

2005 No. 200

PENSIONS

The Police Pensions Amendment (Scotland) Regulations 2005

<i>Made</i>	- - - -	<i>30th March 2005</i>
<i>Laid before the Scottish Parliament</i>		<i>31st March 2005</i>
<i>Coming into force</i>	-	<i>3rd May 2005</i>

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(b), hereby make the following Regulations:

Citation, commencement, extent and effect

1.—(1) These Regulations may be cited as the Police Pensions Amendment (Scotland) Regulations 2005.

(2) These Regulations shall come into force on 3rd May 2005, and shall have effect from 1st October 2004.

(3) These Regulations extend to Scotland only.

Amendment of the Police Pensions Regulations 1987

2.—(1) The Police Pensions Regulations 1987(c) shall be amended in accordance with this Regulation.

(2) In regulation B1(5) (policeman's ordinary pension) after "permanently disabled" insert "and he is not ineligible under regulations G7 (eligibility for pension awards payable on the ground of permanent disablement) and G8 (appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement) for a pension award payable on the ground of permanent disablement".

(3) In regulation B3(1) (policeman's ill-health award) after "preceding his retirement" insert "or to a regular policeman who under regulations G7 and G8 is ineligible for a pension award payable on the ground of permanent disablement."

(4) In regulation B5(4)(a) (policeman's deferred pension) after "permanently disabled" insert "and he is not ineligible under regulations G7 and G8 for a pension award payable on the ground of permanent disablement".

(5) For regulation G2(1) (pension contributions payable by regular policeman) substitute—

(a) 1976 (c.35) ("the Act"). Section 1 is amended by section 2(3) of the Police Negotiating Board Act 1980 (c.10), section 103 and 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). These powers are extended by section 42 of the Welfare Reform and Pensions Act 1999 (c.30). The functions of the Secretary of State under the Act as regards Scotland are transferred to the Scottish Ministers by S.I. 1999/1750 article 2, Schedule 1. 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. 1981/1670, and such consent is not required in the exercise by the Scottish Ministers of the transferred functions by virtue of S.I. 1999/1750.

(b) See section 2(3) of the Police Negotiating Board Act 1980 (c.10), which substituted the Police Negotiating Board for the United Kingdom for the Police Council for the United Kingdom.

(c) S.I. 1987/257; relevant amendments were made by S.I. 1987/341 and 2215, 1988/1339, 1989/733, 1990/805, 1991/1517, 1992/1343 and 2349, 1994/641, 1996/867, 1997/1429 and 2852, 1998/577 and 2001/3649 and S.S.I. 2000/193, 2001/459, 2003/406 and 2004/486.

“(1) Subject to paragraph (3), a regular policeman shall pay to the police authority pension contributions at the rate of 1 pence a week less than–

(a) in a case where he is ineligible under regulation G7 or G8 for a pension award payable on the ground of permanent disablement, 7½ per cent of his pensionable pay; and

(b) in any other case, 11 per cent of his pensionable pay.”.

(6) In regulation G4(5) (election not to pay pension contributions)–

(a) at the end of sub-paragraph (ii) insert “; and”;

(b) after sub-paragraph (ii) insert–

“(iii) a regular policeman in respect of whom it is finally determined, following a medical examination under regulation G7 or G8, that the likely cost of providing him with the benefits under these Regulations is disproportionately high, shall be entitled to cancel his election under paragraph (1) only on the basis that he shall not be eligible to receive pension awards payable on the ground of permanent disablement.”.

(7) After regulation G6 insert–

“G7 Eligibility for pension awards payable on the ground of permanent disablement

(1) A person to whom this regulation applies, shall, if required by the police authority for that force, submit to an examination by a duly qualified medical practitioner selected by the authority (“the selected medical practitioner”) in order that the authority may determine his eligibility to receive pension awards payable on the ground of permanent disablement.

(2) This regulation applies to–

(a) a candidate for appointment to a police force (other than on transfer from another force), and

(b) a regular policeman who seeks under regulation G4(5) (election not to pay pension contributions) to cancel his election that regulation G2(1) (pension contributions payable by regular policeman) shall not apply in his case.

(3) The selected medical practitioner shall report to the police authority his opinion on the likelihood and likely timing of that person becoming permanently disabled for the performance of his duty, and such a report shall, subject to an appeal under this regulation, be final.

(4) A copy of any such report shall be supplied to the person who is the subject of that report, at his request.

(5) The police authority shall determine, by applying the opinion of the selected medical practitioner and advice from the Government Actuary, whether the risk presented by that person that he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high.

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

(7) A person who it is determined under paragraph (5) presents such a risk shall, in accordance with these Regulations, be ineligible for pension awards payable on the ground of permanent disablement.

G8 Appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement

(1) A person 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 a copy of it he gives notice that he intends to make such an appeal, and

(b) within two months (or such longer period as may be agreed by the police authority) of receiving that copy he supplies evidence that a registered medical

practitioner (“the appellant’s practitioner”) has examined him 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 his duty.

(2) The police authority shall ask the selected medical practitioner to reconsider his 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 his duty.

(3) Where the police authority receives such a revised report, it shall determine, by applying the revised report and advice from the Government Actuary, whether that person shall be eligible for pension awards payable on the ground of permanent disablement, and if it determines that he is so eligible then that revised report shall be final.

(4) In any other case, the authority shall arrange for a third registered medical practitioner to examine the person.

(5) 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.

(6) The third medical practitioner shall supply the police authority and the appellant with a written statement of his 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 his duty, which shall be final.

(7) Where the third medical practitioner produces a revised report, the police authority shall determine, by applying that report and advice from the Government Actuary, whether the appellant is eligible for pension awards payable on the ground of permanent disablement.

(8) In Schedule A (glossary of expressions), at the appropriate place, insert–

““pension award payable on the ground of permanent disablement” means an award under regulation B1 (policeman’s ordinary pension), B3 (policeman’s ill-health award) or B5 (policeman’s deferred pension);”.”

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

3.—(1) The Police Pensions (Purchase of Increased Benefits) Regulations 1987(a) shall be amended in accordance with this Regulation.

(2) After regulation 8(1A) insert–

“(1B) Paragraph (1) shall not have effect in relation to a regular policeman who retires on ill-health grounds if under regulation G7(6) of the principal Regulations he is ineligible for a pension award payable on the ground of permanent disablement.”.

(3) In regulation 8(2)(b) after “principal Regulations” insert “or”.

(4) After regulation 8(2)(b) insert–

“(c) retires on ill-health grounds but is ineligible under regulation G7(6) of the principal Regulations for a pension award payable on the ground of permanent disablement.”.

(5) In paragraph 3(2)(b) of the Schedule, after “65 years” insert “and”.

(a) S.I. 1987/2215, as amended by S.S.I. 2001/461, S.I. 2002/3202 and S.I. 2004/2354.

(6) After paragraph 3(2)(b) of the Schedule insert–

“(c) a person who under regulation G7(6) of the principal Regulations is ineligible for a pension award payable on the ground of permanent disablement.”.

St Andrew's House,
Edinburgh
30th March 2005

TAVISH SCOTT
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions Regulations 1987 and the Police Pensions (Purchase of Increased Benefits) Regulations 1987, as they apply to Scotland.

Regulation 2 amends the Police Pensions Regulations 1987. Regulation 2(2) to (4) applies in relation to an applicant to a police force who is assessed as being likely to be disproportionately expensive to the Police Pension Scheme by reason of a medical condition which will lead to his retirement. Such a person will be ineligible for early payment of an ordinary pension, for payment of an ill-health pension on compulsory retirement, and for early payment of deferred pension because of permanent disablement.

Regulation 2(5) provides that such a person will pay a correspondingly reduced rate of pension contributions.

Regulation 2(6) provides that the restrictions on eligibility for pension awards may also apply to a person who, having previously elected not to pay pension contributions, decides to cancel that election.

Regulation 2(7) provides for the process whereby a person may be assessed as presenting a high risk of retirement on the grounds that he is permanently disabled such that the cost of providing benefits would be disproportionately high. Provision is made for appeals against such a medical assessment.

Regulation 3 makes consequential amendments to the Police Pensions (Purchase of Increased Benefits) Regulations 1987. A person who has been assessed as presenting a disproportionately high risk of retirement will be ineligible for receiving additional benefits if he retires on ill-health grounds, and the amount of the payments he makes for any increased benefits will be determined by the Government Actuary.

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