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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 201**

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

**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