
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 201

The Police Pensions (Scotland) Regulations 2007

PART 2

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

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⁽¹⁾) 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.

(1) 1992 c. 4.

(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—

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

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

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- (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.