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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 201**

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

**PART 8**

**TRANSFER VALUES, PAYMENT, ETC**

*Mis-sold pensions*

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**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>(1)</sup> or section 150 of the Financial Services and Markets Act 2000<sup>(2)</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, 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,

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(1) 1986 c. 60.

(2) 2000 c. 8; amended by S.I. 2005/381.

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<sup>(3)</sup>; 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 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

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(3) 1971 c. 56 and 1974 c. 9.

(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.