

## 2001 No. 461

### PENSIONS

#### The Police Pensions (Additional Voluntary Contributions and Increased Benefits) (Pension Sharing) (Scotland) Amendment Regulations 2001

*Made* 12th December 2001

*Laid before the Scottish Parliament* 17th December 2001

*Coming into force* 21st January 2002

The Scottish Ministers, in exercise of the powers conferred by section 1 of the Police Pensions Act 1976(a) and of all other powers enabling them in that behalf, after consultation with the Police Negotiating Board for the United Kingdom, hereby make the following Regulations:

#### **Citation, commencement, effect and extent**

1.—(1) These Regulations may be cited as the Police Pensions (Additional Voluntary Contributions and Increased Benefits) (Pension Sharing) (Scotland) Amendment Regulations 2001.

(2) These Regulations shall come into force on 21st January 2002, but shall have effect from 1st December 2000.

(3) These Regulations extend to Scotland only.

#### **Amendment of the Police Pensions (Additional Voluntary Contributions) Regulations 1991**

2.—(1) The Police Pensions (Additional Voluntary Contributions) Regulations 1991(b) (“the AVC Regulations”) shall be amended in accordance with the following paragraphs.

(2) After regulation 12 of the AVC Regulations there shall be inserted the regulation contained in Schedule 1.

(3) The further amendments to the AVC Regulations contained in Schedule 2 shall have effect.

#### **Amendment of the Police Pensions (Purchase of Increased Benefits) Regulations 1987**

3.—(1) The Police Pensions (Purchase of Increased Benefits) Regulations 1987(c) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1) of regulation 3 (election to purchase increased benefits) for “Subject to paragraph (2)” there shall be substituted “Subject to paragraphs (2) and (2A)”.

(3) After paragraph (2) of regulation 3 there shall be inserted—

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(a) 1976 c.35; section 1 was amended by the Police Negotiating Board Act 1980 (c.10), section 2(3). The power to make regulations retrospective is contained in section 1(5) of the Police Pensions Act 1976. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of article 2 of and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

(b) S.I. 1991/1304.

(c) S.I. 1987/2215.

“(2A) Subject to paragraph (2B), a pension debit member may not replace any rights debited to him as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the order not been made.

(2B) Paragraph (2A) does not apply if and to the extent that regulations made under paragraph 18(10) or (11) of Schedule 10 to the Finance Act 1999(a) make provision as a result of which the requirement in section 590(3)(bb) of the Income and Corporation Taxes Act 1988(b) has effect in the case of rights under these Regulations and the principal Regulations with any exception, exclusion or modification permitting a member to replace any rights so debited.”.

St Andrew’s House,  
Edinburgh  
12th December 2001

*ANDREW P KERR*  
A member of the Scottish Executive

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(a) 1999 c.16.

(b) 1988 c.16. Section 590(3)(bb) was inserted by the Finance Act 1999 Schedule 10, paragraph 2(3).

## SCHEDULE 1

## NEW REGULATION IN THE POLICE PENSIONS (ADDITIONAL VOLUNTARY CONTRIBUTIONS) REGULATIONS 1991

**“Pension sharing on divorce**

**12A.**—(1) Pension sharing within the meaning of Part IV of the 1999 Act<sup>(a)</sup> is available under the AVC scheme in respect of all or part of a person’s shareable rights as set out in this Regulation except as otherwise provided, and a police authority shall discharge its liability in respect of a pension credit which derives from the AVC Scheme in accordance with paragraph 1 of Schedule 5 to the 1999 Act (pension credits: mode of discharge: funded pension schemes).

(2) Upon the taking effect of a pension sharing order, an amount representing the pension credit member’s share of the pension debit member’s accumulated additional voluntary contributions calculated in accordance with regulation 10(4) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000<sup>(b)</sup> shall be invested by the police authority in accordance with the wishes of the pension credit member in one or more of the ways prescribed in regulation 9(2).

(3) The benefits that may be provided in accordance with this regulation under a pension policy purchased as described in regulation 11(6) as it applies in the circumstances of this regulation are a pension and one or more dependant’s pensions.

(4) The pension will commence not earlier than the date on which the pension credit member attains the age of 60 and is payable for life.

(5) A dependant’s pension is a pension which would become payable to a dependant on the death of the pension credit member after his pension has commenced as provided in paragraph (4) and is payable for life, except that, in the case of a dependant to whom Part D of the 1987 regulations would apply if the pension credit member were a member of the Police Pensions Scheme, it shall cease to be payable when a child’s allowance would cease to be payable under that Part.

(6) Upon the death of a person after a pension sharing order has been made but before a police authority has discharged its liability in respect of the pension credit to which that person would otherwise be entitled, a lump sum equal to the value of the pension credit at the date of that person’s death shall be paid to his personal representatives.

(7) Paragraphs (2) to (10) of regulation 11 apply in the circumstances of this regulation, with the following modifications wherever the words to be modified appear:—

- (a) the reference to participator shall be a reference to pension credit member;
- (b) the reference to retirement shall be a reference to the date on which the pension commences under regulation 12A(4);
- (c) the reference to retirement pension shall be a reference to a pension credit member’s pension;
- (d) the reference in paragraph (8) to serious ill-health shall be a reference to ill-health which is such as to give rise to a life expectancy of less than one year from the date on which the commutation is applied for; and
- (e) the reference in paragraph (9) to any amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973 shall be a reference to the amount prescribed by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(c)</sup>.

(8) In regulation 15, wherever regulation 11 is referred to, it shall include a reference to that regulation as modified by this regulation in relation to pension credits.”.

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(a) Welfare Reform and Pensions Act 1999 (c.30).

(b) S.I. 2000/1053; regulation 10(4) is amended by S.I. 2000/2691.

(c) S.I. 2000/1054. The sum currently referred to is £260.

SCHEDULE 2

FURTHER AMENDMENTS TO THE POLICE PENSIONS (ADDITIONAL  
VOLUNTARY CONTRIBUTIONS) REGULATIONS 1991

1. In regulation 2(2), after the words “Income and Corporation Taxes Act 1988” there shall be inserted the words “, references to the 1999 Act are references to the Welfare Reform and Pensions Act 1999(a),”.

2. In regulation 2(3), there shall be inserted in the appropriate places in alphabetical order the following definitions:—

“the AVC scheme” means the occupational pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993(b)) established under section 1 of the Police Pensions Act 1976 and these Regulations;

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

“pension credit benefits” means in relation to the AVC Scheme the benefits payable under that Scheme which are attributable (directly or indirectly) to a pension credit;

“pension credit member” means a person who has rights under the AVC Scheme which are attributable (directly or indirectly) to a pension credit either solely or wholly separately from any other rights under the AVC Scheme;

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

“pension debit member” means a person who has rights under the AVC Scheme and whose shareable rights under that Scheme are subject to a pension debit;

“pension sharing order” means a pension sharing order or other provision referred to in section 28(1) of the 1999 Act or Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(c);

“shareable rights” means any rights a person has under the AVC Scheme except those rights referred to in regulation 2 of the Pension Sharing (Valuation) Regulations 2000(d);

“Police Pensions Scheme” means the Police Pensions Scheme, the rules of which are set out in the Police Pensions Regulations 1987(e).

3. After regulation 10 (Inward transfers) there shall be inserted the following regulation:—

**“Outward transfers**

**10A.** A police authority may pay a transfer value representing the value of a person’s pension credit or of investments made under regulation 12A(2) in the circumstances of Chapter II of Part IVA of the Pension Schemes Act 1993(f) and regulations made under that Chapter.”.

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(a) 1999 c.30.

(b) 1993 c.48.

(c) S.I. 1993/3147 (N.I.11).

(d) S.I. 2000/1052.

(e) S.I. 1987/257.

(f) Part IVA was inserted into the Pension Schemes Act 1993 by section 37 of the Welfare Reform and Pensions Act 1999 (c.30).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations mainly amend, in relation to police officers in Scotland, the Police Pension Additional Voluntary Contributions Scheme (“the AVC Scheme”), as set out in the Police Pensions (Additional Voluntary Contributions) Regulations 1991 (“the AVC Regulations”). The amendments relate to cases where police officers are divorced, and stem from the pension sharing provisions in the Welfare and Pensions Reform Act 1999 and associated subordinate legislation.

Regulation 2(2) and Schedule 1 insert a new regulation 12A into the AVC Regulations. Regulation 12A provides that pension sharing is available in the AVC Scheme. The pension credit member’s share of his or her former spouse’s contributions will be invested by a police authority in accordance with the pension credit member’s wishes. A pension for life, and one or more dependant’s pensions for life, may be provided from the pension policy purchased under the Regulations. The pension will commence not earlier than the date on which the pension credit member reaches the age of 60. If a person dies after a pension sharing order has been made but before the police authority has discharged its liability in respect of it, then a lump sum equal to the value of that pension credit at the date of his or her death is payable to his or her personal representatives. Paragraphs (8) and (9) of regulation 11 (commutation for serious ill-health or for triviality) apply with modifications.

Regulation 2(3) and Schedule 2, make consequential modifications to the AVC Regulations including adding new definitions to cover pension sharing. Also, regulation 10A is inserted into the AVC Regulations, which provides that a pension credit member may transfer his or her pension credits out of the in-house AVC Scheme.

Regulation 3 amends, also as a consequence of the pension sharing provisions, the Police Pensions (Purchase of Increased Benefits) Regulations 1987, so that a police officer affected by a pension sharing order may not use these regulations to replace those rights debited under the order.





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