additional pension payments by virtue of an effective notice of exchange shall be disregarded for the purposes of the calculation of a survivor’s pension under regulation 41 or 42.

### **Commutation of small pension for lump sum**

**38.**—(1) Where the annual rate of any pension payable to or in respect of a regular police officer under this Part or regulation 61 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) in a case where the pension is payable to that person under the preceding provisions of this Part and is one which may not be less than that person’s guaranteed minimum, the person has reached state pension age.
- (2) If–
- (a) a person is entitled to more than one pension under the preceding provisions of this Part;
  - (b) a person is entitled to more than one pension in respect of the same regular police officer; or

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(11) 1999 c. 30.

- (c) a pension credit member is entitled—
  - (i) to more than one pension under regulation 61; or
  - (ii) to one or more pensions within sub-paragraph (a) in addition to one or more pensions under regulation 61,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—
  - “the 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; and
  - “the 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<sup>(12)</sup>;
    - (b) by regulation 2 of the Occupational Pension Scheme (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997<sup>(13)</sup>;
    - (c) by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(14)</sup>; or
    - (d) by paragraph 7 of Schedule 29 to the Finance Act 2004<sup>(15)</sup> (which defines trivial commutation lump sums for the purposes of Part 1 of that Schedule).

### *Survivors' pensions*

#### **Survivors' pensions – general provision**

**39.** Subject to and in accordance with the provisions of these Regulations, where a regular police officer dies or has died—

- (a) while the officer is in receipt of an ordinary pension, an ill-health pension or a deferred pension;
- (b) after the officer has ceased to serve as such in circumstances where no transfer value was paid in respect of that officer's service and the officer is entitled to a deferred pension, whether or not that pension has come into payment;
- (c) while the officer is serving as such and fulfils the qualifying service criterion and no election under regulation 9 has effect at the time of that officer's death; or
- (d) while the officer is serving as such and, having made an election under regulation 9 which has effect at the time of that officer's death, the officer is entitled to a deferred pension,

a survivor such as is mentioned in regulation 40 shall be entitled to a pension calculated in the case of an adult survivor in accordance with regulation 41 and in the case of a child survivor in accordance with regulation 42.

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<sup>(12)</sup> S.I. 1996/1172.

<sup>(13)</sup> S.I. 1997/785; relevantly amended by S.I. 2006/744 and 778.

<sup>(14)</sup> S.I. 2000/1054; relevantly amended by S.I. 2006/744.

<sup>(15)</sup> 2004 c. 12.

## **Survivors**

- 40.**—(1) For the purposes of regulation 39 a survivor shall mean—
- (a) a person who at the time of the death of the officer concerned was that officer’s spouse, civil partner or, subject to paragraph (2), other adult partner (“an adult survivor”);
  - (b) a child (“a child survivor”) who is—
    - (i) a natural child, step-child or adopted child of the officer concerned (including a child conceived before the officer’s death and born after that death to a person mentioned in sub-paragraph (a)); or
    - (ii) any other child who at the time of the death of the officer concerned was substantially dependent, financially or by reason of permanent disablement, on the officer.
- (2) An adult partner other than a spouse or civil partner shall not be entitled to a pension under these Regulations unless—
- (a) the police officer concerned had made and sent to the police authority of the force in which the officer was then serving or by whom that officer’s pension was or would be payable a declaration, signed by the police officer and the adult partner concerned, that—
    - (i) the police officer and the adult partner concerned were cohabiting as partners in an exclusive, committed and long-term relationship;
    - (ii) the adult partner was financially dependent on the officer or they were financially interdependent; and
    - (iii) the officer and the adult partner were both free to marry each other (where they are of opposite sex) or to form a civil partnership with each other (where they are of the same sex),
 and the police officer had acknowledged an obligation to send to the police authority a signed notice of revocation should the relationship terminate and had not revoked that declaration before that officer’s death; and
  - (b) the surviving adult partner has submitted a claim in writing to the police authority by whom such a pension would be payable and satisfied the authority—
    - (i) that the circumstances mentioned in sub-paragraph (a)(i), (ii) and (iii) continued to subsist at the time of the officer’s death; and
    - (ii) that the period of cohabitation mentioned in sub-paragraph (a)(i) had been of at least 2 years’ duration at the time of the officer’s death.
- (3) The police authority may in their discretion accept a shorter period of cohabitation than that mentioned in paragraph (2)(b)(ii) where they are satisfied, in the particular circumstances of the case, that it is likely that the police officer and the adult partner concerned would have cohabited as partners for at least 2 years had the police officer not died.
- (4) Upon receipt of a declaration or notice of revocation of such a declaration made in accordance with paragraph (2)(a), the police authority shall forthwith send to the officer concerned a written notification of its receipt.

## **Calculation of adult survivors’ pensions**

- 41.**—(1) An adult survivor’s pension shall be calculated in accordance with the provisions of this regulation, subject to regulations 33(4) and 37(5).
- (2) Subject to paragraphs (6) and (7), in a case where the police officer concerned died in the circumstances mentioned in regulation 39(a), (b) or (d), an adult survivor of that officer shall be entitled to an annual pension payable for life of an amount equivalent to half of the annual pension which was payable to the officer at the time of that officer’s death or, as the case may be, would have



been payable to the officer if that officer's deferred pension had come into payment immediately before that officer's death.

(3) Subject to paragraphs (6) and (7), in a case where the police officer concerned died in the circumstances mentioned in regulation 39(c), an adult survivor of that officer shall be entitled to an annual pension payable for life of an amount equivalent to half of the annual sum that would have been payable to the officer if that officer had retired immediately before that officer's death with an entitlement to both a standard and an enhanced top-up ill-health pension calculated in accordance with regulations 30 and 31.

(4) Where the police officer concerned was a pension debit member, an adult survivor's pension is calculated by reference to the member's rights under these Regulations as reduced by virtue of section 31 of the 1999 Act and in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary.

(5) An adult survivor's pension shall be calculated by reference to the annual pension which was payable or would have been payable to the police officer as mentioned in paragraph (2), or by reference to the annual sum that would have been payable to the police officer as mentioned in paragraph (3), without taking account of any increase of that annual pension or annual sum in accordance with the Pensions (Increase) Acts.

(6) In the case of an adult survivor who was more than 12 years younger than the police officer concerned at the date of that officer's death, the survivor's pension, as calculated in accordance with paragraph (2), (3) or (4), as the case may require, and paragraph (5), shall be reduced by 2.5 per cent in respect of each whole year and any additional part of a year in excess of 12 by which the survivor was younger than the officer:

Provided that no such reduction shall exceed 50 per cent of the pension that would otherwise be payable.

(7) In any case where the adult survivor is a surviving spouse or surviving civil partner and the marriage of the spouse and the officer concerned took place, or, as the case may be, the civil partnership was formed, within the period of 6 months immediately preceding the officer's death, the police authority by whom the survivor's pension is payable may, in their discretion, withhold the pension.

(8) The amount of an adult survivor's pension, calculated in accordance with the preceding provisions of this regulation, shall be increased in accordance with regulation 50.

### **Calculation of child survivors' pensions**

**42.—**(1) Subject to the provisions of this regulation and regulations 33(4) and 37(5), a child survivor's pension shall be an annual amount equivalent to half of the pension which would be payable to any adult survivor as calculated in accordance with regulation 41(2) or (3), as the case may require, and regulation 41(5):

Provided that where 3 or more child survivors' pensions are for the time being payable in respect of the death of the same person, the pension payable to each child survivor shall be an annual amount equal to the pension which would be payable to an adult survivor as so calculated divided by the total number of child survivors' pensions so payable.

(2) Where a pension debit member dies leaving a child survivor, the reduction in the member's rights under these Regulations by virtue of section 31 of the 1999 Act<sup>(16)</sup> is disregarded for the purposes of calculating any child survivor's award payable to that child under these Regulations.

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(16) 1999 c. 30.

(3) In a case where a child survivor is in full-time training for a trade, profession or calling or is employed and is in receipt of remuneration in respect of that training or employment, the child survivor's pension shall be withdrawn or reduced in accordance with paragraph (4).

(4) In the case of a child survivor such as is mentioned in paragraph (3)–

- (a) if the annual amount of the child survivor's pension is greater than the amount of the excess remuneration (within the meaning of paragraph (5)), it shall be reduced by the amount of that excess remuneration; or
- (b) if the amount of that excess remuneration is equal to or greater than the annual amount of the child survivor's pension which, but for this sub-paragraph, would be payable to the child survivor, the child survivor's pension shall not be payable.

(5) The excess remuneration referred to in paragraph (4) means the annual amount by which the annual rate of the relevant child survivor's remuneration exceeds the specified rate, where "specified rate" means a sum equivalent to the annual rate (rounded up to the nearest £1) of the applicable amount of personal allowance payable to a single claimant aged not less than 18 but less than 25 years, as specified in the Income Support (General) Regulations 1987<sup>(17)</sup> as uprated from time to time in accordance with an order under section 150(2) of the Social Security Administration Act 1992<sup>(18)</sup>.

(6) A child survivor's pension shall be payable–

- (a) in a case where the child survivor was, in the opinion of the police authority, at the time of the police officer's death, dependent on the officer by reason of permanent disablement, for life;
- (b) in a case where the child is in full-time education on a course of at least 1 year's duration, until the child ceases to be in full-time education or attains the age of 23 years, whichever first occurs; and
- (c) in any other case, until the child survivor attains the age of 19 years.

(7) A child survivor's pension, calculated in accordance with this regulation, shall be increased in accordance with regulation 50.

#### *Guaranteed minimum pension*

### **Guaranteed minimum pension for the purposes of the Pension Schemes Act 1993**

**43.—**(1) This paragraph applies in the case of a regular police officer who has a guaranteed minimum under section 14 of the 1993 Act <sup>(19)</sup> in relation to that officer's pension provided under these Regulations:

Provided that it shall not apply in the case of a regular police officer in respect of whom a transfer value has been, or is required to be, paid under regulation 78.

(2) A regular police officer to whom paragraph (1) applies shall be entitled to a pension payable for life of a weekly amount equal to that officer's guaranteed minimum (increased in accordance with section 15 of the 1993 Act); but no payment shall be made on account of the pension–

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<sup>(17)</sup> S.I. 1987/1967.

<sup>(18)</sup> 1992 c. 5; amended by the Pension Schemes Act 1993 (c. 48), Schedule 8, the Social Security (Incapacity for Work) Act 1994 (c. 18), section 2, 9 and Schedule 2, the Pensions Act 1995 (c. 26), section 131, the Tax Credits Act 1999 (c. 10), section 1 and Schedule 1 paragraph 3 and the Welfare Reform and Pensions Act 1999 (c. 30), section 84 and Schedule 12 paragraph 24.

<sup>(19)</sup> 1993 c. 48; section 14 has been amended by the Pensions Act 1995 (c. 26), schedule 5, paragraph 27 and schedule 7, Part III; the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2), schedule 1, paragraph 38; and the Proceeds of Crime Act 2002 (c. 29), schedule 11, paragraphs 1 and 22(1) and (3); and subsection (1) has been modified in certain cases by the Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461), regulation 6(4) and the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462, regulations 12 and 13 and schedule 2, paragraphs 3 and 7.

- (a) in respect of any period before the date on which the officer attains state pensionable age;
- (b) if the officer is also entitled to a pension under the preceding provisions of this Part, in respect of any period for which that pension, together with any increase therein under the Pensions (Increase) Act 1971<sup>(20)</sup>, exceeds the pension which, disregarding this subparagraph, would be payable under this regulation; or
- (c) in respect of any period following the date on which the officer attains state pensionable age during which the officer continues to be in service or employment (whether or not as a regular police officer) which commenced before that officer attained that age if—
  - (i) that officer's service or employment is otherwise than as a regular police officer and that officer consents to postponement of that officer's entitlement under this paragraph;
  - (ii) the officer is entitled to an ordinary or deferred pension under these Regulations but for the period in question that pension has been withdrawn, in whole or in part, in pursuance of a decision taken by the police authority for the purposes of regulation 52 before that officer attained state pensionable age; or
  - (iii) that officer's continued service is as a regular police officer and the officer has no entitlement to an ordinary or deferred pension under these Regulations:

Provided that where the officer continues to be in service or employment (whether or not as a regular police officer) for a period of 5 years following the date on which that officer attains state pensionable age and does not then leave it, the commencement of that officer's entitlement to a guaranteed minimum pension may be further postponed only if that officer consents to such postponement.

(3) This paragraph applies in the case of a regular police officer who has ceased to be in service or employment that was contracted-out within the meaning of section 8(1) of the 1993 Act<sup>(21)</sup> and either—

- (a) all that officer's entitlements to awards under these Regulations, except that officer's rights in respect of that officer's guaranteed minimum or that officer's rights under section 9(2B) of the 1993 Act<sup>(22)</sup> ("contracting-out rights") have been transferred under Part 8; or
- (b) the officer has no entitlement to an award under these Regulations apart from that officer's contracting-out rights.

(4) A regular police officer to whom paragraph (3) applies shall be entitled to—

- (a) a pension payable for life as from the date on which that officer attains state pensionable age of a weekly amount equal to that officer's guaranteed minimum, if any; and
- (b) as from the date on which that officer attains the age of 55 a lump sum and pension in respect of that officer's rights under section 9(2B) of the 1993 Act.

(5) In a case in which paragraph (1) or (3) applies, where the regular police officer dies or has died at any time leaving a surviving spouse or surviving civil partner then, unless any pension to which the officer has been entitled has been forfeited under regulation 55(2), the surviving spouse or surviving civil partner, as the case may be, shall be entitled to a pension of a weekly amount calculated in accordance with section 17(3) or (4) of the 1993 Act, as the case may require; but no payment shall be made on account of such pension if the surviving spouse or surviving civil partner is also entitled to a survivor's pension under regulation 39 in respect of any period for which the

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<sup>(20)</sup> 1971 c. 56.

<sup>(21)</sup> 1993 c. 48; section 8(1) was amended by the Pensions Act 1995 (c. 26), section 136(2) and schedule 5, paragraph 21(a) and by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2) schedule 1, paragraph 34(a).

<sup>(22)</sup> Section 9(2B) was substituted by section 136(3) of the Pensions Act 1995 and amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999, Schedule 1, paragraph 35(1) and (2).

amount of that survivor's pension exceeds the pension which, disregarding this paragraph, would be payable hereunder.

(6) Where a surviving spouse or surviving civil partner is entitled to both a survivor's pension under regulation 39 and a pension under paragraph (5) then, in respect of any period in respect of which a payment is made on account of the pension under paragraph (5), no payment shall be made to the surviving spouse or surviving civil partner on account of any such survivor's pension.

(7) For the purposes of this regulation, "state pensionable age" means, in the case of a man, the age of 65 or, in the case of a woman, the age of 60.

(8) Regulation 55 shall apply in relation to a pension under paragraph (2), (4) or (5) as it applies to any other pension under this Part but as if paragraph (4) of that regulation were omitted.

(9) Save as provided in paragraph (2), (5), (6) or (8), nothing in any other regulation shall affect a person's entitlement to a pension under this regulation, the amount of such a pension or the circumstances in which it may be withdrawn or forfeited.

#### *Awards on death – additional provisions*

#### **Death gratuities – dependants**

**44.**—(1) This regulation applies in the case of a regular police officer who dies while in receipt of a pension or while entitled to a deferred pension, whether or not that pension has come into payment, if death—

- (a) results from an injury received in the execution of that officer's duty; or
- (b) takes place within 2 years of that officer becoming entitled to that officer's pension.

(2) In the case of such a regular police officer the police authority may, in their discretion, grant a gratuity to any person who was to any degree dependent on that officer, whether financially or by reason of disablement, at the time of that officer's death; but the aggregate amount of any gratuities granted under this regulation shall not exceed the aggregate pension contributions in respect of the police officer's relevant period of service, calculated in accordance with regulation 26.

#### **Death gratuity – estate**

**45.**—(1) This regulation applies in the case of a regular police officer—

- (a) who dies while in receipt of a pension or while entitled to a deferred pension, whether or not that pension has come into payment, or
- (b) who dies while serving as such.

(2) If, in the case of such a police officer, the aggregate of—

- (a) any payments made or due to that officer on account of that officer's pension or by way of a lump sum under regulation 27 or 29 together with any increase therein under the Pensions (Increase) Acts<sup>(23)</sup>;
- (b) the capitalised value (calculated in accordance with tables prepared from time to time by the Scheme actuary) of any pension or allowance granted in respect of that officer's death;
- (c) the actuarial value of any pension credit under Part 6 of these Regulations; and
- (d) any gratuity granted in respect of that officer's death under regulation 44,

is less than that officer's aggregate pension contributions in respect of that officer's relevant period of service (calculated in accordance with regulation 26), the police authority shall pay a gratuity equal to the difference to that officer's legal personal representative.

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(23) 1971 c. 56; 1974 c. 9.

### **Lump sum death grant**

**46.**—(1) On the death of a person while serving as a regular police officer a lump sum death grant becomes payable unless an election under regulation 9 not to pay pension contributions had effect at the time of the death.

(2) The grant is payable whether or not any adult survivor's pension or death gratuity to a dependant of the officer or that officer's estate is payable under regulation 39, 44 or 45 respectively.

(3) The amount of the grant is 3 times that of the deceased officer's pensionable pay, expressed as an annual rate—

- (a) at the time of death, or
- (b) if the officer was then absent from duty without pay, immediately before that absence began.

(4) The grant is to be paid—

- (a) to any surviving spouse or surviving civil partner who qualifies for it; or
- (b) if no person is qualified under sub-paragraph (a), and if the police authority in their discretion so decide, to a surviving adult partner where the requirements of regulation 40(2)(a) and (b) are met;
- (c) if no payment is made under sub-paragraph (a) or (b), and if the police authority in their discretion so decide, to a person in respect of whom a nomination by the officer in accordance with regulation 47 had effect at the time of their death; or
- (d) otherwise, if the police authority in their discretion decide, to the officer's legal personal representative.

(5) A surviving spouse or surviving civil partner qualifies for the grant unless at the time of the death—

- (a) the deceased officer and that officer's spouse or, as the case may be, civil partner were separated by an order or decree of a competent court; and
- (b) the deceased officer was not required by such an order to contribute, and was not in fact regularly contributing, to the support of the spouse or civil partner or to the spouse or civil partner for the support of a child of the spouse or civil partner.

### **Nomination for lump sum death grant**

**47.**—(1) A regular police officer may, subject to paragraph (2), nominate a person to receive any lump sum death grant which may become payable under regulation 46(4)(c).

(2) Such nomination shall not have effect unless—

- (a) it was signed by the officer concerned and sent, before any award under these Regulations other than a pension credit has come into payment, to the police authority of the force in which the officer was serving at the time of that officer's death or by whom that officer's pension was or would be payable; and
- (b) it has not been revoked by written notice to that police authority.

(3) Upon receipt of a nomination or notice of revocation of such a nomination made in accordance with paragraph (2), the police authority shall forthwith send to the officer concerned a written notification of its receipt.

### **Pension debit members – awards on death**

**48.** Where a pension debit member dies any award in respect of that member under regulation 44, 45 or 46 is calculated by reference to the member's rights under these Regulations as reduced by

virtue of section 31 of the 1999 Act and in accordance with such tables and other guidance as are provided for the purpose by the Scheme actuary.

### **Prevention of duplication**

**49.**—(1) Subject to paragraph (2), where, but for this regulation, a person would be entitled to receive, in respect of any particular period, payments on account of more than one award in respect of the death of the same person, each of the awards being a survivor's pension under regulation 39 or an award under regulation 13, 14, 17, 18, 20 or 21 of the Police (Injury Benefit) (Scotland) Regulations 2007<sup>(24)</sup>, the person shall be entitled to receive, in respect of that period, payment on account of one only of those awards; and the award payable shall be that from time to time selected by the person concerned or, in default of such selection where one award is for the time being greater than any other such award, the award which is for the time being the greater.

(2) Nothing in paragraph (1) shall prevent a person from being entitled to receive more than one such pension if the awards in question are calculated, directly or indirectly, by reference to different periods of pensionable service.

### **Increase of awards by reference to the Pensions (Increase) Acts**

**50.**—(1) Where it is provided that, for the purpose of calculating an award by way of periodical payments or a gratuity ("the relevant award"), an amount shall be increased in accordance with this regulation, it shall be increased by the amount, if any, by which a corresponding pension, within the meaning of the Pensions (Increase) Act 1971<sup>(25)</sup>, of the amount first mentioned would from time to time be increased under the Pensions (Increase) Acts<sup>(26)</sup> if—

- (a) it were payable to the person entitled to the relevant award and, in relation thereto, that person had the like guaranteed minimum pension (if any) as the person has in relation to the relevant award;
- (b) it were one of the pensions specified in paragraph 43 of Part II of Schedule 2 to the said Act of 1971<sup>(27)</sup>;
- (c) it were not a pension to which section 1(2)(a) of the Pensions (Increase) Act 1974 applies; and
- (d) it began, within the meaning of the said Act of 1971, and became payable when the relevant award so began and became payable.

(2) The Pensions (Increase) Acts as applied by paragraph (1) shall have effect as if section 3 were omitted from the Pensions (Increase) Act 1971 and, accordingly, the amount first mentioned in paragraph (1) shall be increased so long as the pension is payable.

### *Revision and withdrawal or forfeiture of awards*

### **Review and cancellation of pensions payable on the ground of permanent disablement**

**51.**—(1) As long as a person—

- (a) is in receipt of a standard ill-health pension and has not attained the age of 55 years; or
- (b) is in receipt of an enhanced top-up ill-health pension or a deferred pension which, in accordance with regulation 32, came into payment early on the ground of permanent

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<sup>(24)</sup> S.S.I. 2007/68.

<sup>(25)</sup> 1971 c. 56.

<sup>(26)</sup> 1971 c. 56 and 1974 c. 9.

<sup>(27)</sup> Paragraph 43 has been amended by paragraph 8 of Schedule 2 to the Police Pensions Act 1976 (c. 35) and paragraph 18(3) of Schedule 7 to the Police Act 1996 (c. 16).

disablement for engaging in any regular employment, and in either case has not attained the age of 65 years,

the police authority by whom the pension is payable may, if they wish to exercise the powers conferred by this regulation, consider, at such times as are specified in paragraph (2), whether the person's disablement has ceased, significantly worsened (in the case of a person such as is mentioned in paragraph (1)(a)) or significantly improved (in the case of a person such as is mentioned in paragraph (1)(b)).

(2) The times mentioned in paragraph (1) are such times as the police authority may in their discretion determine—

- (a) in the case of a person such as is mentioned in paragraph (1)(a), until the person concerned attains the age of 55 years; and
- (b) in the case of a person such as is mentioned in paragraph (1)(b), at intervals of no less than 5 years until the person concerned attains the age of 65 years.

(3) If on any such consideration it is found, in respect of a person who is in receipt of a standard ill-health pension or an enhanced top-up ill-health pension and who has not attained the age of 55 years, that that person's disablement for the performance of the ordinary duties of a member of the police force has ceased, the police authority may give the person concerned notice that if the officer wishes to rejoin the force as a regular police officer within a period of not less than 3 months from the date on which the officer had been given such notice the officer will be permitted to do so.

(4) If the person concerned within the period referred to in paragraph (3) offers to rejoin the force as a regular police officer, they shall be permitted to do so in a rank not lower than that which the officer held immediately before the officer retired with the ill-health pension.

(5) On the person concerned rejoining the force as mentioned in paragraph (4) or, where in any other circumstances a person who is in receipt of either—

- (a) an ill-health pension; or
- (b) a deferred pension which came into payment early on the ground of permanent disablement for engaging in any regular employment,

rejoins that person's former force or joins another police force, then, upon rejoining or joining such force, payment of that person's pension shall be terminated by the police authority by whom it was payable.

(6) Where the person concerned does not offer to rejoin the force as mentioned in paragraph (4) within the period referred to in paragraph (3), at the end of that period payment of that person's ill-health pension shall be terminated by the police authority.

(7) If on any such consideration it is found, in respect of a person who is in receipt of an ill-health pension and who has not attained the age of 55 years—

- (a) that that person's disablement for the performance of the ordinary duties of a member of the police force would have been expected to have ceased by reason of that person's having received appropriate medical treatment (and in this sub-paragraph "appropriate medical treatment" shall not include medical treatment that it is reasonable in the opinion of the police authority for that person to refuse);
- (b) that the person is not receiving, or has not received, as the case may be, such medical treatment;
- (c) that that person's failure to receive it is attributable to their wilfulness or negligence; and
- (d) that the person has persisted in that failure after receiving both—
  - (i) a written notice from the selected medical practitioner that in the selected medical practitioner's opinion sub paragraphs (a) and (b) apply in that person's case; and

(ii) written notice from the police authority that in their opinion sub-paragraph (c) applies in that person's case and their powers under this paragraph,

then, if the person wilfully or negligently persists in that person's failure to receive the appropriate medical treatment, payment of that person's ill-health pension may be terminated by the police authority.

(8) If on any such consideration it is found, in respect of a person who has not attained the age of 65 years and who is in receipt of—

- (a) an enhanced top-up ill-health pension; or
- (b) a deferred pension which came into payment early on the ground of permanent disablement for engaging in any regular employment,

that that person's disablement for engaging in any regular full-time employment has ceased, then—

- (c) in such a case as is mentioned in sub-paragraph (a), except where the police authority have given notice to the person concerned under paragraph (3), the person's entitlement to an enhanced top-up ill-health pension shall cease and the person shall remain entitled to payment of a standard ill-health pension; and
- (d) in such a case as is mentioned in sub-paragraph (b), the police authority shall cease to make early payments the person's deferred pension.

(9) Subject to paragraph (11), if on any such consideration it is found, in respect of a person in receipt of a standard ill-health pension, that the person's disablement has worsened to the extent that the person has become disabled for engaging in any regular employment, the person shall become entitled to an enhanced top-up ill-health pension, calculated in accordance with regulation 31 and payable in accordance with paragraph (10):

Provided that such enhanced top-up ill-health pension shall not entitle the person to any lump-sum payment additional to that paid in respect of the said standard ill-health pension.

(10) An enhanced top-up ill-health pension to which entitlement arises under paragraph (9) shall be payable as from the date on which the claim by the person concerned that the person's disablement had worsened which led to the consideration referred to in paragraph (9) was notified to the police authority (or, where the police authority referred the matter for decision under regulation 71(2) of their own motion in the absence of such a claim, as from the date on which they so referred the matter for decision).

(11) Paragraph (9) shall apply only if the claim that a person's disablement had worsened which led to the consideration referred to therein was made within the period of 5 years beginning with the date on which the person concerned retired:

Provided that no such time limit shall apply in a case where the disablement of the person concerned is attributable to a progressive medical condition specified in Schedule 4 which, of its nature, could have been expected, as at the time of the person's retirement, to affect the person with increasing severity.

(12) Where payment of a person's ill-health pension is terminated under paragraph (6) but the person is not entitled to a deferred pension under regulation 32, then, if the aggregate of—

- (a) the sums paid in respect of the pension; and
- (b) the actuarial value, determined in accordance with tables prepared by the Scheme actuary, of any pension to which the person is entitled under regulation 43;

is less than the person's aggregate pension contributions in respect of the relevant period of service, the police authority shall pay the difference to the person concerned.

(13) Where payment of—

- (a) a person's ill-health pension; or



(b) a person's deferred pension which came into payment early on the ground of permanent disablement for engaging in any regular employment,  
is terminated under this regulation the person shall retain any lump-sum payment the person received by way of such pension, but subject to the proviso to regulation 28(1)(b) and regulation 28(2).

#### **Withdrawal of pension during service as a regular police officer**

**52.**—(1) Subject to paragraph (2), a police authority by whom a pension is payable under this Part may, in their discretion, withdraw the whole or any part of the pension for any period during which the pensioner is serving as a regular police officer in any police force; and, where they have done so, they shall be discharged from all actual or contingent liability in respect of the pension or the part thereof withdrawn for the period in question.

(2) This regulation does not apply to a pension under regulation 39 or a pension credit under regulation 61.

#### **Reduction of pension in case of default**

**53.** Where a regular police officer or a former regular police officer becomes permanently disabled and has brought about or substantially contributed to the disablement by that officer's own default, the police authority may reduce the amount of any—

- (a) ill-health pension; or
- (b) deferred pension which comes into payment early on the ground of permanent disablement for engaging in any regular employment,  
payable to that officer by the police authority by an amount not exceeding a half of that to which that officer would otherwise be entitled:

Provided that—

- (a) this regulation shall not apply where the person concerned—
  - (i) is in receipt of a standard ill-health pension and has attained the age of 55 years; or
  - (ii) is in receipt of a deferred pension and has attained the age of 65 years; and
- (b) where the pension of a regular police officer has been reduced under this regulation, then if when the officer attains the age of 65 years the reduced pension is less than the amount of the deferred pension which would have been payable on that officer attaining that age had that officer been granted such a pension on the date of that officer ceasing to serve it shall be increased to that amount.

#### **Withdrawal of early payment of deferred pension**

**54.** In a case where a person to whom regulation 32 applies ceased to serve by reason of dismissal or requirement to resign under the Conduct Regulations and was permanently disabled for engaging in any regular employment at the time when the person so ceased to serve or becomes so disabled before that officer attains the age of 65 years, no payment shall be made on account of the pension in respect of the period before that officer attains the age of 65 years unless the police authority in the exercise of their discretion determine to make such payment.

#### **Forfeiture of pension**

**55.**—(1) This regulation applies to a pension payable to a grantee, being—

- (a) under this Part, a regular police officer or former regular police officer;
- (b) under regulation 39, a survivor of such a police officer; and

(c) under Part 6, a pension credit member.

(2) A police authority responsible for payment of a pension to which this regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the grantee has been convicted of an offence mentioned in paragraph (3) and, in the case of an adult survivor's pension, that offence was committed after the death of the police officer in respect of whom the pension is payable.

(3) The offences referred to in paragraph (2) are—

- (a) an offence of treason; or
- (b) one or more offences under the Official Secrets Acts 1911 to 1989<sup>(28)</sup> for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to 2 or more consecutive terms amounting in the aggregate to, at least 10 years.

(4) A police authority responsible for payment to a regular police officer of a pension to which this regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the grantee has been convicted of an offence committed in connection with that officer's service as a member of a police force which is certified by the Scottish Ministers either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(5) The police authority may, to such extent as they at any time in their discretion think fit—

- (a) apply for the benefit of any adult or child survivor of the grantee of the pension; or
- (b) restore to the grantee of the pension,

any amount or amounts of any pension that has or have been forfeited under this regulation.

(6) To the extent to which a pension is forfeited under this regulation, the police authority shall be discharged from all actual or contingent liability in respect of it.

(7) This regulation has effect subject to regulation 43(8).

## PART 5

### PURCHASE OF INCREASED BENEFITS

#### **Election to purchase increased benefits**

**56.—**(1) This paragraph applies to a regular police officer by whom contributions are for the time being payable under regulation 7.

(2) Subject to the following provisions of this regulation, a police officer to whom paragraph (1) applies may at any time, for the purpose of reckoning additional pensionable service ("added years") in calculating the awards payable to, or in respect of, that officer under Part 4, elect to make payment to the police authority in accordance with the following provisions of this Part.

(3) Such an election is to be made by giving written notice to the police authority for the force in which the officer in question is serving, and that notice is to specify—

- (a) the number of added years to be purchased;
- (b) the date, no earlier than that on which the officer will attain the age of 55 years nor later than that on which that officer could be required to retire under regulation 19(1) or (2) if the officer continued to serve without change of rank, when that officer wishes the added years so purchased to become reckonable for the purpose of calculating awards; and

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(28) 1911 c. 28; 1920 c. 75; 1939 c. 121 and 1989 c. 6.

(c) whether payment is to be made by way of a lump sum in accordance with regulation 58 or periodical contributions in accordance with regulation 59.

(4) The total number of added years that may be purchased in accordance with regulations 58 and 59 by virtue of such an election shall not exceed 5 or such lesser number as would entitle the officer, if that officer were to serve continuously as a full-time member of the force from the date of the officer's election under paragraph (2) until the date specified in accordance with paragraph (3) (b), to reckon a total of 35 years' pensionable service as at the date so specified.

(5) A pension debit member may not replace any rights debited to that officer as a consequence of a pension sharing order with any rights which that officer would not have been able to acquire (in addition to the debited rights) had the order not been made.

### **Acceptance and effect of elections**

**57.—**(1) The police authority may refuse to accept an election to make payment by periodical contributions unless the regular police officer in question has undergone a medical examination and satisfied the authority as to the officer's good health; and any fee payable in respect of that examination shall be paid by that officer.

(2) An election made under regulation 56(2) to purchase added years by way of periodical contributions shall take effect from the date on which the periodical contributions commence in accordance with regulation 59(1).

(3) Subject to regulation 59(4), an election under regulation 56(2) shall be irrevocable, save that where the police authority are satisfied that the payment of periodical contributions in accordance with such an election is causing, or is likely to cause, financial hardship they may consent to the discontinuance of such contributions for such period as they think fit.

(4) When a regular police officer who has made an election under regulation 56(2) has not retired by the date specified in the notice of election in accordance with regulation 56(3)(b), then, notwithstanding that the officer may derive no benefit from the officer's election, the officer's liability to make payment in accordance with the following provisions of this Part shall not be affected and the officer shall not be entitled to the repayment of any lump sum or contribution so paid.

### **Lump sum payments**

**58.—**(1) A regular police officer to whom regulation 56(1) applies may, within 12 months of the date when the officer last began to serve as such, elect under that regulation to make payment by a lump sum of such amount calculated by the police authority, in accordance with tables prepared by the Scheme actuary, as is necessary to purchase the added years specified in the notice of election.

(2) A lump sum payment under this regulation shall be made within 3 months of the date on which the notice of election is given and, if it is not so made, the election shall be deemed for the purposes of these Regulations never to have been made.

(3) A sum held in another pension scheme may not be used to purchase added years under this regulation.

### **Payment by periodical contributions**

**59.—**(1) Subject to the following provisions of this regulation, where a regular police officer elects to make payment under this regulation, the periodical contributions shall be made as from the date of the officer's birthday falling within the year beginning with the date of the officer's election and shall continue, subject to any discontinuance on the ground of financial hardship in accordance with regulation 57(3), until the date—

(a) specified in the notice of election in accordance with regulation 56(3)(b);

- (b) on which any election made by the officer under regulation 9 takes effect;
- (c) on which the officer retires under regulation 18, 19 or 20, as the case may be, or otherwise ceases to serve as a regular police officer; or
- (d) subject to paragraph (7), on which the officer retires under regulation 21,

whichever is the earliest.

(2) All contributions under this regulation shall be deducted by the police authority from the pay of the officer concerned.

(3) Such contributions shall be of such amount, calculated by the police authority in accordance with tables prepared by the Scheme actuary, as is necessary to purchase the added years specified in the notice of election:

Provided that in a case where the officer makes an election to pay by periodical contributions while the officer is in part-time service, the officer shall specify whether—

- (i) the payments payable by the officer shall be calculated as if the officer were in full-time service and the officer's pensionable pay were the amount that would be the officer's pensionable pay if the officer were in such service; or
- (ii) those payments are to be payable in accordance with paragraph (6).

(4) An officer who made an election under regulation 56(2) at a time when the officer was a full-time member of the police force and has subsequently begun to serve on a part-time basis may vary that election within the period of 3 months from the date on which the officer began to serve on a part-time basis.

(5) Variation of an election in accordance with paragraph (4) shall be made by giving written notice to the police authority specifying that the police officer in part-time service concerned wishes the payments payable by the officer to be payable in accordance with paragraph (6) and takes effect on the date of that notice.

(6) Where a regular police officer who is in part-time service—

- (a) makes an election under regulation 56(2); or
- (b) varies such an election in accordance with paragraphs (4) and (5),

specifying that the payments which are payable by the officer are to be payable in accordance with this paragraph, then the payments payable by the officer by periodical payments shall be payable at the same percentage of the officer's pay as if the officer were in full-time service.

(7) In a case of a regular police officer who has retired with an entitlement to an ill-health pension but has subsequently rejoined the officer's former police force or joined another police force in accordance with regulation 51, the officer's periodical contributions shall again become payable as provided by paragraph (1).

(8) A sum held in another pension scheme may not be used to purchase added years under this regulation.

### **Reckoning of increased benefits**

**60.**—(1) Subject to the following provisions of this regulation, for the purposes of calculating any award under Part 4 to or in respect of a regular police officer, added years purchased in pursuance of an election under regulation 56(2) shall be reckonable in the same way as other pensionable service reckonable by the officer.

(2) Subject to regulation 58(2), in a case where a regular police officer elects under regulation 56(3) to make payments by way of a lump sum, the officer shall be entitled to reckon the number of added years specified in the officer's notice of election under regulation 56(3)(a).

(3) In a case where a regular police officer elects under regulation 56(3)(c) to make payments by way of periodical contributions, the officer shall be entitled to reckon the number of added years determined in accordance with the following provisions of this regulation.

(4) Unless a regular police officer is in part-time service and has elected to pay contributions at the same percentage of the officer's pensionable pay as if the officer were in full-time service as in regulation 59(6), in a case where the periodical contributions continue in payment until the date specified in the notice of election, the officer will be entitled to reckon the number of added years specified in their notice of election under regulation 56(3)(a).

(5) This paragraph applies where a regular police officer has commenced payment of periodical contributions in accordance with an election under regulation 56(2) and dies in service or retires with an entitlement to an ill-health pension under regulation 29.

(6) In a case in which paragraph (5) applies, the officer concerned shall, subject to paragraph (8), be entitled to reckon all the added years specified in the officer's notice of election under regulation 56(3)(a) save that where—

- (a) the officer had discontinued payment of periodical contributions on grounds of financial hardship under regulation 57(3) or;
- (b) the officer were an officer with part-time service and had elected to pay contributions at the same percentage of the officer's pensionable pay as if the officer were in full-time service as in regulation 59(6),

the officer shall be entitled to reckon a proportion of such benefits, determined in accordance with the formula set out in paragraph (7).

(7) The formula referred to in paragraph (6) is—

$$\frac{AY \times PM}{PD}$$

where—

AY is the number of added years specified in the notice of election in accordance with regulation 56(3)(a);

PM is the aggregate length of the periods during which periodical contributions were made calculated in accordance with paragraph (13) where applicable; and

PD is the length of the period beginning with the date on which the election under regulation 56(2) took effect and ending on the date on which the officer concerned died or retired on the ground of disablement, as the case may be.

(8) In a case in which the officer concerned retired with—

- (a) an entitlement to a standard ill-health pension and that entitlement ceases in accordance with regulation 51; or
- (b) an entitlement to an enhanced top-up ill-health pension and that entitlement ceases in accordance with regulation 51 in circumstances where the officer does not then remain entitled to a standard ill-health pension under paragraph (8)(c) of that regulation,

then (whether or not the officer rejoins the officer's former police force or joins another police force), the officer's entitlement under paragraph (6) to reckon all or a proportion of the number of added years specified in the officer's notice of election under regulation 56(3)(a) shall cease, but for the purposes of this regulation the officer will be deemed to have made the periodical contributions which, but for the officer's retirement, would have fallen due during the period of that retirement:

Provided that where at the time of the officer's retirement on the ground of disablement the officer was entitled to reckon the proportion of the added years which the officer elected to purchase

given in paragraph (7) the officer shall be deemed to have made a proportion of such periodical contributions, determined in accordance with the formula set out in paragraph (9).

(9) The formula referred to in paragraph (8) is—

$$\frac{PN \times PM}{PD}$$

where

PN is the length of the period beginning with the date on which the officer retired on the ground of disablement and ending on the date on which entitlement to the ill-health pension in question ceased, and PM and PD have the same meanings as in paragraph (7).

(10) This paragraph applies to a regular police officer in respect of whom—

- (a) periodical contributions continue to be payable until the date specified in the notice of election, but had been discontinued for a period on the grounds of financial hardship under regulation 57(3), whether or not they were so discontinued at the date specified in the notice of election;
- (b) periodical payments continue to be payable until the date specified in the notice of election, but the officer is an officer in part-time service and has elected to pay contributions payable at the same percentage of the officer's pensionable pay as if the officer were in full-time service as in regulation 59(6);
- (c) periodical contributions ceased in accordance with regulation 59(1)(b) on the date on which any election made by the officer under regulation 9 takes effect; or
- (d) periodical contributions ceased in accordance with regulation 59(1)(c) on the date on which the officer retired under regulation 18, 19 or 20, as the case may be, or otherwise ceased to serve as a regular police officer.

(11) In a case in which paragraph (10) applies, the officer shall be entitled to reckon a proportion of the number of added years specified in the officer's notice of election under regulation 56(3)(a), determined in accordance with the formula set out in paragraph (12).

(12) The formula referred to in paragraph (11) is—

$$AY \times \frac{PM}{PE}$$

where—

AY is the number of added years specified in the notice of election with regulation 56(3)(a);

PM is the aggregate length in years of the period during which periodical contributions were paid, or deemed to have been paid, subject to paragraph (13); and

PE is the length of the period beginning with the date on which the election under regulation 56(2) took effect and ending on the date specified in the notice of election in accordance with regulation 56(3)(b).

(13) In the case of a police officer with part-time service who elected to pay contributions at the same percentage of that officer's pensionable pay as if the officer were in full-time service as in regulation 59(6), the number of days for which the officer is deemed to have paid periodical contributions during a period of part-time service is calculated by the application of the fraction specified in regulation 14(1).

## PART 6

### PENSION SHARING: PENSION CREDIT MEMBERS

#### Pension credit member's entitlement to pension

**61.**—(1) Subject to regulation 62, a pension credit member is entitled to a pension, of an amount calculated in accordance with paragraphs (3), (4) and (5) which becomes payable—

- (a) when the member attains normal benefit age; or
- (b) if it is later, when the pension sharing order under which the member is entitled to the pension credit takes effect.

(2) In this Part “normal benefit age” means the age of 65.

(3) A pension credit member's pension shall be—

- (a) an annual sum payable for life; and
- (b) subject to paragraph (4), a lump sum payment of an amount equal to that annual sum as at the time when the pension first becomes payable, multiplied by 4.

(4) No lump sum shall be payable under paragraph (3)(b) if the pension credit is a disqualifying pension credit under paragraph 2(3) of Schedule 29 to the Finance Act 2004<sup>(29)</sup>.

(5) The total pension under paragraph (3) must be of such an amount that its actuarial value is equal to the member's pension credit, as calculated from tables prepared by the Scheme actuary and in accordance with regulations made under paragraph 5(b) of Schedule 5 to the 1999 Act<sup>(30)</sup>.

#### Commutation of the pension credit benefit on the ground of serious ill-health

**62.**—(1) If a pension credit member is suffering from serious ill-health before the member attains normal benefit age, the relevant police authority may commute the whole of the pension to which the member is entitled under regulation 61 for a lump sum of an amount equal to the annual rate of the pension to which the member would have been entitled under regulation 61(3)(a) if the member had attained normal benefit age on the date when the lump sum is paid (as calculated in accordance with guidance prepared by the Scheme actuary), multiplied by 5.

(2) Where a pension is commuted under paragraph (1), the payment of the lump sum discharges the relevant police authority from all liability in respect of benefits payable to or in respect of the pension credit member.

(3) In this regulation, “serious ill-health” means ill-health giving rise to a life expectancy of less than 1 year from the date on which commutation is applied for.

#### Death grants where pension credit member dies before pension credit benefits payable

**63.**—(1) If a pension credit member dies before any pension credit benefits have become payable to the member under these Regulations, a lump sum death grant is to be paid of an amount equal to the annual rate of the pension to which the member would have been entitled under regulation 61(3) (a) if the member had attained normal benefit age on the date of the member's death (as calculated in accordance with guidance prepared by the Scheme actuary), multiplied by 3.

(2) The lump sum is payable—

- (a) if the member is survived by a spouse or civil partner who is not ineligible under paragraph (3), to that spouse or civil partner; or

<sup>(29)</sup> 2004 c. 12; relevantly amended by the Finance Act 2005 (c. 7), Schedule 10, paragraphs 24, 30, 34 and 35 and the Finance Act 2006 (c. 25), section 159 and Schedule 23, paragraphs 22, 23, 27 and 28.

<sup>(30)</sup> 1999 c. 30; the relevant regulations are S.I. 2000/1053, as amended by S.I. 2000/2691.

- (b) if there is no person such as is mentioned in sub-paragraph (a), if the police authority in its discretion so decides, to the member's personal representatives.
- (3) A spouse or, as the case may be, civil partner is ineligible for the purposes of paragraph (2) if—
  - (a) the deceased and the spouse or civil partner in question were separated by an order or decree of a competent court at the time of the member's death; and
  - (b) the deceased was not required by such an order to contribute, and was not in fact regularly contributing, to the support of the spouse or civil partner or to the spouse or civil partner for the support of a child of the spouse or civil partner in question.

### **Application of general regulations**

**64.**—(1) The provisions specified in paragraph (2) apply to pension credit members and awards payable to or in respect of members, but apart from where provision is made by this Part or a contrary intention is otherwise indicated—

- (a) these Regulations do not apply to pension credit members as such or to benefits payable to or in respect of members as such;
  - (b) the benefits payable to or in respect of pension credit members as such are not aggregated for any purpose with benefits payable to or in respect of those persons in any other capacity; and
  - (c) the benefits payable to or in respect of pension credit members deriving their pension credit benefits from one pension debit member are not aggregated for any purpose with benefits payable to or in respect of those persons as pension credit members deriving their pension credit benefits from any other pension debit member.
- (2) Those provisions are regulation 66, 68 and 82.
- (3) In the application of regulations 66, 68 and 82 by virtue of this regulation—
- (a) those regulations apply as if the references to the police authority were references to the relevant police authority; and
  - (b) the reference in regulation 66 to a person claiming an award in respect of a member of a particular description to whom that regulation applies includes a reference to a pension credit member whose pension credit is derived from the rights of a pension debit member of that description.

## **PART 7**

### **MEDICAL QUESTIONS AND APPEALS**

#### *Eligibility for awards – general*

#### **Eligibility for awards – general**

**65.** Subject to the following provisions of this Part, the question whether a person is entitled to any, and if so what, awards under these Regulations shall be determined in the first instance by the police authority.



## *Appeals*

### **Appeal by a member of a home police force**

**66.** Where a member of a home police force, or a person claiming an award in respect of such a member, is aggrieved by—

- (a) the refusal of the police authority to admit a claim to receive as of right an award or a larger award than that granted;
- (b) a decision of the police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 4;
- (c) the reduction under regulation 53 by the police authority of the amount of any pension payable to such a member; or
- (d) the forfeiture under regulation 55 by the police authority of any award granted to or in respect of such a member,

that person may, subject to regulation 68, appeal to the sheriff, and the sheriff, after enquiring into the case, may make such order in the matter as appears to the sheriff to be just.

### **Appeal by inspector of constabulary or police officer engaged on relevant service**

**67.—(1)** This regulation shall apply in relation to—

- (a) an inspector of constabulary; or
- (b) a police officer engaged on relevant service,

and any such person is hereafter in this regulation referred to as an officer to whom this regulation applies.

(2) Where an officer to whom this regulation applies, or a person claiming an award in respect of such an officer, is aggrieved by—

- (a) the refusal of the Scottish Ministers as police authority to admit a claim to receive as of right an award or a larger award than that granted;
- (b) a decision of the Scottish Ministers as police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 4;
- (c) the reduction under regulation 53 by the Scottish Ministers as police authority of the amount of any pension payable to such an officer; or
- (d) the forfeiture under regulation 55 by the Scottish Ministers as police authority of any award granted to or in respect of such an officer,

the officer may, subject to regulation 68, give notice of appeal to the Scottish Ministers; and any such notice shall be in writing and shall specify the grounds of the appeal.

(3) The Scottish Ministers, on receiving such notice of appeal, shall appoint an appeal tribunal (in this regulation referred to as “the tribunal”), consisting of 3 persons, including a person who has at least 7 years standing as an advocate or solicitor admitted in Scotland, or a 7 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990<sup>(31)</sup> or at least 7 years standing as a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland and a former member of a police force who, before ceasing to serve as such or retiring, held a rank not lower than that of Superintendent.

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<sup>(31)</sup> 1990 c. 41; relevantly amended by the Access to Justice Act 1999 (c. 22), sections 43 and 106 and Schedule 6, paragraphs 4 and 9.

(4) The time and place for the hearing, or any postponed or adjourned hearing, of the appeal shall be determined by the tribunal, which shall give reasonable notice thereof to the appellant and to the Scottish Ministers as police authority (“the parties”).

(5) Either party may be represented before the tribunal by counsel, by a solicitor or by such other person as appears to that party appropriate, adduce evidence and cross-examine witnesses.

(6) In the case of an appeal under this regulation the tribunal shall have regard to the practice of the Sheriff Court in the case of an appeal under regulation 66 or under regulation H5 of the 1987 Regulations<sup>(32)</sup>, and the rules of evidence applicable in the case of such an appeal shall apply in the case of an appeal under this regulation.

(7) Subject to the preceding provisions of this regulation, the tribunal shall determine its own procedure.

(8) The tribunal, after enquiring into the case and arriving at a decision thereon, may make such order in the matter as appears to it just, which order shall state the reasons for the decision; and each of the parties shall be entitled to a copy of any such order.

(9) An appeal shall lie on a point of law from any decision of a tribunal under this regulation to the Court of Session in accordance with rules of court.

### **Limitations on appeals**

**68.—**(1) An appeal shall not lie under regulation 66 or 67 against anything done by a 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.

(2) Subject to regulation 73(2), in any proceedings under regulation 66 or 67 the court or tribunal shall be bound by any final decision of a medical authority within the meaning of regulation 73.

### *Decisions on eligibility for pension awards payable on the ground of permanent disablement*

### **Reference to selected medical practitioner – eligibility for pension awards payable on the ground of permanent disablement**

**69.—**(1) For the purposes of a determination by the police authority of a person’s eligibility to receive pension awards payable on the ground of permanent disablement in pursuance of regulation 8, the selected medical practitioner shall report to the police authority the selected medical practitioner’s opinion on the likelihood and likely timing of that person becoming permanently disabled for the performance of the ordinary duties of a member of the police force, and such a report shall, subject to an appeal under regulation 70, be final.

(2) A copy of any such report shall be supplied to the person who is the subject of that report.

### **Appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement**

**70.—**(1) A person in respect of whom it has been determined under regulation 8(3) that the risk presented by that person that that person will retire on the ground that that person is permanently disabled is such that the likely cost of providing that person with benefits under these Regulations is disproportionately high, who is dissatisfied with the opinion of the selected medical practitioner may appeal against the practitioner’s report if—

- (a) within 28 days of receiving notice of the police authority’s decision under regulation 8(3) the person gives notice that that person intends to make such an appeal; and

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(32) [S.I. 1987/257](#). Regulation H5 was amended by [S.S.I. 2003/406](#), Schedule 1, paragraph 12.

- (b) within 2 months (or such longer period as may be agreed by the police authority) of receiving notice of the police authority's decision the person supplies evidence that a registered medical practitioner ("the appellant's practitioner") has examined that person and disagrees with the selected medical practitioner's opinion on the likelihood or likely timing (or both) of that person becoming permanently disabled for the performance of the ordinary duties of a member of the police force.

(2) The police authority shall ask the selected medical practitioner to reconsider the selected medical practitioner's report in the light of that evidence and, if necessary, to produce a revised report on the likelihood and likely timing of that person becoming permanently disabled for the performance of the ordinary duties of a member of the police force.

(3) In any case in which, following such reconsideration, the person concerned remains dissatisfied with the opinion of the selected medical practitioner, the authority shall arrange for a third registered medical practitioner to examine the person; and in any case, any report produced in accordance with paragraph (2) as revised (as the case may be) by the third registered medical practitioner shall be final.

(4) The third medical practitioner shall be acceptable to the selected medical practitioner and to the appellant's practitioner, except that in the event of a failure to agree, the police authority may appoint such third medical practitioner as it considers appropriate.

(5) The third medical practitioner shall supply the police authority and the appellant with a written statement of opinion, which, if it disagrees with any part of the report of the selected medical practitioner, shall take the form of a revised report on the likelihood and likely timing of that person becoming permanently disabled for the performance of that person's duty, which shall be final.

#### *Medical questions – permanent disablement*

#### **Reference of medical questions – permanent disablement**

**71.**—(1) Where the police authority are considering for the purposes of these Regulations whether a person is permanently disabled, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

- (a) whether the person concerned is disabled for the performance of the ordinary duties of a member of the police force;
- (b) whether any such disablement as is mentioned in sub-paragraph (a) is likely to be permanent;
- (c) whether the person concerned is also disabled for engaging in any regular employment otherwise than as a regular police officer; and
- (d) whether any such disablement as is mentioned in sub-paragraph (c) is likely to be permanent.

(2) Where the police authority are considering whether the disablement of a person such as is mentioned in regulation 21(2) or 51(1)(a) has ceased, significantly worsened or significantly improved, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

- (a) whether the person concerned continues to be disabled for the performance of the ordinary duties of a member of the police force; and, if so,
- (b) whether the person concerned is also disabled for engaging in any regular employment; and
- (c) whether any such disablement as is mentioned in sub-paragraph (b) is likely to be permanent.

(3) Where the police authority are considering whether the disablement of a person such as is mentioned in regulation 51(1)(b) has ceased or significantly improved, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

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

(4) Where, in pursuance of a reference under paragraph (2) or (3), the selected medical practitioner decides that the question mentioned in paragraph (2)(a) or either of the questions referred to in paragraph (3)(a) and (b), as the case may be, is to be answered in the affirmative, no question as to the likelihood of such disablement continuing permanently is to be considered by the selected medical practitioner.

(5) Where the police authority are considering the exercise of their powers under regulation 53, they shall refer for decision to a duly qualified medical practitioner selected by them the question whether the person concerned has brought about or substantially contributed to the disablement by that person's own default.

(6) The police authority may decide to refer a question in paragraph (1), (2), (3) or (5), as the case may be, to a board of duly qualified medical practitioners instead of to a single duly qualified medical practitioner, and in such a case references in this regulation and regulations 72, 73(4) and 74(7) to a selected medical practitioner shall be construed as if they were references to such a board.

(7) The decision of the selected medical practitioner on the question or questions referred to that practitioner under this regulation shall be expressed in the form of a report and shall, subject to regulations 72 and 73, be final.

(8) Where, in pursuance of a reference under paragraph (2) or (3), the selected medical practitioner is of the opinion that sub-paragraphs (a) and (b) of regulation 51(7) apply in the case of the person concerned, the practitioner shall give written notice of that opinion to the person concerned in accordance with regulation 51(7)(d)(i) and inform the police authority of such opinion in the practitioner's report; and in such a case the opinion to which the notice relates shall be treated for the purposes of paragraph (7) as if it were a decision on a question referred to the practitioner under this regulation.

(9) A copy of any such report shall be supplied to the person who is the subject of that report.

### **Appeal to board of medical referees**

**72.**—(1) Where a person is dissatisfied with the decision of the selected medical practitioner on the question or questions referred to the practitioner as set out in a report under regulation 71(7) that person may, within 28 days after the person has received a copy of that report or such longer period as the police authority may allow, and subject to and in accordance with the provisions of regulation 74, give notice to the police authority that that person appeals against that decision.

(2) In any case where within a further 28 days of that notice being received (or such longer period as the police authority may allow) that person has supplied to the police authority a statement of the grounds of that person's appeal, the police authority shall, except in a case where the person concerned and the police authority agree to a further reference to the selected medical practitioner in accordance with regulation 73(1), notify the Scottish Ministers accordingly and refer the appeal to a board of medical referees ("the appeal board"), appointed in accordance with arrangements approved by the Scottish Ministers, to decide.

(3) The decision of the appeal board shall, if it disagrees with any part of the report of the selected medical practitioner, be expressed in the form of a report of its decision on any of the questions referred to the selected medical practitioner on which it disagrees with the latter's decision, and the decision of the appeal board shall, subject to the provisions of regulation 73, be final.

### **Further reference to medical authority**

**73.**—(1) The police authority and the person in respect of whom a final decision of a medical authority has been given (“the claimant”) may, by agreement, refer such decision to the medical authority for reconsideration, and the practitioner or, as the case may be, it, shall accordingly reconsider the said decision and, if necessary, issue a fresh report, which, subject to—

- (a) any further reconsideration under this paragraph or paragraph (2); or
- (b) an appeal, where the claimant requests that the appeal of which the claimant has given notice (before referral of the decision under this paragraph) be notified to the Scottish Ministers and referred to an appeal board,

shall be final.

(2) A court hearing an appeal under regulation 66 or a tribunal hearing an appeal under regulation 67 may, if they consider that the evidence before the medical authority who has given the final decision was inaccurate or inadequate, refer the decision of that authority to that authority or, as the case may be, it, for reconsideration in the light of such facts as the court or tribunal may direct, and the medical authority shall accordingly reconsider the said decision and, if necessary, issue a fresh report which, subject to any further reconsideration under this paragraph, shall be final.

(3) If a claimant and the police authority agree, or a court or tribunal decide, to refer a decision to the medical authority for reconsideration under this regulation and that medical authority is unable or unwilling to act, the decision may be referred to a duly qualified medical practitioner or board of medical practitioners agreed upon by the claimant and the police authority or, in the absence of such agreement, selected by the court or tribunal, and the practitioner’s or, as the case may be, its decision shall have effect as if it were that of the medical authority who gave the decision which is to be reconsidered.

(4) In this regulation a medical authority who has given a final decision means—

- (a) the selected medical practitioner, if the time for appeal from the practitioner’s decision has expired without an appeal to an appeal board being made or if, following a notice of appeal to the police authority, the police authority have not yet notified the Scottish Ministers of the appeal; and
- (b) the appeal board, if there has been such an appeal.

### **Procedure and costs on appeals under regulation 72**

**74.**—(1) Every notice of appeal under regulation 72(1) and statement of grounds under regulation 72(2) shall be in writing.

(2) On receiving a notice of appeal against a decision made under regulation 71(7) and the appellant’s statement of grounds for appeal, the police authority, unless regulation 73(1) applies, shall forward to the Scottish Ministers copies of the appeal documents and all other documents determined as necessary by the Scottish Ministers.

(3) The Scottish Ministers shall refer an appeal to a board of medical referees and shall supply the board with documents supplied under (2) and any other relevant information.

(4) The appeal board shall consist of not less than 3 medical practitioners, appointed by, and in accordance with, arrangements approved by the Scottish Ministers, of whom at least 1 member shall be a specialist in a medical condition relevant to the appeal and 1 member shall be appointed chairman; and where there is an equality of voting among members of the appeal board, the chairman shall have a second or casting vote.

(5) The appeal board shall appoint a time and place for hearing the appeal (“the hearing”), at which it may interview or examine the appellant, and for any such further hearings as it may consider necessary, and shall give not less than 2 months’ notice, or such shorter period as the police authority

and appellant may agree, of the hearing to the appellant and police authority (“the parties to the appeal”).

- (a) (6) (a) Where either party to the appeal intends to submit written evidence or a written statement at a hearing arranged under paragraph (5), that party shall, subject to sub-paragraph (b), submit it to the appeal board, the other party and Scottish Ministers not less than 10 days before the date appointed for the hearing;
  - (b) where any written evidence or statement has been submitted under sub-paragraph (a), any written evidence or statement in response may be submitted by the other party to the appeal board and the party submitting the first-mentioned evidence or statement at any time not less than 5 days before the date appointed for the hearing;
  - (c) the appeal board may postpone or adjourn the date appointed for the hearing where any written evidence or statement is submitted in contravention of sub-paragraphs (a) and (b) or it appears necessary to do so for the proper determination of the appeal; and
  - (d) References in sub-paragraphs (a) and (b) to periods of days shall exclude weekends and public holidays.
- (7) Any hearing (including any medical examination) may be attended by–
- (a) the selected medical practitioner or, in the practitioner’s absence, a duly qualified medical practitioner appointed for the purpose by the police authority; and
  - (b) a duly qualified medical practitioner appointed for the purpose by the appellant,

although they may only observe any examination; and if any hearing includes a medical examination then only medical practitioners may be present for that part of the hearing.

(8) The appeal board shall supply the police authority, the appellant and the Scottish Ministers with a written statement of its decision. Where the appeal board disagrees with any part of the selected medical practitioner’s report, the appeal board shall supply a revised report.

- (9) There shall be paid to the members of the appeal board–
- (a) such fees as are determined in accordance with arrangements made by the Scottish Ministers; or
  - (b) where no such arrangements have been made, such fees and allowances as the Scottish Ministers may from time to time determine;

and any fees or allowances so payable shall, subject to paragraph (10)(c) and (e), be paid by the police authority and shall be treated as part of the expenses of the police authority for the purposes of this regulation.

- (a) (10) (a) Subject to the following provisions of this paragraph, the expenses of each party to the appeal shall be borne by that party;
- (b) where a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the police authority less than 22 days (excluding weekends and public holidays) before the date appointed for the hearing, the appeal board shall require the police authority to pay to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending or arranging to attend the cancelled, adjourned or postponed hearing, as the case may be;
- (c) if the appeal board determines that a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the appellant less than 22 days (excluding weekends and public holidays) before the date appointed for the hearing the police authority may, subject to sub-paragraph (d), require the appellant to pay towards the cost of the cancellation, adjournment or postponement, as the case may be, such sum not exceeding the total costs of the cancellation, adjournment or postponement, as the case may be, as the authority thinks fit;

- (d) if the appeal board, after taking account of any representations from either party, decides that the cancellation, adjournment or postponement, as the case may be, was not due to any fault on the part of the appellant and the appellant should not pay towards the cost of the said cancellation, adjournment or postponement, it shall state that this is the case and the police authority shall not require the payment of any such costs;
- (e) where the appeal board decides in favour of the police authority and reports that in its opinion the appeal was frivolous or vexatious, the authority may, subject to sub-paragraph (f), require the appellant to pay towards the cost of the appeal such sum not exceeding the total fees and allowances of the members of the appeal board as the authority thinks fit;
- (f) if the appeal board, after taking account of any representations from either party, decides there are exceptional reasons why the appellant should not pay towards the cost of the appeal, it shall state that this is the case and the police authority shall not require the payment of any such costs;
- (g) where the appeal board decides in favour of the appellant, the police authority shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending any such hearing as is mentioned in sub-paragraph (5).

### **Refusal to be medically examined**

**75.** If a question is referred to a medical authority under regulation 71, 72 or 73 and the person concerned wilfully or negligently fails to submit to such medical examination or to attend such interviews as the medical authority may consider necessary in order to enable the medical authority to make a decision, then—

- (a) if the question arises otherwise than on an appeal under regulation 72, the police authority may make their determination on such evidence and medical advice as they in their discretion think necessary; and
- (b) if the question arises on an appeal under regulation 72, the appeal shall be deemed to be withdrawn.

## **PART 8**

### **TRANSFER VALUES, PAYMENT, ETC**

#### *Interpretation*

### **Interpretation**

**76.** In this Part—

- (a) “police authority” in relation to a regular police officer means the police authority for that officer’s force or, in the case of a former regular police officer, for the force of which the officer was a member immediately before that officer retired or otherwise ceased to serve; and
- (b) “the relevant police authority”, in relation to a pension credit member, means—
  - (i) the police authority for the force in which, at the time when the pension sharing order takes effect, the pension debit member from whose rights the pension credit member’s pension credit is derived is serving; or
  - (ii) if such pension debit member is not then serving as a regular police officer, the police authority for the force in which the officer last served as such.

*Certificates of pensionable service on transfer between forces or rejoining the police service*

**Certificates of pensionable service**

77.—(1) This regulation applies where a regular police officer—

- (a) has transferred from one force to another; or
- (b) having previously ceased to serve as such in one police force, subsequently becomes a regular police officer in another; and
- (c) by reason of previous service in a police force is entitled to reckon pensionable service under regulation 12(1)(a), (b) (c) or (d), 13 or 15.

(2) Where this regulation applies, the former police authority shall furnish the current authority with a certificate stating—

- (a) the amount of the pensionable service which the regular police officer to whom this regulation applies is entitled to reckon by reason of previous service in a police force in accordance with regulations 10 to 15;
- (b) whether or not that police officer has, at the time of leaving service in the force maintained by the former police authority, made an election under regulation 9; and
- (c) where that officer is a pension debit member under Part 6, the appropriate percentage by which that officer's future benefits are to be reduced under regulation 36.

(3) On the acceptance of a certificate under paragraph (2) by the current authority, any entitlement of a regular police officer to whom this regulation applies to an award from the former police authority shall cease to have effect.

(4) The former police authority shall furnish a regular police officer to whom this regulation applies with a copy of the certificate furnished under paragraph (2) together with a description of the effect of paragraph (3).

(5) In this regulation (but subject to regulation 96(1))—

“the former police authority” means the police authority of the force first mentioned in paragraph (1)(a) or (b), as the case may be; and

“the current authority” means the police authority of the force of which the regular police officer is a member.

*Transfer values payable on leaving the police service or ceasing to make pension contributions*

**Transfer values payable on leaving the police service or ceasing to make pension contributions**

78.—(1) Subject to paragraph (8), this regulation applies to a regular police officer who, before that officer attains the age of 64 years—

- (a) ceases to serve as a regular police officer; or
- (b) makes or has made an election under regulation 9,

and who, in either case, satisfies the conditions specified in paragraph (2).

(2) The conditions mentioned in paragraph (1) are—

- (a) that the officer subsequently becomes subject to new pension arrangements which are contained within—



- (i) a public service pension scheme within the meaning of section 1(1) of the 1993 Act<sup>(33)</sup>;
- (ii) any other pension scheme which is registered under section 153 of the Finance Act 2004<sup>(34)</sup>; or
- (iii) a qualifying recognised overseas pension scheme within the meaning of section 169 of the Finance Act 2004;
- (b) that the officer's pensionable service satisfies the 3 month condition within the meaning of section 101AA(2) of the 1993 Act<sup>(35)</sup>;
- (c) that the officer is not entitled to a pension under Part 4 or, if the officer is so entitled, it is not yet payable;
- (d) that the officer has not received any award by way of repayment of the officer's aggregate pension contributions; and
- (e) that the officer has, on or before the date on which that officer attains the age of 64 years, or within such longer period as the police authority may allow in the circumstances of the particular case, given written notice to the police authority of the officer's desire that this regulation should apply in the officer's case.

(3) A regular police officer who has given notice in accordance with paragraph (2)(e) may, without prejudice to the giving of another such notice, withdraw that notice by giving written notice to that effect to the police authority under this paragraph:

Provided that notice under this paragraph shall be of no effect if it is given at a time when the police authority have already entered into an agreement with a third party to pay a transfer value under paragraph (4) in respect of that officer.

(4) Subject to paragraph (8), where this regulation applies the police authority shall, within 12 months of receipt of notice given in accordance with paragraph (2)(e) or, if earlier, by the date on which the regular police officer concerned attains the age of 65 years, pay a transfer value calculated, subject to paragraph (5) in accordance with tables and guidance issued for the purpose by the Scheme actuary to the authority or person empowered to receive such payments for the purposes of the new pension arrangements to which the regular police officer becomes subject:

Provided that if proceedings before a court have been commenced against the regular police officer concerned within 12 months of the date on which contributions under regulation 8 ceased to be payable in respect of that officer and it appears to the police authority that the proceedings may lead to the forfeiture of any pension, entitlement to which arises as a result of the payment of such contributions, the period within which payment under this paragraph is to be made shall be—

- (a) that specified in the foregoing provisions of this paragraph; or
- (b) 3 months from the conclusion of those proceedings (including any proceedings on appeal), whichever ends later.

(5) In the case of a transfer value paid under the public sector transfer arrangements, paragraph (4) shall have effect as if, for the words from “subject to paragraph (5)” to “actuary” there were substituted the words “in accordance with the rules of the public sector transfer arrangements”; and for these purposes, “the public sector transfer arrangements” has the same meaning as that given in regulation 15(4).

(6) In the case of a regular police officer who has received such an award as is mentioned in paragraph (2)(d) but has, within 6 months of becoming subject to new pension arrangements, or

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(33) 1993 c. 48; subsection (1) of section 1 was so numbered by the Pensions Act 2004 (c. 35), section 293(1) and (2) and the definition of “public service pension scheme” was amended by S.I. 1999/1820, article 4, Schedule 2, Part 1, paragraph 113(a) and (b).

(34) 2004 c. 12.

(35) Section 101AA was inserted by section 264 of the Pensions Act 2004.

within such longer period as the police authority may allow in the circumstances of that officer's case, paid to that authority an amount equal to that of the award (plus interest, where payable in accordance with paragraph (7)), paragraph (2) shall have effect as if sub-paragraph (d) were omitted: Provided that, in the case of a regular police officer who is becoming subject to new pension arrangements such as are specified in paragraph (2)(a)(i), this paragraph shall have effect as if for "6 months" there were substituted "12 months".

(7) For the purposes of paragraph (6)–

- (a) interest shall be payable where payment is made under that paragraph more than a year after receipt of the award as mentioned in paragraph (2)(d); and
- (b) any such interest shall be calculated at the rate of 5 per cent per year, compounded with yearly rests.

(8) Where a pension debit exists under Part 6, the amount of any transfer value payable under this regulation shall be decreased by the actuarial value of that debit.

### **Prohibition on accepting or paying transfer values for pension credit rights**

**79.** A transfer value may not be accepted or paid in respect of any pension credit rights under Part 6.

### *Mis-sold pensions*

#### **Mis-sold pensions**

**80.**—(1) This regulation applies to a regular police officer who–

- (a) opted or transferred out; and
- (b) has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986<sup>(36)</sup> or section 150 of the Financial Services and Markets Act 2000<sup>(37)</sup> (actions for damages in respect of contravention of rules etc made under the Act).

(2) A regular police officer to whom this regulation applies may give notice in writing to the police authority that the officer wishes the authority to accept payment of a transfer value in order to create or restore pensionable service, and such notice shall be treated as cancelling, with effect from the date on which an instalment of pay next falls due to that officer, any election that is in force under regulation 9 in respect of that police officer.

(3) Where a regular police officer has given notice under paragraph (2), but before the payment has been accepted and pensionable service created or restored that officer either–

- (a) dies while serving as a member of a police force; or
- (b) becomes entitled to an award under these Regulations,

paragraph (4) shall continue to apply in that officer's case.

(4) Where a transfer value in relation to a regular police officer who has given notice under paragraph (2) is paid to a police authority before the expiry of the period of 12 months beginning with the date on which the police officer gives such notice, or such longer period as the police authority may allow, the police authority–

- (a) shall, if satisfied that the transfer value has been calculated in a manner consistent with the methods adopted and assumptions made by them in determining the restitution payment,

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<sup>(36)</sup> 1986 c. 60.

<sup>(37)</sup> 2000 c. 8; amended by S.I. 2005/381.

accept the payment and treat the relevant period as pensionable service reckonable by the officer concerned; and

- (b) may, if not so satisfied, but if satisfied that the transfer value represents, by reference to those methods and assumptions, a length of service not exceeding the relevant period, accept the payment and treat that length of service as pensionable service reckonable by the officer concerned,

and the police officer shall be treated for the purpose of calculating any award under these Regulations as having made pension contributions throughout the period of pensionable service credited under this paragraph.

(5) Where a regular police officer is credited under paragraph (4) with a period of pensionable service that is shorter than the relevant period, the period of service credited shall be treated for the purpose of any award under these Regulations as being a continuous period with the same concluding date as the relevant period.

(6) Where a regular police officer who is being credited under paragraph (4) with a period of pensionable service has previously been credited with an additional period of pensionable service calculated in accordance with regulation 15(2) or regulation 78(4) in respect of the relevant period, the police authority may adjust the transfer value which they accept under this regulation to ensure that no part of the additional period of pensionable service which was previously credited is included in the period of pensionable service credited under paragraph (4).

(7) In this regulation—

“the assumed calculation date” means the date on which it is assumed, for the purpose of calculating a restitution payment, that a transfer value will be paid to the police authority;

“the material date” means the date on which the police authority is asked to provide the calculation of the restitution payment;

“personal pension scheme” and “public service pension scheme” have the meanings given by section 1(1) of the 1993 Act;

“the relevant period”, in relation to a regular police officer, means the total of any periods of opted out and transferred out service;

“restitution payment”, in relation to a regular police officer, means an amount equal to the sum of—

- (a) the capitalised value at the material date, determined by the police authority in accordance with methods and assumptions notified to them by the Scheme actuary for cash equivalent transfer values from occupational pension schemes (other than public service pension schemes), which would produce a service credit equal to that officer’s total period of opted out service, including the capitalised value of any rights under the Pensions (Increase) Acts(38); and
- (b) the greater of—
  - (i) any transfer value paid to a personal pension scheme in respect of that police officer’s transferred out service by a police authority under regulation 78(4), increased by interest calculated at a rate approved by the Scheme actuary over the period from the date of payment of that transfer value to the assumed calculation date; and
  - (ii) the cash equivalent transfer value which would be payable by the police authority in respect of that transferred out service if the police authority were to pay a cash equivalent transfer value in respect of that service determined in accordance

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(38) 1971 c. 56 and 1974 c. 9.

with methods and assumptions, notified to them by the Scheme actuary, applicable immediately after the assumed calculation date.

(8) For the purposes of this regulation, a regular police officer shall be taken—

- (a) to have opted out if, for any period during which that officer is a member of a police force, that officer does not make contributions (including any additional or further contributions which that officer had previously elected to make) in respect of police pension rights but instead makes contributions to a personal pension scheme; and
- (b) to have transferred out if a transfer value is paid in respect of that officer by a police authority to a personal pension scheme,

and “opted out service” and “transferred out service” are to be construed accordingly.

### *Payment of awards*

#### **Authorities responsible for payment of awards**

**81.**—(1) An award which is payable to or in respect of a person by reason of that officer having served as a regular police officer shall be payable by the police authority.

(2) An award which is payable to or in respect of a pension credit member under Part 6, and any sum paid in commutation of such an award, is payable by the relevant police authority.

#### **Funds out of which and into which payments are to be made**

**82.**—(1) Subject to paragraph (2), all payments for the purposes of these Regulations made by or to a police authority shall be paid out of or into the police fund.

(2) There shall be paid out of monies provided by Parliament or, as the case may be, into the Scottish Consolidated Fund all payments for the purposes of these Regulations made by or to the Scottish Ministers by reason that the Scottish Ministers are treated as the police authority in relation to an inspector or assistant inspector of constabulary or a police officer engaged on relevant service.

#### **Payment and duration of awards**

**83.**—(1) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 32(4);
- (b) regulation 33;
- (c) regulation 43; and
- (d) regulations 51 to 55,

the pension of a regular police officer shall be payable in respect of each month as from the date of that officer’s retirement.

(2) Subject to the provisions of these Regulations, a survivor’s pension shall be payable in respect of each month as from the death of the police officer in respect of whom the award is payable or, in the case of a posthumous child such as is mentioned in regulation 40(1)(b)(i), as from the birth of the child, except where the police officer in respect of whom the award is payable was in receipt of a pension and dies during a period in respect of which the officer has already received that officer’s pension, in which case the survivor’s pension shall not be payable before the end of that period.

(3) Subject to the provisions of these Regulations, in particular of—

- (a) regulation 42(6)(b) and (c);
- (b) regulation 43; and

(c) regulations 51 to 55,

a pension shall be payable for life and shall be discharged by payments in advance at such reasonable intervals as the police authority may, in their discretion, determine, except that payment on account of a pension may be delayed, in whole or in part, pending the determination of any question as to the liability of the police authority in respect of the pension, including any question as to the continuance of that liability.

(4) Where a person dies after receiving a sum paid in advance on account of a pension, neither the said sum nor any part thereof shall be recoverable although referable to a period after the person's death.

(5) Subject to the provisions of these Regulations, a gratuity or award by way of repayment of aggregate pension contributions shall become payable as soon as the entitlement to it arises and shall be paid forthwith in 1 sum, and a lump sum payable upon the retirement of a regular police officer shall be paid within 3 months from the date of retirement, except that—

- (a) any such payment may be delayed, in whole or in part, pending the determination of any question as to the liability of the police authority to pay it; and
- (b) where the police authority are satisfied that it would be for the advantage of the beneficiary to pay a gratuity in instalments, they may pay it in instalments of such reasonable amounts and over such reasonable period as they think fit.

#### **Payment of awards otherwise than to beneficiary and application of payments**

**84.**—(1) This regulation applies to the payment of any award to or in respect of a regular police officer or a pension credit member (whether a pension, gratuity or other award) and any reference in this regulation to the beneficiary is a reference to the person to whom, this regulation apart, the award is payable.

(2) Subject to the provisions of these Regulations, and in particular the following provisions of this regulation, an award shall be payable only to the beneficiary.

(3) Where the beneficiary is a child under the age of 18, the police authority may, if they think fit, in lieu of paying any sum on account of an award to that child, pay it to such other person as they may determine; and a person who receives any sum in pursuance of this paragraph shall, subject to and in accordance with any directions of the police authority, apply that sum for the benefit of that child under the age of 18.

(4) On the death of the beneficiary to whom a sum is due on account of an award which does not exceed £30,000 or such higher amount as may from time to time be prescribed for the purposes of section 6 of the Administration of Estates (Small Payments) Act 1965<sup>(39)</sup> or section 1(3) of the Confirmation to Small Estates (Scotland) Act 1979<sup>(40)</sup>, the police authority may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the authority to be beneficially entitled to the personal estate of the deceased or, as the authority think fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the authority may determine.

(5) Where it appears to the police authority that a beneficiary is by reason of mental disorder or otherwise incapable of managing that beneficiary's affairs, in lieu of paying any sum on account of an award to that beneficiary—

- (a) they may, in their discretion, pay it in whole or in part to a person having the care of the beneficiary or such other person as they may determine; and

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<sup>(39)</sup> 1965 c. 32.

<sup>(40)</sup> 1979 c. 22.

- (b) in so far as they do not so discharge their liability in respect of that sum, the authority shall apply it in such manner as they think fit for the benefit of the beneficiary or their dependants;

and a person who receives any sum in pursuance of sub-paragraph (a) shall, subject to and in accordance with any directions of the police authority, apply it for the benefit of the beneficiary or that beneficiary's dependants.

(6) Where, as a result of any fraud, theft or negligence on the part of a regular police officer in connection with that officer's service as such, a loss has occurred to the fund out of which an award is payable to that officer, in lieu of paying the whole or any part of any sum on account of the award to that beneficiary, the police authority may, if they think fit but subject to paragraph (7), apply it in making good the loss by retaining it in that fund:

Provided that the aggregate amount retained in pursuance of this paragraph shall not exceed whichever is the lesser of the following amounts, namely—

- (a) the amount which is the actuarial value, at the time of the first retention, of the sums then or prospectively due to the regular police officer on account of the award; and
- (b) the amount of the said loss,

and, in the event of any dispute as to the amount of that loss, the power conferred by this paragraph shall not be exercisable save to the extent of any sum adjudged due to the police authority in respect of the loss by an order of a competent court.

(7) Where the police authority exercise the power conferred by paragraph (6) they shall furnish the regular police officer concerned with a certificate showing the amount retained and the effect on the award; and, where the regular police officer is entitled to reckon pensionable service otherwise than by reason of service as a member of a police force, only the following proportion of any sum due on account of the award may be so retained and applied, that is to say, the proportion which that officer's pensionable service reckonable by reason of service as a member of a police force bears to that officer's total pensionable service.

(8) A police authority shall obtain a good discharge by paying or applying any sum in the manner provided by this regulation.

### **Payment on behalf of officers of lifetime allowance charge**

**85.—**(1) A regular police officer may request the police authority to pay on that officer's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004<sup>(41)</sup> (lifetime allowance charge) when—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of that Act (benefit crystallisation events and amounts crystallised) occurs in relation to that officer; and
- (b) the officer and the police authority are jointly and severally liable in relation to that event.

(2) Such a request may only be made by notice in writing given before the event occurs.

(3) The police authority may comply with such a request only if the officer pays the police authority the amount in question on or before the date on which the event occurs.

### **Reduction of benefits where lifetime allowance charge payable**

**86.—**(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 occurs in relation to a regular police officer;

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(41) 2004 c. 12.

- (b) the officer and police authority are jointly and severally liable in relation to that event; and
  - (c) no request has been duly made under regulation 85 in relation to the event or, if such a request has been made, the authority is prevented from complying with it by paragraph (3) of that regulation.
- (2) Where this regulation applies—
- (a) the police authority shall pay any of the tax payable on the event;
  - (b) the benefits payable to or in respect of the officer, or the transfer payment in the case of event 8 in the table in section 216(1) of the Finance Act 2004, shall be reduced to reflect fully the amount of tax payable; and
  - (c) the amount of the reduction shall be determined in accordance with guidance provided by the Scheme actuary and, in the case of any reduction to pension benefits, consistent with normal actuarial practice, as determined by the Scheme actuary.

## PART 9

### SPECIAL CASES

#### *Alterations in police areas*

##### **Alterations in police areas**

**87.**—(1) Where a police area is or has been combined with another police area by an order made under section 21B of the Police (Scotland) Act 1967(42), the police force, police authority 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 and fund as the force, authority and fund for the first-named area.

- (2) Where a police area is or has been divided, in relation to any person—
- (a) who is transferred by the order effecting the division from the force for the divided area to another force, the other force and the police authority and police fund for the area thereof shall, for the purposes of these Regulations, be deemed to be the same force, authority and fund as the force, authority and fund for the divided area; and
  - (b) who ceased to be a member of the force for the divided area before the division thereof, if the order effecting the division makes provision in that behalf, the force, authority and fund designated for the purpose thereby shall, for the purposes of these Regulations, be deemed to be the same force, authority and fund for the divided area.

##### **Chief constables affected by alterations in police areas**

**88.**—(1) This paragraph applies in the case of a chief constable of a force who becomes or has become a member of another home police force (“the successor force”) by virtue of an order such as is mentioned in regulation 87(1).

(2) In relation to a member of a police force to whom paragraph (1) applies and who suffers loss of office as such which is attributable to such an order, these Regulations shall apply as though that officer had—

- (a) where that officer has not attained the age of 55 years on the date when the order takes effect, ceased to serve as a regular police officer on that date; or

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(42) 1967 c. 77; section 21B was inserted by section 34 of the Local Government etc. (Scotland) Act 1994 (c. 39), section 34.



- (b) where that officer has attained the age of 55 years on the date when the order takes effect, retired from the successor force on that date, having given to the police authority the required period of written notice of that officer's intention to retire.

### *Servicemen*

#### **Interpretation**

**89.** In regulations 90 to 95—

“relevant service in the reserve forces” means service in pursuance of a training obligation under sections 38, 40 and 41 of the Reserve Forces Act 1980<sup>(43)</sup> or Part III of the Reserve Forces Act 1996<sup>(44)</sup> or by virtue of a call out for permanent service or a recall under the Reserve Forces Act 1980 or Part VII of the Reserve Forces Act 1996;

“the reserve forces” means those forces specified in section 1(2) of the Reserve Forces Act 1996; and

“serviceman” means a person who immediately before undertaking a period of relevant service in the reserve forces was a regular police officer.

#### **Awards to servicemen**

**90.**—(1) Subject to regulation 95, this regulation applies to a serviceman who at the end of that serviceman's period of relevant service in the reserve forces is or was permanently disabled for the performance of the ordinary duties of a member of the police force.

(2) A serviceman to whom this regulation applies shall be entitled—

- (a) to an ill-health pension under regulation 29 on the same conditions in all respects as if the serviceman were such a regular police officer as is mentioned in paragraph (1) of that regulation; or
- (b) where the serviceman does not meet the condition specified in regulation 29(3)(a)(i), to an award by way of repayment of that serviceman's aggregate pension contributions under regulation 34.

#### **Survivors' awards on death of servicemen**

**91.** Subject to regulations 92 and 96, if a serviceman who fulfils the qualifying service criterion—

- (a) dies or has died during that serviceman's period of relevant service in the reserve forces; or
- (b) having been permanently disabled for the performance of the ordinary duties of a member of the police force at the end of the said period (without any intervening period of service as such) dies or has died while in receipt of a pension granted in pursuance of regulation 90(2)(a),

then—

- (c) an adult survivor of that serviceman (had they been a regular police officer) such as is mentioned in regulation 40(1)(a) shall be entitled to an adult survivor's pension; and
- (d) a child survivor of that serviceman (had they been a regular police officer) such as is mentioned in regulation 40(1)(b) shall be entitled to a child survivor's pension,

under regulation 39, on the same conditions in all respects as if that serviceman had been a regular police officer who had died in the circumstances mentioned in that regulation.

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(43) 1980 c. 9.

(44) 1996 c. 14.



### **Prevention of duplication**

**92.** Regulation 49 shall apply in relation to a pension in pursuance of regulation 91 as if, after the words “under regulation 39” in regulation 49, there were inserted the words “or regulation 91”.

### **Application of regulations 44, 45 and 46**

**93.** In the case of a serviceman—

- (a) who dies while in receipt of a pension or while entitled to a deferred pension, whether or not that pension has come into payment, and whose death results from an injury received during that serviceman’s period of relevant service in the reserve forces, regulation 44 shall apply as it applies in the case of a regular police officer who so dies and whose death results from an injury received in the execution of that serviceman’s duty;
- (b) who dies during that serviceman’s period of relevant service in the reserve forces, regulations 45 and 46 shall apply as they apply in the case of a regular police officer who dies while serving as such.

### **Servicemen who do not resume service in their former force**

**94.** Where a serviceman who ceased to serve as a regular police officer in order to undertake a period of relevant service in the reserve forces does not or did not resume service in that serviceman’s former force within a month of the end of that period, the serviceman shall be treated for the purposes of these Regulations as having ceased to serve as a regular police officer in that force as from the end of that serviceman’s period of relevant service in the reserve forces.

### **Pensionable service and pension contributions**

**95.—(1)** A serviceman who ceased to serve as a regular police officer in order to undertake a period of relevant service in the reserve forces shall be entitled to reckon that period as pensionable service in that serviceman’s former force subject to paragraph (2).

(2) Regulations 90, 91 and 93 shall have effect in the case of a serviceman who ceased to serve as a regular police officer in order to undertake a period of relevant service in the reserve forces only if the serviceman pays or has paid pension contributions (other than additional or further pension contributions) to the police authority of that serviceman’s former force, as though that serviceman had remained a regular police officer in that force, in respect of that serviceman’s period of relevant service in the reserve forces:

Provided that those regulations shall have effect notwithstanding that pension contributions are not or have not been paid as aforesaid by a serviceman in respect of any period during which that serviceman’s service pay is less than that serviceman’s pensionable pay.

(3) In the case of a serviceman who ceased to serve as a regular police officer in order to undertake a period of relevant service in the reserve forces and who immediately before the serviceman so ceased to serve was making periodical contributions in accordance with an election under regulation 56—

- (a) that serviceman’s liability to make those contributions to the police authority shall continue during such period of relevant service in the reserve forces; and
- (b) regulation 60 shall apply as if, after the words “Part 4” in paragraph (1) of that regulation, there were inserted the words “or Part 9 (servicemen)”;

as though the serviceman had remained a regular police officer in that serviceman’s former force.

*Former members of an English or Welsh police force or the Police Service of Northern Ireland*

**Former members of an English or Welsh police force or the Police Service of Northern Ireland**

**96.**—(1) This regulation applies in the case of a regular police officer who has been a member of a police force within the meaning of the Police Act 1996 or of the Police Service of Northern Ireland.

(2) Where such a regular police officer is entitled to reckon pensionable service by reason of service in an English or Welsh police force or the Police Service of Northern Ireland (in this regulation referred to as “that officer’s former force”) and—

- (a) left that officer’s former force for the purpose of becoming a regular police officer in a home police force and joins that home police force in that capacity; or
- (b) retired from or otherwise ceased to serve in that officer’s former force and subsequently joins a home police force at a time when no pension is in payment to that officer by reason of service in that officer’s former force,

then for the purposes of these Regulations including in particular regulation 10, 11, 12, 13, and 95, anything done, by that officer or in that officer’s case, under or for the purposes of a provision of the English and Welsh pensions legislation or the Police Service of Northern Ireland pensions legislation which corresponds to a provision of these Regulations shall be treated as if it had been done under or for the purpose of that corresponding provision; and accordingly that officer’s pensionable service in that officer’s former force shall be reckonable as if it had been pensionable service in a home police force, subject, where applicable, to the making by the regular police officer concerned of an appropriate payment to the police authority for the relevant home police force, in accordance with regulation 13.

**Transfer of regular police officer to an English or Welsh police force or the Police Service of Northern Ireland**

**97.**—(1) Where a regular police officer has left a home police force and joined an English or Welsh police force or the Police Service of Northern Ireland and the police authority of the English or Welsh police force or, as the case may be, the Northern Ireland Policing Board is contingently liable to make payments to that officer under the English and Welsh pensions legislation or as the case may be, the Police Service of Northern Ireland pensions legislation, regulation 77(1), (2) and (4) shall have effect as if the former police authority were the police authority of the home police force in question and the current authority were the police authority of the English or Welsh force in question or, as the case may be, the Northern Ireland Policing Board.

(2) On notification by the police authority of the English or Welsh police force in question or, as the case may be, the Northern Ireland Policing Board, that a certificate issued under regulation 77 as modified by paragraph (1) has been accepted, any entitlement of the regular police officer concerned to an award under these Regulations shall cease to have effect.

(3) In relation to a person to whom an ill-health pension is payable under Part 4, regulation 51(5) shall have effect as if the expression “another police force” included an English or Welsh police force or the Police Service of Northern Ireland.

(4) In relation to a person to whom a pension is payable under Part 4, regulation 52 shall have effect as if the expression “any police force” included an English or Welsh police force and the Police Service of Northern Ireland.

### **Amendment of the Police (Injury Benefit) (Scotland) Regulations 2007**

**98.** Schedule 5 to these Regulations, which amends the Police (Injury Benefit) (Scotland) Regulations 2007<sup>(45)</sup>, has effect.

St Andrew's House,  
Edinburgh  
7th March 2007

*GEORGE LYON*  
Authorised to sign by the Scottish Ministers

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<sup>(45)</sup> S.S.I. 2007/68.

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## SCHEDULE 1

Regulation 2(a)

### GLOSSARY OF EXPRESSIONS

In these Regulations, unless the context otherwise requires:—

- “the 1987 Regulations” means the Police Pensions Regulations 1987<sup>(46)</sup>;
- “the 1993 Act” means the Pension Schemes Act 1993<sup>(47)</sup>;
- “the 1996 Act” means the Police Act 1996<sup>(48)</sup>;
- “the 1999 Act” means the Welfare Reform and Pensions Act 1999<sup>(49)</sup>;
- “added years” has the meaning assigned to it by regulation 56(2);
- “adult survivor” has the meaning assigned to it by regulation 40(1)(a);
- “aggregate pension contributions”, for the purpose of calculating an award, shall be construed in accordance with regulation 26;
- “the appeal board” has the meaning assigned to it by regulation 72;
- “the appellant’s practitioner” shall be construed in accordance with regulation 70(1)(b);
- “ceasing to serve” includes—
  - (a) voluntarily ceasing to serve as a regular police officer;
  - (b) resignation from a police force upon being required to resign; and
  - (c) dismissal,
 in each case with effect from a date before that on which the person concerned attains the age of 55 years;
- “chief constable” has the meaning assigned to it by section 3 of the Police (Scotland) Act 1967<sup>(50)</sup>;
- “a child survivor” (without regard to age) has the meaning assigned to it by regulation 40(1)(b);
- “contracting-out rights” shall be construed in accordance with regulation 43(3)(a);
- “Conduct Regulations” has the same meaning as it has in regulation 4(1) of the Police (Scotland) Regulations 2004<sup>(51)</sup>;
- “disablement” and cognate expressions have the meanings assigned to them by regulation 4;
- “English and Welsh pensions legislation” means the English and Welsh legislation for the time being in force relating to the pensions of members of English and Welsh police forces;
- “an enhanced top-up ill-health pension” has the meaning assigned to it by regulation 29(4)(b);
- “enhanced top-up totals” has the meaning assigned to it by regulation 31(1);
- “final pensionable pay” shall be construed in accordance with regulation 24;
- “former force”, in relation to a serviceman, means the police force in which the officer was serving immediately before undertaking a period of relevant service in the reserve forces;
- “former pension arrangements” shall be construed in accordance with regulation 15(1)(a);
- “former police authority”, in relation to a regular police officer, means the police authority for their former force;

(46) S.I. 1987/257; relevant amendments were made by S.I. 1988/1339, 1989/733, 1990/805, 1992/343 and 2349, 1994/641, 1996/867 and 1997/2852 and S.I. 2001/459, 2003/406, 2004/486, 2005/200 and 495 and 2006/285.

(47) 1993 c. 48.

(48) 1996 c. 16.

(49) 1999 c. 30.

(50) 1967 c. 77.

(51) S.S.I. 2004/257.

“guaranteed minimum” and “guaranteed minimum pension” have the meanings which they have for the purposes of the 1993 Act; and “guaranteed minimum”, in relation to a pension under a pension scheme at a particular time, means the amount certified by the Department for Work and Pensions as that minimum at that time;

“home police force” means any police force within the meaning of the Police (Scotland) Act 1967;

“infirmary” has the meaning assigned to it by regulation 4(5);

“injury” includes any injury or disease, whether of body or of mind;

“injury received in the execution of duty” and “the result of an injury” have the same meanings as they have in the 1987 Regulations;

“maternity leave” has the same meaning as in regulation 4(1) of the Police (Scotland) Regulations 2004<sup>(52)</sup>;

“medical authority who has given a final decision” has the meaning assigned to it by regulation 73(4);

“normal benefit age” has the meaning assigned to it by regulation 61(2);

“parental leave” means leave granted in accordance with regulation 33(8) of the Police (Scotland) Regulations 2004;

“the parties to the appeal” shall be construed in accordance with regulation 74(5);

“part-time service” means service as a regular police officer performed pursuant to an appointment under regulation 6 of the Police (Scotland) Regulations 2004;

“pension credit” means a credit under section 29(1)(b) of the 1999 Act including a credit under corresponding Northern Ireland legislation;

“pension credit benefit” has the meaning given by section 101B<sup>(53)</sup> of the 1993 Act;

“pension credit member” has the meaning given by section 124(1) of the Pensions Act 1995<sup>(54)</sup>;

“pension credit rights” means rights to future benefits under these Regulations which are attributable to a pension credit;

“pension debit” means a debit under section 29(1)(a) of the 1999 Act;

“pension debit member” means a person whose benefits or future benefits under these Regulations have been reduced under section 31 of the 1999 Act;

“pension sharing order” means any order or provision which is mentioned in section 28(1) of the 1999 Act, Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(55)</sup> or Part 4 of Schedule 5 to the Civil Partnership Act 2004<sup>(56)</sup>;

“pensionable pay” has the meaning assigned to it by regulation 23;

“pensionable service” shall be construed in accordance with regulation 10;

“the Pensions (Increase) Acts” means the Pensions (Increase) Act 1971<sup>(57)</sup> and the Pensions (Increase) Act 1974<sup>(58)</sup>;

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<sup>(52)</sup> [S.I. 2004/257](#).

<sup>(53)</sup> Section 101B was inserted by section 37 of the 1999 Act.

<sup>(54)</sup> [1995 c. 26](#).

<sup>(55)</sup> [S.I. 1999/3147 \(N.I. 11\)](#).

<sup>(56)</sup> [2004 c. 33](#).

<sup>(57)</sup> [1971 c. 56](#).

<sup>(58)</sup> [1974 c. 9](#).

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“police authority” has the meaning given to it by section 11(2) of the Police Pensions Act 1976<sup>(59)</sup>;

“police force” includes a home police force, the National Criminal Intelligence Service and the National Crime Squad;

“Police Service of Northern Ireland pensions legislation” means the Northern Ireland legislation for the time being in force relating to the pensions of members of the Police Service of Northern Ireland;

“prospective service” shall be construed in accordance with regulation 31(3);

“public holiday” means Christmas Day, the 26th December (if it falls on a Saturday or Sunday), the 1st January (if it so falls), Good Friday or a bank holiday;

“the public sector transfer arrangements” has the meaning assigned to it by regulation 15(4);

“public service pension scheme” has the meaning given by section 1(1) of the 1993 Act<sup>(60)</sup>;

“the qualifying service criterion” shall be construed in accordance with regulation 17(3) and (4);

“regular employment” means employment for an annual average of at least 30 hours per week;

“regular police officer” means a member of a home police force, an inspector of constabulary and a police officer engaged on relevant service;

“the relevant award” shall be construed in accordance with regulation 50(1);

“relevant date” shall be construed in accordance with regulation 10(1);

“the relevant police authority” shall be construed in accordance with regulation 76(b);

“relevant service” (except in the expression “relevant service in the reserve forces”) has the meaning assigned to it by section 38A of the Police(Scotland) Act 1967<sup>(61)</sup>;

“relevant service in the reserve forces” has the meaning assigned to it by regulation 89;

“the reserve forces” has the meaning assigned to it by regulation 89;

“Retail Prices Index” means the general index of retail prices published by the Office for National Statistics;

“retirement” and cognate expressions shall be construed in accordance with regulation 17;

“the Scheme actuary” means the actuary for the time being appointed by the Scottish Ministers to provide a consulting service on actuarial matters relevant to these Regulations;

“the selected medical practitioner” shall be construed in accordance with regulation 8(2);

“serious ill-health”, in relation to commutation under Part 6, has the meaning assigned to it by regulation 62(3);

“serviceman” has the meaning assigned to it by regulation 89;

“sick leave” means leave taken in accordance with regulation 33(5) of the Police (Scotland) Regulations 2004;

“a standard ill-health pension” has the meaning assigned to it by regulation 29(3);

“state pensionable age” has the meaning assigned to it by regulation 43(7);

(59) 1976 c. 35; section 11(2) was amended by the Police and Magistrates' Courts Act 1994 (c. 29), Schedule 5, Part 2, paragraph 20(3), the 1996 Act, Schedule 7, paragraph 33, the Police Act 1997 (c. 50), Schedule 9, paragraph 33(2)(b) and 33(2)(c), the Criminal Justice and Police Act 2001 (c. 16), section 126(3) and Schedule 4, paragraph 6 and the Police Reform Act 2002 (c. 30), Schedule 7, paragraph 7(1) and (2).

(60) Subsection (1) of section 1 was so numbered by the Pensions Act 2004 (c. 35), section 293(1) and (2) and the definition of “public service pension scheme” was amended by S.I. 1999/1820, article 4, Schedule 2, Part 1, paragraph 113(a) and (b).

(61) Section 38A was amended by the Police Act 1997 (c. 50), Schedule 9, paragraph 86(2), the International Development Act 2002 (c. 1), Schedule 3, paragraph 11 and Schedule 4, the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1(3) and the Police Reform Act 2002 (c. 30), Schedule 7, paragraph 1(1).

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“tax year” means the 12 months beginning with 6th April in any year;  
“transfer”, except in the expression “transfer election” shall be construed in accordance with regulation 5;  
“a transfer election” has the meaning assigned to it by regulation 6(8); and  
“unpaid maternity leave” does not include any maternity leave in respect of which statutory maternity pay is payable under the Social Security Contributions and Benefits Act 1992(62).

## SCHEDULE 2

Regulation 6(2), (3) and (4)

### APPLICATION OF REGULATIONS TO OFFICERS TO WHOM REGULATION 6(2) AND (3) APPLIES

1. This paragraph applies to a regular police officer to whom these Regulations apply by virtue of regulation 6(2)(a)(ii).
2. This paragraph applies to a regular police officer to whom these Regulations apply by virtue of regulation 6(2)(a)(iii).
3. This paragraph applies to a regular police officer to whom these Regulations apply by virtue of regulation 6(2)(a)(iv) or (v).
4. An officer to whom paragraph 3 applies may, instead of retaining that officer’s entitlement to that officer’s ordinary pension under regulation B1 of the 1987 Regulations or, as the case may be, that officer’s deferred pension under regulation B5 of those Regulations, elect to relinquish that officer’s entitlement to the ordinary or deferred pension and to reckon as pensionable service for the purposes of these Regulations the pensionable service the officer was entitled to reckon under the 1987 Regulations at the time of that officer’s retirement with an entitlement to the ordinary or deferred pension.
5. An election under paragraph 4 shall be made by the officer concerned in the form of a transfer election in accordance with the provisions of Schedule 3.
6. An officer to whom paragraph 1 applies may elect to pay to the police authority of the force in which the officer is then serving a sum equal to the amount of that officer’s award by way of repayment of that officer’s aggregate pension contributions under regulation B6 of the 1987 Regulations and to reckon as pensionable service for the purposes of these Regulations the pensionable service the officer was entitled to reckon under the 1987 Regulations at the time of that officer’s retirement with an entitlement to the award.
7. An election under paragraph 6 shall be made by the officer concerned in the form of a transfer election in accordance with the provisions of Schedule 3.
8. Subject to the following provisions of this Schedule, where a regular police officer to whom these Regulations apply by virtue of regulation 6(2) pays pension contributions under regulation 7(1), that officer shall be eligible for awards to be payable to or in respect of that officer under these Regulations.
9. The pensionable service reckonable by an officer—
  - (a) to whom paragraph 1 applies and who has made an election in accordance with paragraphs 6 and 7;
  - (b) to whom paragraph 2 applies;

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(62) 1992 c. 4.

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- (c) to whom paragraph 3 applies and who has made an election in accordance with paragraphs 4 and 5; or
- (d) such as is mentioned in regulation 6(3), who cancels that officer's election in the circumstances mentioned in regulation 6(4) but does not make a transfer election under regulation 6(8),

shall be determined in accordance with regulations 10 to 16, except that regulation 16 shall have effect as if—

- (e) there were inserted in paragraph (1) after “35 years”,
    - “less the total pensionable service the officer was entitled to reckon under the 1987 Regulations, calculated in accordance with paragraphs (3) and (4), at the time—
    - (i) of that officer's retirement with an entitlement to—
      - (aa) an ordinary pension under regulation B1; or, as the case may be,
      - (bb) a short service award under regulation B2;
      - (cc) a deferred pension under regulation B5; or
      - (dd) an award by way of repayment of aggregate pension contributions under regulation B6,
    - of the 1987 Regulations; or
    - (ii) in a case falling within paragraph 9(d) of Schedule 2, when the officer cancelled that officer's election in the circumstances mentioned in regulation 6(4)”; and
  - (f) there were added, at the end, the following paragraphs—
    - “(3) For the purposes of paragraph (1), the total pensionable service which a regular police officer was entitled to reckon at the time mentioned in paragraph (1)(a)(i), (ii), (iii) or (iv) or (b), as the case may be, shall be calculated by the police authority as the sum of—
    - (a) the pensionable service the officer was entitled to reckon under Part F of the 1987 Regulations at the time multiplied by the appropriate conversion factor—
      - (i) where the officer has not yet attained the age of 55 years, applicable to that officer's age next birthday at the notional commencement of pension contributions under the 1987 Regulations; or
      - (ii) where the officer has attained the age of 55 years, applicable to the number of years' qualifying service as a regular police officer that officer had completed as at the time of that officer's retirement mentioned in paragraph (1)(a), (b), (c) or (d), as the case may be,
- given in the following table—



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TABLE OF CONVERSION FACTORS

<i>If under age 55</i>	<i>If aged 55 or above</i>	<i>Periods with full spouse benefit</i>	<i>For female officers, periods with no spouse benefit</i>
<i>Age next birthday at the notional commencement of pension contributions under 1987 Regulations</i>	<i>Number of years' qualifying service completed at date of retirement mentioned in paragraph (1)</i>		
25 and below	30	7/6ths	113%
26	29	115%	111%
27	28	113%	109%
28	27	111%	107%
29	26	108%	104%
30	25	105%	104%
31	24	102%	98%
32	23	99%	95%
33	22	96%	92%
34	21	92%	88%
35 and above	20 or fewer	88%	84%

and

- (b) in the case of a regular police officer such as is mentioned in paragraph 9(c) of Schedule 2 who had elected to purchase increased benefits in accordance with the Police Pensions (Purchase of Increased Benefits) Regulations 1987<sup>(63)</sup>, such additional 60ths as the officer was entitled to reckon under regulation 8(2) of the Police Pensions (Purchase of Increased Benefits) Regulations 1987 immediately before that officer's retirement, multiplied by the conversion factor of 88%.
- (4) For the purposes of paragraph (3)–
  - (a) “age next birthday at the notional commencement of pension contributions under the 1987 Regulations”, in relation to a regular police officer, means the age the officer would attain on the birthday following the date on which that officer would have attained an exact age determined by subtracting the length of that officer's qualifying service under the 1987 Regulations from that officer's exact age on the date when that officer commenced paying contributions under these Regulations; where
  - (b) “qualifying service” and “qualifying service under the 1987 Regulations” mean the period in years the officer was entitled to reckon as pensionable service under the 1987 Regulations, except that where some or all of the service the officer

<sup>(63)</sup> S.I. 1987/2215; relevant amendments were made by S.I. 2002/3202, 2004/2354 and 2005/1439.

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was so entitled to reckon was part-time service it means the period in years that officer would have been entitled to reckon as pensionable service if in any period of part-time service that officer had served full-time.”.

**10.** In the case of a regular police officer to whom paragraph 1 applies and who has made an election in accordance with paragraphs 6 and 7 or to whom paragraph 3 applies and who has made an election in accordance with paragraphs 4 and 5–

- (a) the pensionable service the officer is entitled to reckon, in accordance with regulations 10 to 16, shall include the pensionable service the officer was entitled to reckon under the 1987 Regulations at the time of that officer’s retirement with an entitlement to an award by way of repayment of aggregate pension contributions under regulation B6 of those Regulations, an ordinary pension under regulation B1 of those Regulations or, as the case may be, a deferred pension under regulation B5 of those Regulations; and
- (b) for the purposes of sub-paragraph (a), the pensionable service the officer was so entitled to reckon shall be such as is calculated by the police authority in accordance with the provisions of Schedule 3.

**11.** In the case of a regular police officer to whom paragraph 1 or 3 applies, for the purposes of regulation 24 (final pensionable pay), paragraph (1)(b) and (c) of that regulation shall not have effect unless the periods of 12 months mentioned in that paragraph began on or after the date when pension contributions were first paid by that officer under regulation 7(1).

**12.** A regular police officer to whom these Regulations apply by virtue of regulation 6(2) and who has begun to pay contributions under regulation 7(1) may no longer pay pension contributions under the 1987 Regulations.

**13.** In the case of–

- (a) an officer to whom regulation 6(2)(a)(v) applies, who is in receipt of an ill-health pension under regulation B3 of the 1987 Regulations; or
- (b) an officer to whom regulation 6(2)(a)(v) applies who is in receipt of a deferred pension under regulation B5 of the 1987 Regulations,

and who, in either case, has on or after 6th April 2006 rejoined that officer’s force or joined another force (otherwise than in the circumstances set out in regulation 6(2)(c)(i), (ii) or (iii)), regulation 51 shall apply in relation to that officer’s ill-health pension as if it were a standard ill health pension under regulation 29 or in relation to that officer’s deferred pension as if it were a deferred pension which came into payment early on the ground of permanent disablement for engaging in any regular employment under regulation 32 (as the case may be); and if a portion of that officer’s pension was commuted for a lump sum under regulation B7 of the 1987 Regulations, the proviso to regulation 28(1)(b) and regulation 28(2) shall have effect as if references to the previous lump-sum payment (in the proviso to regulation 28(1)(b)) and to the most recent lump sum payment (in regulation 28(2)) included references to the lump sum paid by way of commutation.

**14.** References in the foregoing paragraphs to retirement with an entitlement to an award under the 1987 Regulations shall be construed as including a reference to ceasing to serve, otherwise than upon retirement, with such an entitlement.

### SCHEDULE 3

Regulation 6(8)

#### TRANSFER ELECTIONS UNDER REGULATION 6(8)

**1.** Where a regular police officer wishes to make a transfer election in accordance with regulation 6(8) the officer shall do so by giving written notice to the police authority–

- (a) in the case of an officer to whom these Regulations apply by virtue of regulation 6(2)(a)(iv) or (v), or to whom regulation 6(6) or (7) applies, or is such as is mentioned in regulation 6(8)(c), within such period of 3 months beginning no later than 1st January 2007 as the Scottish Ministers may determine, or such longer period as the police authority may, by reason of exceptional circumstances in that officer's case, in their discretion allow; or
- (b) in the case of an officer—
  - (i) to whom these Regulations apply by virtue of regulation 6(2)(ii);
  - (ii) to whom these regulations apply by virtue of regulation 6(2)(a)(iv) or (v) and who rejoined that officer's force or joined another force on a date after that on which the period of 3 months mentioned in sub-paragraph (a) commenced;
  - (iii) who for the purposes of regulation 6(6)(b) is treated as continuing to serve notwithstanding that officer's dismissal or requirement to resign and whose reinstatement following a successful appeal occurs on a date after that on which the period of 3 months mentioned in sub-paragraph (a) commenced; or
  - (iv) who is such as is mentioned in regulation 6(8)(c) and who rejoined that officer's force on a date after that on which the period of months mentioned in sub-paragraph (a) commenced,

within the period of 3 months beginning on the date on which the officer first so rejoined that officer's force or joined another force or, as the case may be, was reinstated (or such longer period as the police authority may, by reason of exceptional circumstances in that officer's case, in their discretion allow).

2. A transfer election made in accordance with regulation 6(8) within the period of 3 months mentioned in paragraph 1(a) (or such longer period as the police authority may allow in accordance with paragraph 1(a)) shall, in the case of an officer to whom regulation 6(6) applies, take effect as from 6th April 2006; but in the case of—

- (a) such a transfer made by any other officer to whom paragraph 1(a) applies; or
- (b) an officer such as is mentioned in paragraph 1(b),

the transfer election shall take immediate effect unless—

- (c) in a case falling within paragraph 1(a), regulation 6(7) applies to the officer and the officer has made a transfer election before the cancellation of the election to stop paying contributions has come into effect, in which case the transfer election takes effect at the same time as the cancellation; or
- (d) in a case falling within paragraph 1(a) or (b), regulation 6(2)(a)(ii) applies to the officer, in which case the transfer election takes effect in accordance with paragraph 9.

3. A regular police officer who makes such a transfer election shall, no later than the last day of the period of 3 months mentioned in paragraph 1(a) or (b), as the case may be (or such longer period as the police authority may allow in accordance with paragraph 1), pay all pension contributions then payable by that officer under the 1987 Regulations, including any payment the officer has undertaken to make under regulation F4 or F5 (previous service reckonable on payment) of those Regulations, and all periodical contributions then payable by that officer under the Police Pensions (Purchase of Increased Benefits) Regulations 1987.

4. As from the date on which a regular police officer's transfer election takes effect, the officer may no longer pay pension contributions under the 1987 Regulations.

5. As from the date on which such a transfer election takes effect, the total pensionable service the regular police officer concerned was entitled to reckon under the 1987 Regulations immediately before the said date, calculated in accordance with paragraphs 6, 7 and 9, shall be reckonable as pensionable service for the purposes of these Regulations.

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6. For the purposes of paragraph 5, the total pensionable service which a regular police officer was entitled to reckon immediately before that date shall be calculated by the police authority as the sum of—

- (a) the pensionable service the officer was entitled to reckon under Part F of the 1987 Regulations at that time, multiplied by the appropriate conversion factor—
  - (i) where the officer has not yet attained the age of 55 years, applicable to that officer's age next birthday at the notional commencement of pension contributions under the 1987 Regulations; or
  - (ii) where the officer has attained the age of 55 years, applicable to the number of years' qualifying service as a regular police officer the officer has completed as at the date on which that officer's transfer election takes effect,

given in the following table—

TABLE OF CONVERSION FACTORS

<i>If under age 55</i>	<i>If aged 55 or above</i>	<i>Periods with full spouse benefit</i>	<i>For female officers, periods with no spouse benefit</i>
<i>Age next birthday at the notional commencement of pension contributions under 1987 Regulations</i>	<i>Number of years' qualifying service completed immediately before the date on which the transfer election takes effect</i>		
25 and below	30	7/6ths	113%
26	29	115%	111%
27	28	113%	109%
28	27	111%	107%
29	26	108%	104%
30	25	105%	101%
31	24	102%	98%
32	23	99%	95%
33	22	96%	92%
34	21	92%	88%
35 and above	20 or fewer	88%	84%

and

- (b) in the case of a regular police officer who had elected to purchase increased benefits in accordance with the Police Pensions (Purchase of Increased Benefits) Regulations 1987(64), such additional 60ths as that officer would have been entitled to reckon under regulation 8(2) of the Police Pensions (Purchase of Increased Benefits) Regulations 1987

(64) S.I. 1987/2215; relevant amendments were made by S.I. 1990/805, 2002/3202, 2004/2354 and 2005/1439.

if, immediately before the date on which that officer's transfer election takes effect, that officer had made an election under regulation G4 of the 1987 Regulations, multiplied by the conversion factor of 88%:

Provided that—

- (a) where a regular police officer has not paid the full amount due in accordance with paragraph 3 before the expiry of the period mentioned in that paragraph, the pensionable service the officer was entitled to reckon under the 1987 Regulations in respect of the period of service to which the contributions in question relate shall be the same proportion of that period of service as the amount which has been so paid bears to the total amount due; except that where the person concerned dies before the expiry of that period there shall be reckonable the full period of that officer's pensionable service to which the amount due relates notwithstanding that the amount due has, in full or in part, not been paid in accordance with paragraph 3;
- (b) in the case of a pension debit member, that officer's pension debit under the 1987 Regulations shall be multiplied by the conversion factor of 105% and shall be treated as a pension debit under regulation 36; and
- (c) for the purposes of these Regulations, the total pensionable service the officer was entitled to reckon under the 1987 Regulations shall not exceed 35 years.

7. In paragraph 6—

“age next birthday at the notional commencement of pension contributions under the 1987 Regulations”, in relation to a regular police officer, means the age that officer would attain on the birthday following the date on which that officer would have attained an exact age determined by subtracting the length of that officer's qualifying service under the 1987 Regulations from that officer's exact age on the date when that officer commenced paying contributions under these Regulations, where—

“qualifying service” and “qualifying service under the 1987 Regulations” mean the period in years the officer was entitled to reckon as pensionable service under the 1987 Regulations, except that where some or all of the service the officer was so entitled to reckon was part-time service it means the period in years that officer would have been entitled to reckon as pensionable service if in any period of part-time service that officer had served full-time.

8.—(1) A regular police officer to whom—

- (a) regulation 6(2)(a)(iv) or (v), (6), (7) or (8) (c) applies and who does not make a transfer election within the period mentioned in paragraph 1(a) or (b), as the case may be; or
- (b) regulation 6(5) applies; and
- (c) who, in either case, is entitled to a deferred pension under regulation B5 of the 1987 Regulations, and who does not make a transfer election within the period mentioned in paragraph 1(a) or (b), as the case may be,

may make a transfer election by giving written notice to the police authority at any time before that officer's retirement.

(2) In such a case, the pensionable service the officer was entitled to reckon under the 1987 Regulations which is to be reckoned as pensionable service for the purposes of these Regulations shall be calculated and credited by the police authority in accordance with tables and guidance issued for the purpose by the Scheme actuary, as if a transfer value had been received under regulation 15(1).

9. In the case of a regular police officer who, after making a transfer election in accordance with paragraph 1(b), makes an appropriate payment in accordance with regulation 13(1) in respect of a period of service as a regular police officer which ceased before the date on which that transfer election took effect, the officer shall be entitled to reckon as pensionable service for the purposes of

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these Regulations a period calculated by the police authority by multiplying the period of pensionable service to which the appropriate payment relates by the appropriate conversion factor applicable to that officer's age next birthday at the notional commencement of pension contributions under the 1987 Regulations, given in the table set out in paragraph 6.

**10.** In the case of a regular police officer whose transfer election has taken effect, regulation 26 (aggregate pension contributions for the purposes of repayment) shall have effect as if, in paragraph (2), for "the officer became a regular police officer" to "taken to have begun", there were substituted "on which a transfer election made by that officer in accordance with the provisions of Schedule 3 took effect".

**11.** In the case of a regular police officer who had allocated a portion of any pension to which that officer might become entitled in accordance with regulation B9 of the 1987 Regulations, such allocation shall have no further effect as from the date on which that officer's transfer election takes effect.

**12.** As from the date on which a transfer election made by a regular police officer takes effect, entitlement to awards to or in respect of that officer under the 1987 Regulations shall cease, except for entitlement to pension credit benefits.

**13.** In relation to a regular police officer who makes a transfer election, regulation 58 (lump sum payments) shall have effect as if, for "the officer last began to serve as such" in paragraph (1), there were substituted "the officer made their transfer election under regulation 6(8)".

**14.** A regular police officer by whom pension contributions are payable under regulation G2(1) of the 1987 Regulations may make a provisional declaration for the purposes of regulation 40(2) which shall be—

- (a) submitted to the police authority of the force in which the officer is serving, no later than—
  - (i) the expiry of the last day of the period of 3 months mentioned in paragraph 1(a) (or of such longer period as the police authority may allow in accordance with that paragraph); or
  - (ii) the day immediately before that on which the officer makes their transfer election, whichever shall first occur; and
- (b) be in the form specified in regulation 40(2).

**15.** A provisional declaration made in accordance with paragraph 14 shall, as from the date on which the transfer election in question takes effect, take effect as if it had been made on that date pursuant to regulation 40(2):

Provided that if a regular police officer who has made a provisional declaration in accordance with paragraph 14 does not make a transfer election within the period of 3 months mentioned in paragraph 1(a) (or such longer period as the police authority may allow under paragraph 1) the provisional declaration shall cease to have effect as from the end of that period.

**16.** In the case of a regular police officer—

- (a) to whom these Regulations apply by virtue of regulation 6(2)(a)(v); or
- (b) to whom regulation 6(8)(c) applies,

and whose transfer election has taken effect, if a portion of that officer's ill-health pension or deferred pension was commuted for a lump sum under regulation B7 of the 1987 Regulations, the proviso to regulation 28(1)(b) and regulation 28(2) shall have effect as if references to the previous lump sum payment (in the proviso to regulation 28(1)(b)) and to the most recent lump sum payment (in regulation 28(2)) included references to the lump sum paid by way of commutation.

**17.—**(1) If a regular police officer is ineligible for pension awards payable on the ground of permanent disablement under regulation G7 of the 1987 Regulations and is an officer to whom regulation 6(5), (6) or (7) applies, that officer may at the time of making that officer's transfer election request by notice in writing given to the police authority that that officer's eligibility for pension awards payable on the ground of permanent disablement be redetermined by the police authority in accordance with regulation 8.

(2) Where a regular police officer gives such notice as is mentioned in sub-paragraph (1), regulation 8 shall apply to that officer and that officer's eligibility for pension awards payable on the ground of permanent disablement shall be determined by the police authority in accordance with that regulation, subject to any appeal in accordance with regulation 70; and if the police authority determine under regulation 8(3) or 8(4) (as applicable) that the risk presented by that officer that that officer will retire on the ground that that officer is permanently disabled is such that the likely cost of providing that officer with benefits under these Regulations is not disproportionately high that officer shall be eligible for pension awards payable on the ground of permanent disablement from the date on which that officer's transfer election took effect but only in respect of that officer's pensionable service from that date.

(3) Where a regular police officer is eligible for pension awards payable on the ground of permanent disablement in accordance with sub-paragraph (2)—

- (a) regulation 29 shall apply to that officer from the date on which that officer's transfer election took effect; and
- (b) in calculating that officer's entitlement to any standard ill-health pension or any enhanced top-up ill-health pension the pensionable service that officer is entitled to reckon as at the date of that officer's retirement shall only comprise service from the date on which that officer's transfer election took effect.

(4) If, as a result of a determination and any appeal following that determination under sub-paragraph (2), the officer is ineligible for pension awards payable on the ground of permanent disablement for the purposes of these Regulations that officer may within 28 days of receiving notice of such ineligibility, elect to cancel that officer's transfer election by notice in writing given to the police authority.

(5) Where a regular police officer has elected to cancel that officer's transfer election in accordance with paragraph (4), that officer shall be treated for all purposes as if the transfer election had not been made.

**18.—**(1) This sub-paragraph applies to a regular police officer who has made a transfer election in accordance with regulation 6(8) and who was ineligible for pension awards payable on the ground of permanent disablement under regulation G7 of the 1987 Regulations.

(2) A regular police officer to whom sub-paragraph (1) applies shall be ineligible for pension awards payable on the ground of permanent disablement in respect of the pensionable service that officer is entitled to reckon for the purposes of these Regulations under paragraphs 5 or 8, as applicable; and that officer shall remain so ineligible in respect of such pensionable service even if that officer subsequently makes an election under regulation 9(1) which is later cancelled under regulation 9(5) or that officer retires or otherwise ceases to serve and subsequently rejoins that officer's force or joins another force.

(3) Subject to paragraph 17, a regular police officer to whom sub-paragraph (1) applies shall also be ineligible for pension awards payable on the ground of permanent disablement for the purposes of these Regulations, as if that officer were so ineligible under regulation 8(5).

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## SCHEDULE 4

Regulation 51(11)

### PROGRESSIVE MEDICAL CONDITIONS

The progressive medical conditions mentioned in regulation 51(11) are—

AIDS;  
 Alzheimer’s disease;  
 Cancer;  
 Creutzfeld-Jacob disease;  
 Huntington’s chorea;  
 Motor neurone disease;  
 Multiple sclerosis;  
 Nieman Pick disease;  
 Non-variant Creutzfeld-Jacob disease;  
 Parkinson’s disease; and  
 Variant Creutzfeld-Jacob disease.

## SCHEDULE 5

Regulation 98

### AMENDMENT OF THE POLICE (INJURY BENEFIT) (SCOTLAND) REGULATIONS 2007

**1.** The Police (Injury Benefit) (Scotland) Regulations 2007<sup>(65)</sup> are amended in accordance with this Schedule.

**2.** For regulation 4 (pensionable and average pensionable pay and aggregate pension contributions), substitute the following—

“**4.**—(1) For the purposes of calculating an award to or in respect of a member of a police force their pensionable pay shall be calculated—

- (a) in a case where their pension contributions were payable under regulation G2 of the 1987 Regulations, in the same way as if the award were one payable under the 1987 Regulations, in accordance with regulation G1(1) and (1A) of those Regulations;
- (b) in a case where their pension contributions were payable under regulation 7 of the 2007 Regulations, in the same way as if the award were one payable under the 2007 Regulations, in accordance with regulation 23 of those Regulations.

(2) For the purposes of calculating an award to or in respect of a member of a police force their average pensionable pay shall be calculated—

- (a) in a case such as is mentioned in paragraph (1)(a), in the same way as if it were an award payable under the 1987 Regulations, in accordance with regulation G1(2) to (9) of those Regulations, and as if—
  - (i) the relevant date for the purposes of that regulation were the date of their last day of service as a regular policeman in the force of the police authority by whom the award is payable; and

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<sup>(65)</sup> S.S.I. 2007/68.



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- (ii) the provisions specified in paragraph 4(4) of Part VI of Schedule J (part-time service) to the 1987 Regulations included the following provisions of these Regulations, that is to say regulations 13(2) and (3), 14(2)(a) and 17(3), (4), (5) and (6), and paragraphs 1, 2 and 4 of Schedule 5; and
- (b) in a case such as is mentioned in paragraph (1)(b), in the same way as if it were an award payable under the 2007 Regulations, in accordance with regulation 25 of those Regulations, and as if—
  - (i) the period of 12 months mentioned in regulation 24(1) of those Regulations were the period of 12 months ending with the date of their last day of service as a regular police officer in the force of the police authority by whom the award is payable; and
  - (ii) the provisions specified in regulation 25(4) of the 2007 Regulations (average pensionable pay) included the provisions of these Regulations mentioned in sub-paragraph (a)(ii).
- (3) For the purposes of an award calculated in accordance with paragraphs (1) and (2) references in such provisions of the 1987 Regulations or, as the case may be, of the 2007 Regulations as are mentioned in those paragraphs to a person's pensionable service shall in the case of a regular policeman or regular police officer who has made an election under regulation G4(1) of the 1987 Regulations or, as the case may be, regulation 9(1) of the 2007 Regulations include references to the pensionable service which would have been reckonable by that person if they had not made such an election.
- (4) For the purposes of calculating an award to or in respect of a regular police officer their aggregate pension contributions shall be calculated—
  - (a) in a case where their pension contributions were payable under regulation G2 of the 1987 Regulations, in the same way as if it were an award payable under the 1987 Regulations, in accordance with regulation A10 of those Regulations;
  - (b) in a case where their pension contributions were payable under regulation 7 of the 2007 Regulations, in the same way as if it were an award payable under the 2007 Regulations, in accordance with regulation 26 of those Regulations.”.
- 3. For regulation 12(3) (disablement gratuity), substitute the following—

“(3) For the purposes of paragraph (2)(b) the amount of aggregate pension contributions in respect of the relevant period of service shall be calculated—

  - (a) in the case of a person by whom, immediately before their last day of service as a member of a police force, pension contributions were payable under regulation G2(1) of the 1987 Regulations or would have been so payable but for an election under regulation G4(1) of the 1987 Regulations in the same way as if the award were one payable under those Regulations, calculated in accordance with regulation A10 of those Regulations;
  - (b) in the case of a person by whom, immediately before their last day of service as a member of a police force, pension contributions were payable under regulation 7 of the 2007 Regulations or would have been so payable but for an election under regulation 9 of the 2007 Regulations, in the same way as if the award were one payable under those Regulations, calculated in accordance with regulation 26 of those Regulations.”.
- 4. In regulation 13(2)(b)(ii) (adult survivor's special award) after “the 1987 Regulations” insert “or, as the case may be, regulation 29 of the 2007 Regulations”.
- 5. In regulation 21(2) (death gratuity) after “the 1987 Regulations” insert “or, as the case may be, under regulations 71, 72 or 73 of the 2007 Regulations”.

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6. In regulation 22 (abatement of certain gratuities in respect of gratuities otherwise payable)—
  - (a) in paragraph (1) after “the 1987 Regulations” insert “or, as the case may be, regulation 44 or 45 of the 2007 Regulations”;
  - (b) in paragraph (2)(a)(i) after “the 1987 Regulations” insert “or, as the case may be, regulation 44 or 45 of the 2007 Regulations”;
  - (c) in paragraph (2)(a)(ii) after “the 1987 Regulations” insert “or, as the case may be, regulation 46 of the 2007 Regulations”;
  - (d) in paragraph (2)(b)(ii)(C) after “the 1987 Regulations” insert “or, as the case may be, regulation 29 of the 2007 Regulations”; and
  - (e) in paragraph (2)(c) after “the 1987 Regulations” insert “or, as the case may be, regulation 44 of the 2007 Regulations”.
7. In regulation 24(6) (gratuity in lieu of adult survivor’s special pension) after “the 1987 Regulations” insert “or the 2007 Regulations”.
8. In regulation 26 (limitation on discretion to grant a gratuity in lieu of an adult survivor’s special pension or a child’s special allowance)—
  - (a) in paragraph (1) after “the 1987 Regulations” insert “or the 2007 Regulations”;
  - (b) in paragraph (2) after “the 1987 Regulations” insert “or regulation 38 of the 2007 Regulations”; and
  - (c) in paragraph (2) after “regulation B7 ”, where it occurs for the second time, insert “or regulation 38”.
9. In regulation 27 (prevention of duplication)—
  - (a) in paragraph (1)(a) after “the 1987 Regulations” insert “or an adult survivor’s pension under regulation 41 of the 2007 Regulations”; and
  - (b) in paragraph (1)(b) after “the 1987 Regulations” insert “or a child survivor’s pension under regulation 42 of the 2007 Regulations”.
10. In regulation 28 (increase of adult survivor’s special pension or child’s special allowance during first 13 weeks)—
  - (a) in paragraph (1)(b) after “Part B of the 1987 Regulations” insert “or Part 4 of the 2007 Regulations”;
  - (b) in paragraph (2) after “the 1987 Regulations” insert “or regulation 42 of the 2007 Regulations”; and
  - (c) in paragraph (4)(ii) after “the 1987 Regulations” insert “or, as the case may be, Part 4 of the 2007 Regulations”.
11. In regulation 30(2) (reference of medical questions)—
  - (a) after “regulation H1(2) of the 1987 Regulations” insert “or regulation 69 of the 2007 Regulations”; and
  - (b) after “Part H of the 1987 Regulations” insert “or, as the case may be, Part 7 of the 2007 Regulations”.
12. In regulation 37 (reassessment of injury pension)—
  - (a) in paragraph (2) after “the 1987 Regulations” insert “or the 2007 Regulations”;
  - (b) in paragraph (3) after “the 1987 Regulations” insert “or regulation 51(5) or (6) of the 2007 Regulations”; and
  - (c) in paragraph (4) after “the 1987 Regulations” insert “or regulation 51(8)(d) of the 2007 Regulations”.

13. In regulation 40 (forfeiture) after paragraph (4) insert the following paragraph—
- “(4A) the police authority may, to such extent as they at any time in their discretion think fit—
- (a) apply for the benefit of any adult or child survivor of the grantee of the pension; or
- (b) restore to the grantee of the pension, any amount or amounts of any pension, that has or have been forfeited under this regulation.”.
14. In Schedule 1 (glossary of expressions), after the definition of “the 1987 Regulations” insert—
- ““the 2007 Regulations” means the Police Pensions (Scotland) Regulations 2007;”.
15. In Schedule 3 (police officer’s injury award)—
- (a) in paragraph 5 after “the 1987 Regulations” insert “or regulation 9(1) of the 2007 Regulations”;
- (b) in paragraph 6(1) after “the 1987 Regulations” insert “or, as the case may be, Part 4 of the 2007 Regulations”;
- (c) in paragraph 6(2)(b) after “the 1987 Regulations” insert “or, as the case may be, regulations 38 of the 2007 Regulations”; and
- (d) in paragraph 6(3) after “the 1987 Regulations” insert “or, as the case may be, regulation 9(1) of the 2007 Regulations”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make fresh provision in relation to pensions payable to police officers and to others, including surviving spouses or civil partners and children, in respect of deceased, serving or retired officers.

The Regulations have effect from 6th April 2006 (the commencement date) apart from regulations 13(3)(b) and 78(7) which have effect from 30th March 2007. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

The Regulations apply to police officers who first became such on or after the commencement date (6th April 2006) (regulation 6(1)). They also apply to certain officers who first became such before the commencement date and rejoin the police service on or after that date following a break in service (regulation 6(2)), subject to modifications in Schedule 2. They also apply to officers who remain in service as at the commencement date but who elect or had elected not to pay pension contributions; they may elect to pay contributions under these Regulations (regulation 6(3) and (4)). The Police Pensions Regulations 1987 continue to have effect in relation to police officers who first became such before the commencement date. Officers who remain in service as at the commencement date and are paying pension contributions under the Police Pensions Regulations 1987 may elect for these Regulations to apply instead and for earlier pensionable service to count towards pension awards under these Regulations (regulation 6(6) to (9)). Regulation 6(8) also enables other categories of serving officer who first became such before the commencement date, and who are entitled to accrued benefits under the Police Pensions Regulations 1987, to make a transfer election so that

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earlier pensionable service will instead count towards pension awards under these Regulations. Schedule 3 makes provision for transfer elections and related matters.

Part 2 of the Regulations requires pension contributions to be paid by police officers (regulation 7) subject to an election not to do so (regulation 9). That Part also provides for the reckoning of pensionable service, and governs the time of voluntary or compulsory retirement. The minimum age for voluntary retirement is 55 years.

Part 3 is concerned with the calculation of pensionable pay and aggregate pension contributions for the purposes of awards.

Part 4 makes provision for the pension awards which may be payable to police officers or in respect of deceased officers, and for the circumstances in which awards may be revised, withdrawn or forfeited.

Part 5 enables officers to purchase increased benefits or “added years”.

Part 6 applies to cases where there is a pension sharing order under the Welfare Reform and Pensions Act 1999 (or the corresponding Northern Ireland legislation) or the Civil Partnership Act 2004.

Part 7 contains provision for the determination of medical questions related to eligibility for awards.

Part 8 contains financial provisions including provisions on transfer values.

Part 9 makes provision for special cases: chief constables affected by alterations in police areas, servicemen (as defined in regulation 89) and transfers of police officers to or from an English or Welsh police force or the Police Service of Northern Ireland.

A more detailed guide to the Regulations, “The New Police Pension Scheme 2006: Members' Guide” is being issued and is available on the website <http://www.sppa.gov.uk>.