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SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

PUBLIC SERVICE PENSIONS

The Police Pension Scheme (Scotland) Regulations 2015

Made - - - -	*24th March 2015*
Laid before the Scottish Parliament - - - -	*26th March 2015*
Coming into force - -	*1st April 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 1(1) and (2)(g) of, and paragraph 7(b) of Schedule 2 to, the Public Service Pensions Act 2013(**1**) and all other powers enabling them to do so.

In accordance with section 21(1) of that Act, the Scottish Ministers consulted the representatives of such persons as appeared to the Scottish Ministers likely to be affected by these Regulations.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Police Pension Scheme (Scotland) Regulations 2015 and come into force on 1st April 2015.

Interpretation

2. In these Regulations—

"the Act" means the Public Service Pensions Act 2013;

"FA 2004" means the Finance Act 2004(**2**);

"PA 1995" means the Pensions Act 1995(**3**);

"PIA 1971" means the Pensions (Increase) Act 1971(**4**);

(**1**) 2013 c.25.
(**2**) 2004 c.12.
(**3**) 1995 c.26.
(**4**) 1971 c.56.

"PSA 1993" means the Pension Schemes Act 1993(**5**);

"WRPA 1999" means the Welfare Reform and Pensions Act 1999(**6**);

"the 2013 Regulations" means the Police Service of Scotland Regulations 2013(**7**);

"the 1987 scheme" means the scheme constituted by the Police Pensions Regulations 1987(**8**);

"1987 transition member" has the meaning given in Schedule 4;

"the 1988 NI Police scheme" means the scheme constituted by the Royal Ulster Constabulary Pensions Regulations 1988(**9**);

"the 2006 scheme" means the scheme constituted by the Police Pensions Regulations (Scotland) 2007(**10**);

"2006 transition member" has the meaning given in Schedule 4;

"the 2009 NI police pension scheme" means the scheme constituted by the Police Pension (Northern Ireland) Regulations 2009(**11**);

"the 2015 NI police pension scheme" means a scheme established under the Public Service Pensions Act (Northern Ireland) 2014(**12**) for payment of retirement pensions to or in respect of members of the police service in Northern Ireland which comes into force on 1st April 2015;

"the 2015 England and Wales police pension scheme" means the scheme established by the Police Pensions Regulations 2015(**13**);

"accrued added pension" means—

(a) accrued added (self only) pension (if any); and

(b) accrued added (all beneficiaries) pension (if any);

"accrued added (all beneficiaries) pension", for the purpose of calculating the amount of retirement added pension or the provisional amount of deferred added (all beneficiaries) pension, has the meaning given in regulation 36(6);

"accrued added (self only) pension", for the purpose of calculating the amount of retirement added pension or the provisional amount of deferred added (self only) pension, has the meaning given in regulation 36(5);

"accrued club transfer earned pension", for the purpose of calculating the amount of retirement earned pension or the provisional amount of deferred club transfer earned pension, has the meaning given in regulation 36(4);

"accrued earned pension" means—

(a) in relation to this scheme—

  (i) accrued standard earned pension (if any); and

  (ii) accrued club transfer earned pension (if any);

(b) in relation to another pension scheme or the existing police pension scheme, accrued rights to benefits under that scheme derived from—

  (i) pension which is earned under that scheme; or

(**5**) 1993 c.48.
(**6**) 1999 c.30.
(**7**) S.S.I. 2013/35.
(**8**) S.I. 1987/257.
(**9**) S.R. 1988 (N.I.) No. 364.
(**10**) S.S.I. 2007/201; the scheme is referred to as "the 2006 scheme" because, in terms of regulation 1 of S.S.I. 2007/201, that instrument had effect from 6th April 2006.
(**11**) S.R. 2009 (N.I.) No. 79.
(**12**) 2014 c.2. (N.I.).
(**13**) S.I. 2015/445.

(ii) pension which is attributable to a transfer payment received by that scheme;

"accrued pension" means—

(a) accrued earned pension; and

(b) accrued added pension (if any);

"accrued rights", in relation to benefits under this scheme, does not include a right to benefits attributable (directly or indirectly) to a pension credit;

"accrued standard earned pension", for the purpose of calculating the amount of retirement earned pension or the provisional amount of deferred standard earned pension, has the meaning given in regulation 36(3);

"active member", in relation to this scheme, means a person who is in pensionable service(**14**) under this scheme;

"active member's account" has the meaning given in regulation 46(2);

"actuarial guidance" means guidance given by the Scottish Ministers after consultation with the scheme actuary;

"actuarial reduction" has the meaning given in regulation 41(4) (actuarial reduction on early payment of pension);

"actuarial tables" means tables determined by the Scottish Ministers after consultation with the scheme actuary;

"added pension" means—

(a) added (self only) pension (if any); and

(b) added (all beneficiaries) pension (if any);

"added (all beneficiaries) pension" means added pension payable in respect of a member after the member has died;

"added (self only) pension" means added pension payable to a pensioner member;

"adoption leave" means—

(a) for a person in service in the police force, leave taken in accordance with a determination under regulation 25(8)(c) of the 2013 Regulations; or

(b) for any other person, any period of equivalent leave taken by the person;

"adoption support leave" means—

(a) for a person in service as a member of the police force, leave taken in accordance with a determination under regulation 25(8)(d) of the 2013 Regulations; or

(b) for any other person, any period of equivalent leave taken by the person;

"age addition" has the meaning given in regulation 39(3);

"amount of added pension", in relation to a scheme year, means an amount calculated in accordance with regulation 49(7);

"amount of credited pension" has the meaning given in regulation 62(5);

"amount of standard earned pension", in relation to a scheme year, means an amount calculated in accordance with regulation 49(4) (amount of pension for a scheme year);

"annual rate"—

(a) for each description of pension, has the meaning given in Part 7 (retirement benefits); and

(**14**) See section 37 of the Act for the meaning of "pensionable service".

(b) in relation to pensionable earnings, means the amount of pensionable earnings payable for a scheme year;

"appeal board" has the meaning given in Schedule 1 (medical decisions: appeals and reconsideration);

"assistant inspector of constabulary" means an assistant inspector of constabulary appointed under section 72 of the Police and Fire Reform (Scotland) Act 2012(**15**);

"assumed age addition" has the meaning given in regulation 40(3);

"assumed pay" except as otherwise provided in Part 10 (contributions), means the amount of pensionable earnings an active member of this scheme is taken to receive under regulation 25(2) in respect of a period of assumed pay;

"the beginning date", in relation to a pension not attributable (directly or indirectly) to a pension credit, means the date on which the pension is deemed to begin for the purpose of section 8(2) of PIA 1971(**16**);

"career break", in relation to a member of this scheme, means a period of unpaid leave whether or not it exceeds 5 years which is agreed by the employer in accordance with a determination under regulation 25(13) of the 2013 Regulations;

"child's added pension" means a pension payable to an eligible child under regulation 135(4)(d);

"child's earned pension" means a pension payable to an eligible child under regulation 135(4)(a);

"child's enhanced upper tier ill-health pension" means a pension payable to an eligible child under regulation 135(4)(c);

"child's lower tier ill-health pension" means a pension payable to an eligible child under regulation 135(4)(b);

"closing date", in relation to a transition member, has the meaning given in paragraph 1 of Schedule 4 (transitional provisions);

"club scheme" has the meaning given in Part 11 (transfers);

"club transfer arrangements" has the meaning given in Part 11;

"club transfer earned pension" means pension attributable to receipt of a club transfer value payment;

"club transfer value" has the meaning given in Part 11;

"club transfer value payment" has the meaning given in Part 11;

"the commutation amount" means the amount of pension exchanged for a lump sum as a result of the exercise of the option to exchange part of a pension for a lump sum—

(a) exercisable under regulation 114 (option to commute part of a pension) in relation to a retirement pension; or

(b) exercisable under regulation 121 (option for pension credit member to commute part of pension) in relation to a pension credit member's pension;

"connected scheme" means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme;

"continuity of service"—

(**15**) 2012 asp 8.

(**16**) Section 8(2) was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7), section 1(5) and the Welfare Reform and Pensions Act 1999 (c.30), section 39(1) and (4). Section 8(2) of the PIA may be applied subject to such modifications, adaptations and exceptions as may be specified in regulations under section 5(3) of that Act.

(a) in relation to service in the 1987 scheme and this scheme, has the meaning given in paragraph 4 of Schedule 4; and

(b) in relation to service in the 2006 scheme and this scheme, has the meaning given in paragraph 5 of that Schedule;

"continuous period of pensionable service", in relation to this scheme, means a period of pensionable service under this scheme disregarding any gap in service not exceeding 5 years;

"death benefits" means benefits payable under Part 9 (death benefits);

"death gratuity" means a gratuity paid under Chapter 8 of Part 9 (death benefits);

"deferred member", in relation to this scheme, has the meaning given in regulation 34;

"deferred member's account" has the meaning given in regulation 55(3);

"description of accrued pension" means accrued pension of a description mentioned in regulation 35;

"description of deferred added pension" means—

(a) deferred added (all beneficiaries) pension; or

(b) deferred added (self only) pension;

"description of deferred earned pension" means—

(a) deferred standard earned pension;

(b) deferred club transfer earned pension;

"description of deferred pension" means—

(a) deferred standard earned pension;

(b) deferred club transfer earned pension;

(c) deferred added (all beneficiaries) pension; or

(d) deferred added (self only) pension;

"description of pension" means—

(a) standard earned pension;

(b) transferred pension;

(c) club transfer earned pension;

(d) added (all beneficiaries) pension; or

(e) added (self only) pension;

"dual capacity member" has the meaning given in regulation 189;

"duly qualified medical practitioner" means a registered medical practitioner who holds—

(a) the minimum qualification of Associate of the Faculty of Occupational Medicine or the equivalent EEA qualification; or

(b) any other equivalent qualification acceptable to the scheme manager;

"early payment reduction" has the meaning given in regulation 41(4) (actuarial reduction on early payment of pension);

"eligible child" has the meaning given in regulation 134;

"eligible child's pension" has the meaning given in regulation 133;

"eligible service" has the meaning given in regulation 12;

"employment" includes an office or appointment and related expressions are to be read accordingly;

"employer" means—

(a) for a member of the police force, the Scottish Police Authority;

(b) for an inspector of constabulary, the Scottish Ministers;

"enhanced upper tier ill-health pension" means a pension payable to a member who meets the upper tier threshold;

"the existing England and Wales police pension scheme" means the scheme constituted by the Police Pensions Regulations 2006(**17**)

"the existing NI police pension scheme" means—

(a) for a 1987 transition member, the 1988 NI Police Pension scheme;

(b) for a 2006 transition member, the 2009 NI police pension scheme;

"the existing police pension scheme" means—

(a) the 1987 scheme; or

(b) the 2006 scheme;

"final pay" has the meaning given in regulation 149;

"first day of eligible service" has the meaning given in regulation 16;

"full retirement pension" means the following pensions payable under Chapter 2 of Part 7 (full retirement benefits)—

(a) a retirement earned pension; and

(b) a retirement added pension (if any);

"full retirement pension which comes into payment early on grounds of permanent medical unfitness", in relation to a member of this scheme, means a full retirement pension to which the member becomes entitled under regulation 81(3) (entitlement to full retirement pension (deferred pension));

"gap in service", in relation to service in this scheme, means any period after a member's first day of eligible service—

(a) in which the member is not in eligible service; or

(b) in respect of which the member is opted out of this scheme under Chapter 2 of Part 4;

"guaranteed minimum" means the guaranteed minimum as defined in sections 14 and 17 of PSA 1993 (minimum pensions for earners, widows and widowers)—

(a) as increased in accordance with the requirements of section 109 of that Act (annual increase of minimum pensions); and

(b) if a reduction has been made under section 15A of that Act (reduction of guaranteed minimum in consequence of pension debit), as reduced in accordance with that section;

"guaranteed minimum pension" has the meaning given in section 8(2) of PSA 1993;

"ill-health benefits" means—

(a) an ill-health pension; or

(b) a full retirement pension which comes into payment early on grounds of permanent medical unfitness;

"ill-health pension" means—

(a) for a transition member with continuity of service, a transition member's ill-health pension payable under paragraph 23 of Schedule 4 (transitional provisions);

(**17**) S.I. 2006/3415.

(b) otherwise, a lower tier ill-health pension and an enhanced upper tier ill-health pension (if applicable) payable under Part 7 (retirement benefits);

"ill-health pension under this scheme" means a lower tier ill-health pension and if applicable an enhanced upper tier ill-health pension payable under Part 7;

"index adjustment" means—

(a) in relation to the opening balance of earned pension other than club transfer earned pension for any scheme year, the change in prices in that scheme year(**18**), plus 1.25%; and

(b) in relation to the opening balance of club transfer earned pension for any scheme year, the in-service revaluation index that the sending scheme would have applied to that amount of earned pension for that scheme year, had the earned pension not been transferred;

"injury received in the execution of duty" has the meaning given in regulation 6 of the Police (Injury Benefit) (Scotland) Regulations 2007(**19**) and "the result of an injury" is construed in accordance with regulation 8 of those Regulations;

"Injury Benefits Regulations" means—

(a) the Police (Injury Benefit) (Scotland) Regulations 2007; or

(b) scheme regulations providing for payment of injury benefits to members of the police force;

"in-service revaluation index", in relation to a pension scheme, means the percentage increase or decrease by which the pensionable earnings of a person, or a proportion of those earnings accrued as a pension, are revalued whilst the person is in pensionable service in that pension scheme;

"inspector of constabulary" means an inspector of constabulary appointed under section 71 of the Police and Fire Reform (Scotland) Act 2012 or an assistant inspector of constabulary;

"last active scheme year" means the scheme year in which an active member of this scheme ceases to be in pensionable service under this scheme;

"last day of pensionable service" means the last day of a continuous period of pensionable service under this scheme;

"the leaving year" means the scheme year in which the last day of pensionable service falls;

"lower tier ill-health pension" means a pension payable under Part 7 to a member who meets the lower tier threshold;

"lower tier threshold", in relation to entitlement to payment of an ill-health pension, has the meaning given in regulation 91 (payment thresholds);

"lump sum death grant" means a lump sum paid under Chapter 6 of Part 9 (death benefits) on the death of a member;

"maternity leave" means—

(a) for a person in service in the police force, leave taken in accordance with a determination under regulation 25(7) of the 2013 Regulations; or

(b) for any other person, any period of equivalent leave taken by the person;

"maternity support leave" means—

(a) for a person in service in the police force, leave taken in accordance with a determination under regulation 25(8)(a) of the 2013 Regulations; or

(**18**) Under section 9 of the Act the change in prices to be applied in a period is the percentage increase or decrease as a Treasury order under that section may specify in relation to the period.

(**19**) S.S.I. 2007/68.

(b) for any other person in service, any period of equivalent leave;

"member", in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member of this scheme;

"member of the police force" includes a former member of the police force;

"member of a police force", in relation to England and Wales, has the meaning given in regulation 2 of the 2015 England and Wales police pension scheme;

"member contributions" has the meaning given in Part 10 (contributions);

"normal minimum pension age" has the same meaning as in section 279(1) of FA 2004;

"occupational pension scheme" has the meaning given in section 1 of PSA 1993;

"opening balance", in relation to a description of pension for a scheme year, has the meaning given in regulation 50(3);

"parental leave" means—

(a) for a person in service in the police force, leave taken in accordance with a determination under regulation 25(8)(b) of the 2013 Regulations; or

(b) for any other person, any period of equivalent leave taken by the person;

"part-time service" means—

(a) in relation to a member of the police force, service by a person appointed under regulation 3 of the 2013 Regulations; or

(b) in relation to any other person, part-time service under the member's terms and conditions of employment;

"pay period" means the period in respect of which a payment of pensionable earnings is made;

"payments for added pension" means payments resulting from the exercise of the added pension option under Schedule 3;

"pension credit" has the meaning given in section 124(1) of PA 1995;

"pension credit member", in relation to this scheme, means a person who has rights under this scheme which are attributable (directly or indirectly) to a pension credit under a pension sharing order following divorce or nullity of marriage;

"pension credit member's account" has the meaning given in regulation 62;

"pension credit member's pension" means a pension payable under regulation 116;

"pension debit" means a debit under section 29(1)(a) of WRPA 1999;

"pension debit member", in relation to this scheme, means a person who is a member of this scheme whose benefits or future benefits under this scheme have been reduced under section 31 of WRPA 1999 (reduction under pension sharing order following divorce or nullity of marriage);

"another pension scheme" means—

(a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme; or

(b) a personal pension scheme;

"pension sharing order" means any provision or order specified in section 28 of WRPA 1999;

"pension supervising authority" has the meaning given in regulation 200;

"pensionable earnings", in relation to any period—

(a) for the purpose of calculating member contributions, has the meaning given in Part 10; and

(b) otherwise, has the meaning given in regulation 24 (pensionable earnings)

"pensioner member", in relation to this scheme, means a person who is entitled to the immediate payment of a retirement pension under this scheme;

"period of assumed pay" has the meaning given in regulation 25(2);

"period of permanent service" means a period in which a person is absent from duty because of being called out, or recalled, for permanent service in Her Majesty's armed forces in pursuance of a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996(**20**);

"permanently medically unfit", in relation to a member of the police force, has the meaning given in regulation 66 (decision of selected medical practitioner);

"personal pension scheme" means a personal pension scheme as defined in section 1 of PSA 1993 that is a registered pension scheme;

"PIA index adjustment", in relation to the opening balance of added pension for any scheme year, means the amount by which the annual rate of a pension of an amount equal to the opening balance would have been increased in that year under PIA 1971 if—

(a) that pension were eligible to be so increased; and

(b) the beginning date for that pension were the first day of the previous scheme year;

"a police force", in relation to England and Wales, has the meaning given in Part 2 of the 2015 England and Wales police pension scheme;

"the police force" means the Police Service of Scotland;

"a police pension scheme" means—

(a) this scheme;

(b) the 2015 England and Wales police pension scheme; or

(c) the 2015 NI police pension scheme;

"the police service in Northern Ireland" means those persons who are eligible to be a member of—

(a) the 2015 NI police pension scheme;

(b) the 2009 NI police pension scheme; or

(c) the 1988 NI police pension scheme;

"protected member", in relation to the existing police pension scheme, has the meaning given in Schedule 4 (transitional provisions);

"provisional amount", in relation to a description of deferred pension, has the meaning given in regulation 56;

"qualifying service", for the purpose of this scheme, has the meaning given in regulation 78;

"registered", in relation to a pension scheme, means registered under Chapter 2 of Part 4 of FA 2004;

"regular employment" means employment for an annual average of at least 30 hours per week;

"relevant service" means temporary service under section 15 of the Police and Fire Reform (Scotland) Act 2012;

"retirement account" has the meaning given in regulation 59(4);

"retirement added pension" means—

(a) retirement added (self only) pension (if any); and

(**20**) 1996 c.14.

(b) retirement added (all beneficiaries) pension (if any);

"retirement benefits" means benefits payable under Part 7 (retirement benefits);

"retirement earned pension" means, in relation to this scheme—

(a) retirement standard earned pension (if any); and

(b) retirement club transfer earned pension (if any);

"retirement index adjustment", in relation to an amount of accrued earned pension, has the meaning given in regulation 37;

"retirement pension" means a full retirement pension or an ill-health pension;

"retirement PIA index adjustment", in relation to an amount of accrued added pension, has the meaning given in regulation 38;

"this scheme" means the scheme established by these Regulations;

"scheme actuary" means the individual appointed by the Scottish Ministers under Part 12 (actuarial valuations and employer cost cap);

"scheme closing date" means 31stMarch 2015;

"scheme manager" has the meaning given in regulation 5;

"scheme year" means a period of one year beginning with 1st April and ending with 31st March;

"selected medical practitioner" has the meaning given in Schedule 1 (medical decisions: appeals and reconsideration);

"sending scheme" has the meaning given in Part 11 (transfers);

"sick leave" means—

(a) for a member of the police force, leave taken in accordance with a determination under regulation 25(5) of the 2013 Regulations; or

(b) for any other person, any period of equivalent leave taken by the person;

"standard earned pension" means pension which is earned under this scheme and which is payable without actuarial reduction—

(a) to an active member of this scheme who becomes a pensioner member of this scheme on reaching normal pension age under this scheme(**21**); or

(b) to a deferred member of this scheme who becomes a pensioner member of this scheme on reaching the member's state pension age;

"statutory pay" means statutory adoption pay, statutory maternity pay, ordinary statutory paternity pay or additional statutory paternity pay within the meaning of the Social Security Contributions and Benefits Act 1992(**22**);

"surviving adult", in relation to a deceased member of this scheme, has the meaning given in regulation 124;

"surviving adult partner" has the meaning given in regulation 125;

"surviving adult's added pension" means a pension payable under regulation 127(2)(d);

"surviving adult's earned pension" means a pension payable under regulation 127(2)(a);

"surviving adult's enhanced upper tier ill-health pension" means a pension payable under regulation 127(2)(c);

(**21**) See section 10(2) of the Act for the meaning of normal pension age under this scheme.
(**22**) 1992 c.4.

"surviving adult's lower tier ill-health pension" means a pension payable under regulation 127(2)(b);

"surviving adult's pension" has the meaning given in regulation 126;

"surviving civil partner" has the meaning given in regulation 124;

"surviving spouse" has the meaning given in regulation 124;

"transfer payment" has the meaning given in Part 11;

"transfer value" has the meaning given in Part 11;

"transfer value payment" has the meaning given in Part 11;

"transferred pension" means pension attributable to receipt of a transfer value payment;

"transition date" has the meaning given in Part 1 of Schedule 4 (transitional provisions);

"transition member" means—

(a) a 1987 transition member; or

(b) a 2006 transition member;

"upper tier threshold", in relation to entitlement to payment of an ill-health pension, has the meaning given in regulation 91 (payment thresholds); and

"weekly rate", in relation to a guaranteed minimum pension, has the same meaning as in regulation 55(1) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**23**).

Members of the police service in Northern Ireland

3. For the purpose of these Regulations, the following persons are members of the police service in Northern Ireland—

(a) a constable of the Police Service of Northern Ireland as defined in section 1(2) of the Police (Northern Ireland) Act 2000(**24**);

(b) a constable of the Police Service of Northern Ireland Reserve as defined in section 1(4) of that Act;

(c) a police trainee within the meaning of section 36(3) of that Act;

(d) a police reserve trainee within the meaning of section 37(3) of that Act; and

(e) a police service cadet within the meaning of section 42 of that Act.

PART 2

Establishment of scheme

Establishment of scheme

4.—(1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of—

(a) members of the Police Service of Scotland (including such members engaged in relevant service); and

(b) inspectors of constabulary.

(**23**) S.I. 1996/1172.
(**24**) 2000 c.32 (N.I.).

(2) For the purposes of these Regulations and except where the context otherwise requires, inspectors of constabulary are considered to be members of the police force.

(3) These Regulations do not apply to special constables or police cadets.

(4) This scheme is to be known as the Police Pension Scheme (Scotland) 2015.

PART 3

Governance

Scheme manager

5.—(1) The Scottish Ministers are the scheme manager for this scheme and any statutory pension scheme that is connected with it(**25**).

(2) The scheme manager is responsible for managing this scheme and any connected scheme.

(3) Pensions and other benefits payable under this scheme are payable by the scheme manager.

(4) A statutory scheme that is a defined contributions scheme is not connected with this scheme(**26**).

(5) The scheme established by the Police Pensions (Additional Voluntary Contributions) Regulations 1991(**27**) is not connected with this scheme.

(6) The scheme manager may delegate any functions under these Regulations, including this power to delegate.

Scheme manager's obligation to pass on member's records

6.—(1) Paragraph (2) applies if a member of the police force becomes a member of a police force in England and Wales ("the new police force").

(2) The scheme manager must give the scheme manager for the new police force any information or documents required by the scheme manager for the new police force for the purpose of—

(a) the scheme manager's functions under the 2015 England and Wales police pension scheme; or

(b) records required to be kept by the scheme manager under regulations made under section 16 of the Act.

(3) Paragraph (4) applies if a member of the police force becomes a member of the police service in Northern Ireland ("the NI police service").

(4) The scheme manager must give the scheme manager for the NI police service any information or documents required by the scheme manager for the NI police service for the purpose of—

(a) the scheme manager's functions under the 2015 NI police pension scheme; or

(b) records required to be kept by the scheme manager under regulations made under section 16 of the Public Service Pensions Act (Northern Ireland) 2014(**28**).

Establishment of pension board

7.—(1) A pension board ("the Scottish Police Pension Board") is established.

(**25**) See Section 4(6) of the Act which sets out when statutory schemes are "connected".
(**26**) See Section 37 of the Act for the meaning of "defined contributions scheme".
(**27**) S.I. 1991/1304.
(**28**) 2014 c.2 (N.I.).

(2) The Scottish Police Pension Board is responsible for assisting the scheme manager in relation to securing compliance with—

(a) these Regulations;

(b) any other legislation relating to the governance and administration of this scheme and any statutory pension scheme that is connected with it; and

(c) any requirements imposed by the Pensions Regulator in relation to this scheme or any statutory pension scheme that is connected with it.

(3) The scheme manager is to determine the process by which the Scottish Police Pension Board discharges its functions.

Membership of pension board

8.—(1) Subject to paragraph (2), the scheme manager may determine—

(a) the membership of the Scottish Police Pension Board;

(b) the manner in which the members of the Scottish Police Pension Board may be appointed and removed; and

(c) the terms of appointment of the members of the Scottish Police Pension Board.

(2) The Scottish Police Pension Board is to include equal numbers of members representing the Scottish Police Authority and members of this scheme.

Establishment of scheme advisory board

9.—(1) A scheme advisory board ("the Scottish Police Pension Scheme Advisory Board") is established(**29**).

(2) The Scottish Police Pension Scheme Advisory Board is responsible for providing advice to the scheme manager, at the scheme manager's request, on the desirability of changes to this scheme.

(3) The scheme manager is to determine the process by which the Scottish Police Pension Scheme Advisory Board discharges its functions.

Membership of scheme advisory board

10. The scheme manager may determine—

(a) the membership of the Scottish Police Pension Scheme Advisory Board;

(b) the manner in which the members of the Scottish Police Pension Scheme Advisory Board may be appointed and removed; and

(c) the terms of appointment of the members of the Scottish Police Pension Scheme Advisory Board.

Conflict of interest

11.—(1) The scheme manager must be satisfied that—

(a) any person to be appointed as a member of the Scottish Police Pension Board does not have a conflict of interest within the meaning of section 5(5) of the Act;

(b) any person to be appointed as a member of the Scottish Police Pension Scheme Advisory Board does not have a conflict of interest within the meaning of section 7(5) of the Act.

(**29**) See section 7(6) of the Act for the meaning of "scheme advisory board".

(2) The scheme manager must be satisfied from time to time that none of the members of the Scottish Police Pension Board or of the Scottish Police Pension Scheme Advisory Board has a conflict of interest.

(3) A person who is proposed to be appointed as a member of a relevant Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a relevant Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (2).

PART 4

Scheme membership

CHAPTER 1

Active membership

Eligible service

12.—(1) A member of the police force—

(a) is in eligible service; and

(b) is eligible to be an active member of this scheme.

(2) While a person is a protected member of the existing police pension scheme, the person—

(a) is not in eligible service; and

(b) is not eligible to be an active member of this scheme.

(3) For the purpose of these Regulations, a member of the police force remains in eligible service during—

(a) a career break; and

(b) any other period of unpaid leave—

(i) that does not exceed 5 years; and

(ii) during which the employment relationship continues(**30**).

(4) For the purpose of these Regulations, a member of the police force remains in eligible service during a period of permanent service unless during that period of permanent service that person is in pensionable service in—

(a) an existing scheme(**31**) that relates to the armed forces or another scheme under section 1 of the Act that relates to the armed forces; or

(b) any other occupational pension scheme.

Periods of unpaid leave

13.—(1) For the purpose of determining entitlement to payment of benefits to or in respect of a member of this scheme, the member is taken to be an active member of this scheme during the following periods of unpaid leave—

(a) a career break; and

(b) any other period of unpaid leave—

(**30**) See regulation 13 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues.
(**31**) See section 18(2) of the Act for the meaning of "existing scheme".

(i) that does not exceed 5 years; and

(ii) during which the employment relationship continues.

(2) For the purpose of these Regulations, the employment relationship continues during the following periods of unpaid leave—

(a) unpaid leave mentioned in regulation 162(1) (option to pay member contributions for period of unpaid leave) that does not exceed 5 years;

(b) unpaid sick leave that does not exceed 5 years;

(c) a career break;

(d) any other period of unpaid leave—

(i) that does not exceed 5 years; and

(ii) that is approved by the employer as a period in respect of which the employment relationship continues.

Period of permanent service

14. For the purpose of determining entitlement to payment of benefits to or in respect of a member of this scheme, the member is taken to be an active member of this scheme during a period of permanent service.

CHAPTER 2

Automatic enrolment

Application of Chapter

15. This Chapter applies in relation to a continuous period of eligible service.

Interpretation of Chapter

16. In this Chapter—

"automatic re-enrolment date", in relation to a person in eligible service, means a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(**32**);

"continuous period of eligible service" means a period of eligible service disregarding any period not exceeding 5 years in which the person is not in eligible service(**33**); and

"first day of eligible service" means the first day of a continuous period of eligible service.

Automatic enrolment

17.—(1) A person (P) begins pensionable service under this scheme on P's first day of eligible service unless—

(a) regulation 22 (opting out before the end of the initial period of eligible service) applies; or

(b) P is a transition member with continuity of service and paragraph (2) applies.

(2) This paragraph applies if—

(a) P's first day of eligible service is the day after P's closing date; and

(**32**) S.I. 2010/772; regulation 12 was amended by S.I. 2012/215.

(**33**) See Chapter 1 of this Part. For the purpose of these Regulations, a member of the police force on a period of unpaid leave remains in eligible service.

(b) on P's closing date, P had opted out of the existing police pension scheme.

(3) Paragraph (4) applies in relation to a person (P) who is a member of a police force in England and Wales or of the police service in Northern Ireland who becomes a member of the police force.

(4) A person in pensionable service under the 2015 England and Wales police pension scheme or the 2015 NI police pension scheme begins pensionable service under this scheme when P becomes a member of the police force.

Opting in to this scheme

18.—(1) A person in eligible service who is not in pensionable service under this scheme may opt to become an active member of this scheme in relation to that eligible service.

(2) The option under this regulation may only be exercised by written notice to the scheme manager ("opt-in notice").

(3) The option under this regulation is taken to be exercised on the date on which the opt-in notice is received by the scheme manager(**34**).

(4) If P opts out of this scheme within 12 months after opting in, P may not opt in again until after the end of that period of 12 months.

(5) A person who was in pensionable service before beginning a career break or any other period of unpaid leave is taken to re-enter pensionable service when returning from the career break or other period of unpaid leave.

When an opt-in takes effect

19. If P opts in to this scheme in relation to eligible service, P becomes an active member of this scheme in relation to that service—

(a) at the beginning of the first pay period beginning on or after the date on which the option is exercised; or

(b) if the scheme manager considers that time inappropriate, at any other time the scheme manager considers appropriate.

Automatic re-enrolment

20.—(1) This regulation applies if, on the automatic re-enrolment date, a person (P) in eligible service is not in pensionable service under this scheme.

(2) On the automatic re-enrolment date, the scheme manager must enrol P in this scheme in relation to that eligible service if the employer is required under section 5 (automatic re-enrolment) of the Pensions Act 2008(**35**) to make arrangements for P to be an active member of a pension scheme.

(3) For the purpose of paragraph (2), the employer is required to make arrangements under that section even if—

(a) P has not reached the age of 22;

(b) P has reached normal pension age under this scheme; or

(c) the earnings requirements under that section are not met.

(**34**) See regulation 19 for when an opt-in has effect.
(**35**) 2008 c. 30. Section 5 was amended by the Pensions Act 2011 (c. 19), sections 4(2), (3) and (4), 5(3) and (4) and 6(3).

Opting out of this scheme

21.—(1) A person (P) opts out of this scheme in relation to eligible service if P opts not to be an active member of this scheme in relation to that service.

(2) P may only exercise the option under paragraph (1) by written notice to the scheme manager ("opt-out notice").

(3) The option is taken to be exercised on the date on which the opt-out notice is received by the scheme manager.

Opting out before the end of the initial period of eligible service

22.—(1) This regulation applies if a person (P) opts out of this scheme in relation to eligible service—

(a) before the end of 3 months after P's first day of eligible service (or within any longer period the scheme manager considers appropriate); or

(b) before the end of 3 months after the automatic re-enrolment date (or within any longer period the scheme manager considers appropriate).

(2) If paragraph (1)(a) applies, P is taken never to have been in pensionable service under this scheme in relation to that eligible service.

(3) If paragraph (1)(b) applies, P is taken not to have been in pensionable service under this scheme during the period referred to in paragraph (1)(b).

(4) This regulation does not require the scheme manager to pay P any additional amount which becomes payable by P in respect of national insurance contributions because P has not after all been an active member of this scheme during any period.

Opting out after the initial period of eligible service

23.—(1) This regulation applies if—

(a) regulation 22 (opting out before the end of the initial period of eligible service) does not apply; and

(b) a person (P) opts out of this scheme in relation to eligible service—

(i) 3 months or more after P's first day of eligible service; or

(ii) 3 months or more after P's automatic re-enrolment date.

(2) If P exercises the option under paragraph (1)(b), P ceases to be in pensionable service under this scheme—

(a) on the first day of the first pay period beginning on or after the date on which the option is exercised; or

(b) if the scheme manager considers that day inappropriate, on the first day of any later pay period the scheme manager considers appropriate.

CHAPTER 3

Pensionable earnings and assumed pay

Pensionable earnings

24.—(1) This regulation applies for the purpose of these Regulations, other than for the purpose of calculating the rate of member contributions under Part 10 (contributions).

(2) A member's pensionable earnings for any period—

(a) for a member in full-time service, means pay at the rate to which the person is entitled in that period, account being taken of any retrospective increase in that rate;

(b) for a member in part-time service, means so much of the member's pay at that rate as is attributable to the member's determined hours specified under the member's part-time appointment, account being taken of any retrospective increase in that rate.

Pensionable earnings during a period of assumed pay

25.—(1) An active member of this scheme (P) is taken to receive in respect of a period of assumed pay an amount equal to the sum of—

(a) the amount of pensionable earnings that P would have received in respect of the period of assumed pay had the circumstances in paragraph (2) not applied; and

(b) any increase the scheme manager considers appropriate.

(2) For the purpose of these Regulations, "a period of assumed pay" is a period in respect of which any of the following circumstances apply—

(a) P is on reduced pay while on sick leave, paid adoption leave, paid maternity leave, paid parental leave, paid maternity support leave or paid adoption support leave;

(b) P is receiving statutory pay;

(c) P is on unpaid maternity leave during the first 26 weeks of maternity leave;

(d) P is absent from duty because of being called out, or recalled, for permanent service in Her Majesty's armed forces in pursuance of a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996(**36**); or

(e) P voluntarily surrenders pensionable earnings in whole or in part.

(3) Paragraph (2)(d) does not apply to any period of permanent service during which P is in pensionable service in—

(a) an existing scheme(**37**) that relates to the armed forces or another scheme under section 1 of the Act that relates to the armed forces; or

(b) any other occupational pension scheme.

CHAPTER 4

Eligibility for payment of ill-health benefits

Interpretation

26.—(1) For the purpose of this Chapter, "final medical report" has the meaning given in—

(a) regulation 30(1) (selected medical practitioner's report);

(b) regulation 31(3) (selected medical practitioner's revised report); or

(c) regulation 32(4) (revised report by third registered medical practitioner).

(2) For the purpose of this Chapter, the likely cost of providing a person with benefits under this scheme is disproportionately high if it is more than 50% greater than the likely cost of providing benefits under this scheme to a person who has not been identified as presenting a risk of retiring on grounds of permanent medical unfitness.

(**36**) 1996 c.14.
(**37**) See section 18(2) of the Act for the meaning of "existing scheme".

Determination of eligibility for ill-health benefits

27.—(1) This regulation applies in relation to the following persons—

(a) every new member of the police force; and

(b) every member of the police force who opts under Chapter 2 to become an active member of this scheme.

(2) This regulation does not apply to a person who, not more than 5 years before being appointed to the police force—

(a) was an active member of a police pension scheme; and

(b) was eligible under that scheme for payment of benefits on grounds of permanent medical unfitness.

(3) Before P joins this scheme, the scheme manager may require P to submit to an examination by a selected medical practitioner in order that the scheme manager may determine P's eligibility under this scheme for payment of ill-health benefits.

(4) If the scheme manager requires P to submit to an examination under this regulation, the scheme manager, by applying the opinion set out in the final medical report and advice from the scheme actuary, must determine whether the risk that P will retire on grounds of permanent medical unfitness ("the risk") is such that the likely cost of providing P with ill-health benefits is disproportionately high.

(5) P is ineligible for payment of ill-health benefits if the scheme manager determines under this regulation that the risk is such that the likely cost of providing P with ill-health benefits under this scheme is disproportionately high.

(6) If the scheme manager determines under this regulation that the risk is such that the likely cost of providing P with benefits under this scheme is not disproportionately high, P is eligible under this scheme for payment of ill-health benefits from the first day of pensionable service under this scheme.

(7) A person to whom this regulation applies by virtue of paragraph (1)(b) must pay any fee charged for an examination or report under this regulation.

Re-determination of eligibility for payment of ill-health benefits

28.—(1) This regulation applies in relation to a person (P) who is ineligible under this scheme for payment of ill-health benefits.

(2) The scheme manager may require P to submit to an examination by a selected medical practitioner in order that the scheme manager may re-determine P's eligibility under this scheme for payment of ill-health benefits.

(3) If the scheme manager requires P to submit to an examination under this regulation, the scheme manager, by applying the opinion set out in the final medical report and advice from the scheme actuary, must determine whether the risk that P will retire on grounds of permanent medical unfitness ("the risk") is such that the likely cost of providing P with benefits under this scheme is disproportionately high.

(4) If the scheme manager determines under this regulation that the risk is such that the likely cost of providing P with benefits under this scheme is not disproportionately high, P is eligible under this scheme for payment of ill-health benefits from the date of that determination.

(5) P is taken to begin pensionable service under this scheme on the date of that determination for the purpose of calculating—

(a) the annual rate of ill-health pension under this scheme; or

(b) the annual rate of a full retirement pension which comes into payment early on grounds of permanent medical unfitness.

Reduced rate of member contributions

29.—(1) A reduced member contributions rate applies to an active member of this scheme who is ineligible under this scheme for payment of ill-health benefits.

(2) If the scheme manager determines under regulation 28 (re-determination of eligibility for payment of ill-health benefits) that the member is eligible under this scheme for payment of ill-health benefits, the reduced member contributions rate ceases to apply from the date of that determination.

(3) In this regulation, "reduced member contributions rate" means a reduced rate of member contributions which applies to the member under Part 10 (contributions).

Selected medical practitioner's report

30.—(1) A selected medical practitioner who examines a person (P) under this Chapter must send a report ("the selected medical practitioner's report") to the scheme manager giving an opinion on the likelihood and likely timing of P becoming permanently medically unfit for performing the ordinary duties of a member of the police force.

(2) The selected medical practitioner, in giving an opinion on the likelihood of P becoming permanently medically unfit for performing the ordinary duties of a member of the police force, must consider—

(a) the likelihood of P becoming unable to perform those duties; and

(b) the likelihood of that inability continuing until the day on which—

(i) P reaches normal pension age under this scheme; or

(ii) P dies (if the selected medical practitioner considers P is likely to die before reaching normal pension age under this scheme).

(3) A copy of the selected medical practitioner's report must be given to P.

(4) Subject to an appeal under regulation 31 (appeal against selected medical practitioner's report), for the purpose of this Chapter the selected medical practitioner's report is the final medical report.

Appeal against selected medical practitioner's report

31.—(1) P may appeal to the scheme manager against the selected medical practitioner's report if—

(a) the scheme manager determines under this Chapter that the risk that P will retire on grounds of permanent medical unfitness is such that the likely cost of providing P with benefits under this scheme is disproportionately high ("the scheme manager's determination");

(b) P is given written notice of the scheme manager's determination; and

(c) P is dissatisfied with the opinion in the selected medical practitioner's report on the likelihood or likely timing (or both) of P becoming permanently medically unfit for performing the ordinary duties of a member of the police force.

(2) An appeal is made under this regulation if—

(a) within 28 days of receiving notice of the scheme manager's determination, P gives the scheme manager notice of intent to appeal; and

(b) within 2 months (or such longer period as may be agreed by the scheme manager) of receiving notice of the scheme manager's determination, P provides the scheme manager with evidence that P has been examined by a registered medical practitioner ("the appellant's medical practitioner") who disagrees with the opinion in the selected medical practitioner's report.

(3) On an appeal under this regulation, the scheme manager must ask the selected medical practitioner—

(a) to reconsider the selected medical practitioner's report in light of the evidence provided by P; and

(b) if necessary, to produce a revised report on the likelihood and likely timing of P becoming permanently medically unfit for performing the ordinary duties of a member of the police force ("the selected medical practitioner's revised report").

(4) The selected medical practitioner must send a revised report to the scheme manager and to P.

(5) Subject to regulation 32, for the purpose of this Chapter that revised report is the final medical report.

Revised report by third registered medical practitioner

32.—(1) If P within 28 days of receiving the selected medical practitioner's revised report gives written notice to the scheme manager that P is dissatisfied with the opinion contained in the revised report, the scheme manager must appoint a third registered medical practitioner to examine P.

(2) The third registered medical practitioner must be—

(a) a person who is acceptable to both the selected medical practitioner and the appellant's medical practitioner; or

(b) if the medical practitioners fail to agree, a person whom the scheme manager considers appropriate.

(3) The third registered medical practitioner must send the scheme manager and P a written statement giving an opinion on the likelihood and likely timing of P becoming permanently medically unfit for performing the ordinary duties of a member of the police force.

(4) If the third registered medical practitioner disagrees with any part of the selected medical practitioner's revised report—

(a) the third registered medical practitioner's written statement must be in the form of a revised report which must be sent to the scheme manager and to P; and

(b) for the purpose of this Chapter, that revised report is the final medical report.

Refusal to be medically examined

33.—(1) This regulation applies in relation to a member of the police force who opts under Chapter 2 (automatic enrolment) to become an active member of this scheme.

(2) The scheme manager may make a determination under this Chapter on such evidence and medical advice as the scheme manager in its discretion thinks necessary if the member wilfully or negligently fails to submit to any medical examination or to attend any interviews that a medical practitioner considers necessary in order to make a decision or give an opinion under this Chapter.

CHAPTER 5

Deferred membership

Meaning of "deferred member"

34.—(1) A person (P) becomes a deferred member of this scheme in relation to a continuous period of pensionable service under this scheme ("period of service") if paragraph (2) or (4) applies.

(2) This paragraph applies if—

(a) P ceases to be an active member of this scheme in relation to the period of service before reaching P's state pension age;

(b) on ceasing to be an active member, P does not become a pensioner member of this scheme in relation to the period of service; and

(c) P has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P.

(3) For the purpose of this regulation, a person on a period of unpaid leave during which the employment relationship continues(**38**) ceases to be an active member if the period of leave exceeds 5 years.

(4) A person becomes a deferred member of this scheme in relation to an amount of accrued added pension if—

(a) the circumstances in regulation 95(1) (deferment of added pension attributable to recent payments) apply; or

(b) the person exercises the option under regulation 113 (option to defer payment of retirement added pension).

PART 5

Pension accounts

CHAPTER 1

Accrued pension

Descriptions of accrued pension

35. For the purpose of these Regulations, the descriptions of accrued pension are—

(a) accrued standard earned pension;

(b) accrued club transfer earned pension;

(c) accrued added (all beneficiaries) pension; and

(d) accrued added (self only) pension.

Calculation of amount of accrued pension for purpose of deferment or retirement

36.—(1) For the purpose of calculating an amount of retirement earned pension or retirement added pension or the provisional amount of a description of deferred pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued club transfer earned pension is to be calculated separately in relation to each sending scheme.

(3) The amount of accrued standard earned pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—

(a) the sum of the opening balance of standard earned pension for the last active scheme year and the index adjustment for that opening balance;

(b) the amount of standard earned pension for the last active scheme year;

(c) the sum of the opening balance of transferred pension for the last active scheme year and the index adjustment for that opening balance; and

(d) the amount of transferred pension for the last active scheme year.

(**38**) See regulation 13 for periods of unpaid leave during which the employment relationship continues.

(4) The amount of accrued club transfer earned pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—

(a) the sum of the opening balance of club transfer earned pension for the last active scheme year and the index adjustment for that opening balance; and

(b) the amount of club transfer earned pension for the last active scheme year.

(5) The amount of accrued added (self only) pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—

(a) the sum of the opening balance of accrued added (self only) pension for the last active scheme year and the PIA index adjustment for that opening balance; and

(b) the amount of accrued added (self only) pension for the last active scheme year.

(6) The amount of accrued added (all beneficiaries) pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—

(a) the sum of the opening balance of accrued added (all beneficiaries) pension for the last active scheme year and the PIA index adjustment for that opening balance; and

(b) the amount of accrued added (all beneficiaries) pension for the last active scheme year.

CHAPTER 2

Calculation of adjustments

Calculation of "retirement index adjustment"

37.—(1) The retirement index adjustment for an amount of accrued earned pension is—

$$\text{amount of accrued earned pension} \times \text{retirement index percentage}$$

where—

"amount of accrued earned pension" means an amount of any description of accrued earned pension; and

"retirement index percentage" means the retirement index percentage calculated under paragraph (2) for that description of accrued earned pension.

(2) The retirement index percentage is—

$$A \times \frac{B}{12}$$

where—

A means—

(a) for accrued club transfer earned pension, the in-service revaluation index that applies in relation to the sending scheme for the leaving year; and

(b) for accrued standard earned pension, the in-service revaluation index that applies in relation to this scheme for the leaving year;

B is the number of complete months in the period between the beginning of the leaving year and the end of the last day of pensionable service; and

"complete month" includes an incomplete month that consists of at least 16 days.

Calculation of "retirement PIA index adjustment"

38.—(1) The retirement PIA index adjustment for an amount of accrued added pension is calculated in accordance with paragraph (2).

(2) The retirement PIA index adjustment is the amount by which the annual rate of a pension of an amount equal to the amount of accrued added pension would have been increased in the leaving year under PIA 1971 if—

(a) that pension were eligible to be so increased; and

(b) the beginning date for that pension were the day after the last day of pensionable service.

Determination of "the age addition"

39.—(1) This regulation applies in relation to each scheme year in which an active member's account is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme, other than—

(a) the scheme year in which the account is required to be established under this Part; and

(b) the scheme year immediately following that.

(2) At the beginning of the scheme year, for each description of pension, the scheme manager in accordance with actuarial guidance must determine the age addition to be awarded for that scheme year by reference to the opening balance of that description of pension for the previous scheme year.

(3) In these Regulations, "the age addition" means an additional amount of pension determined by reference to the proportion of the previous scheme year for which a member had reached normal pension age under this scheme.

Determination of "the assumed age addition"

40.—(1) This regulation applies if—

(a) a deferred member's account is established under this Part for a member who reached the member's state pension age in the last year of pensionable service at least one month before the last day of pensionable service; or

(b) a retirement account is established under this Part for a member who reached normal pension age under this scheme in the last year of pensionable service at least one month before the last day of pensionable service.

(2) For each description of accrued pension specified in the account, the scheme manager in accordance with actuarial guidance must determine the assumed age addition to be awarded.

(3) In these Regulations "the assumed age addition" means—

(a) for an amount of accrued standard earned pension not attributable to a transferred pension, the age addition that would have been awarded for standard earned pension had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;

(b) for an amount of accrued standard earned pension attributable to a transferred pension, the age addition that would have been awarded for transferred pension had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;

(c) for an amount of accrued club transfer earned pension, the age addition that would have been awarded for club transfer earned pension had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;

(d) for an amount of accrued added (self only) pension, the age addition that would have been awarded for added pension of that description had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;

(e) for an amount of accrued added (all beneficiaries) pension, the age addition that would have been awarded for added pension of that description had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme.

Actuarial reduction on early payment of pension (early payment reduction)

41.—(1) An actuarial reduction ("early payment reduction") is applied when calculating the annual rate of pension payable to—

(a) an active member who becomes a pensioner member of this scheme before reaching normal pension age under this scheme;

(b) a deferred member who becomes a pensioner member of this scheme before reaching the member's state pension age; or

(c) a person who becomes a pension credit member of this scheme before reaching the member's state pension age.

(2) An early payment reduction is not applied when calculating—

(a) the annual rate of ill-health pension under this scheme; or

(b) the annual rate of full retirement pension which comes into payment early on grounds of permanent medical unfitness.

(3) An early payment reduction is calculated by reference to the following—

(a) for an active member who claims payment of a full retirement pension before reaching normal pension age, normal pension age under this scheme with the reduction having regard to actuarial neutrality compared to the present value of a pension payable at normal pension age, with future increases between the date of that member's early retirement and normal pension age being in line with increases under the index adjustment;

(b) for a deferred or pension credit member of this scheme who claims payment of a full retirement pension before reaching the member's state pension age, the member's state pension age with the reduction having regard to actuarial neutrality compared to the present value of a pension payable at state pension age with future increases between the date of that member's early retirement and state pension age being in line with increases under PIA 1971.

(4) In these Regulations—

"actuarial reduction" means a reduction determined by the scheme manager in accordance with actuarial guidance; and

"early payment reduction" means an actuarial reduction that is applied under paragraph (1).

Late payment supplement

42. In this Part, "late payment supplement", in relation to the provisional amount of a description of deferred pension, means an additional amount of pension determined by the scheme manager (in accordance with actuarial guidance or actuarial tables) to be appropriate if a deferred member of this scheme is over the member's state pension age when the member becomes entitled to payment of a full retirement pension under Chapter 2 of Part 7 (full retirement benefits).

CHAPTER 3

Pension accounts: general

Establishment of pension accounts: general

43.—(1) The scheme manager must establish and maintain one or more pension accounts for each member of this scheme in accordance with this Part.

(2) A pension account—

(a) may be kept in any form the scheme manager considers appropriate; and

(b) must specify the details required by these Regulations.

(3) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

Closure and adjustment of pension accounts on transfer out

44.—(1) Except as otherwise provided in this regulation, the scheme manager must close all pension accounts relating to a member of this scheme if—

(a) a transfer payment is made in respect of all of the member's accrued rights under this scheme; or

(b) all member contributions and payments for added pension made by the member are refunded to the member under Part 10 (contributions).

(2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer payment does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme(**39**).

(4) Paragraph (1)(a) does not require the scheme manager to close a pension credit member's account if the transfer payment is made in respect of the accrued rights of a member who is both—

(a) a pension credit member of this scheme; and

(b) an active member, deferred member or pensioner member of this scheme.

CHAPTER 4

Active member's account

Application of Chapter

45. This Chapter applies in relation to a continuous period of pensionable service under this scheme.

Establishment of active member's account

46.—(1) The scheme manager must establish a pension account for a member who is in pensionable service under this scheme from the day on which the member begins that pensionable service.

(**39**) Regulation 167 provides for extinguishment of rights following the refund of all members' contributions and payments for added pension made by the member. Regulation 176 provides for extinguishment of rights following the making of a transfer value payment.

(2) For the purpose of these Regulations, an account established under paragraph (1) is called an active member's account.

Receipt of a transfer value payment

47.—(1) This regulation applies if a transfer value payment is received from another pension scheme (other than a connected scheme) in relation to an active member of this scheme.

(2) On receiving the transfer value payment, the scheme manager must credit the active member's account with the amount of transferred pension calculated under regulation 181 (amount of transferred pension).

Receipt of a club transfer value payment

48.—(1) This regulation applies if a club transfer value payment is received from another club scheme in relation to an active member of this scheme.

(2) On receiving the club transfer value payment, the scheme manager must credit the active member's account, in relation to the sending scheme, with the amount of club transfer earned pension the member is entitled to count under regulation 183 (amount of club transfer earned pension).

Amount of pension for a scheme year

49.—(1) This regulation applies in relation to each scheme year in which an active member's account is open.

(2) The active member's account must specify, in relation to each description of pension, the amount of that description of pension for the scheme year.

(3) The amount of club transfer earned pension for a scheme year must be specified separately in relation to each sending scheme.

(4) The amount of standard earned pension for a scheme year is $\frac{1}{56.1}$ of the member's pensionable earnings for that year(**40**).

(5) The amount of transferred pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 181 (amount of transferred pension) for that year.

(6) The amount of club transfer earned pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 183 (amount of club transfer earned pension) for that year.

(7) The amount of added pension of any description for a scheme year is the amount (if any) credited to the active member's account in that scheme year under Part 3 or 4 of Schedule 3 (payments for added pension).

(8) For the purpose of paragraph (4), in respect of a period of assumed pay under this scheme, "pensionable earnings" means the member's assumed pay.

Opening balance, index adjustment, PIA index adjustment and age addition

50.—(1) This regulation applies in relation to each scheme year in which an active member's account is open other than the scheme year in which that account is established.

(2) The active member's account must specify the following—

(**40**) See Part 4, Chapter 3 for the amount of pensionable earnings a member is taken to receive during a period of assumed pay.

(a) the opening balance of standard earned pension, club transfer earned pension (if any) and transferred pension (if any) for the scheme year and the index adjustment for each opening balance;

(b) the opening balance of added (self only) pension and added (all beneficiaries) pension (if any) for the scheme year and the PIA index adjustment for each opening balance;

(c) if applicable, the age addition awarded at the beginning of the scheme year for each description of pension.

(3) In these Regulations, "opening balance" in relation to standard earned pension, club transfer earned pension or transferred pension—

(a) for the scheme year immediately following the scheme year in which the active member's account is established, means the amount of that pension for the previous scheme year at the end of the previous scheme year; and

(b) for any subsequent scheme year, means the sum of the following amounts—

(i) the opening balance of that pension for the previous scheme year and the index adjustment for that opening balance;

(ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and

(iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

(4) In these Regulations, "opening balance" in relation to added pension—

(a) for the scheme year immediately following the scheme year in which the active member's account is established, means the amount of that pension for the previous scheme year at the end of the previous scheme year; and

(b) for any subsequent scheme year, means the sum of the following amounts—

(i) the opening balance of that pension for the previous scheme year and the PIA index adjustment for that opening balance;

(ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and

(iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

Closure and re-establishment of active member's account

51.—(1) The scheme manager must close an active member's account in relation to a continuous period of pensionable service under this scheme when the scheme manager establishes in relation to that period of service—

(a) a deferred member's account under Chapter 5; or

(b) a retirement account under Chapter 6.

(2) If a deferred member or pensioner member re-enters pensionable service under this scheme, the scheme manager must re-establish an active member's account under this Chapter when the scheme manager closes—

(a) the member's deferred member's account under Chapter 5; or

(b) the member's retirement account under Chapter 6.

Active member's account to remain open during periods of unpaid leave

52.—(1) This regulation applies to the following periods of unpaid leave—

(a) a career break; or

(b) any other period of unpaid leave—

(i) that does not exceed 5 years; and

(ii) during which the employment relationship continues(**41**).

(2) During a period of unpaid leave mentioned in paragraph (1)(a) or (b), the scheme manager must make entries in the active member's account as if, during that period, the member—

(a) was in pensionable service under this scheme; but

(b) received no pensionable earnings.

(3) The active member's account must be closed and a deferred member's account opened if a period of unpaid leave other than a career break exceeds 5 years.

Adjustment of active member's account after period of unpaid family leave or unpaid sick leave

53.—(1) This regulation applies in respect of an active member of this scheme who opts to pay member contributions under regulation 162 (option to pay member contributions for period of unpaid leave) on the return from a period of unpaid leave mentioned in that regulation.

(2) On payment of the full amount of contributions for the period of unpaid leave, the active member's account is to be adjusted so that for the period of unpaid leave the member is taken to receive pensionable earnings at the rate that applied at the beginning of the period of unpaid leave.

(3) If the member does not pay the full amount by the end of the payment period under regulation 163(1) (payment of member contributions for unpaid leave), the active member's account is to be adjusted so that, for the period determined by the scheme manager under regulation 163(4), the member is taken to receive pensionable earnings at the rate that applied at the beginning of the period of unpaid leave.

CHAPTER 5

Deferred member's account

Application of Chapter

54.—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is a deferred member of this scheme in relation to 2 or more continuous periods of pensionable service, this Chapter applies separately in relation to each of those periods of service.

Establishment of deferred member's account

55.—(1) This regulation applies when an active member of this scheme becomes a deferred member of this scheme in relation to a continuous period of pensionable service.

(2) The scheme manager must—

(a) close the active member's account for that period of service; and

(b) establish a pension account for the deferred member for that period of service.

(3) For the purpose of these Regulations, an account established under paragraph (2)(b) is called a deferred member's account.

(**41**) See regulation 13 for periods of unpaid leave during which the employment relationship continues.

Provisional amount of deferred pension

56.—(1) The deferred member's account must specify the provisional amount of each description of deferred pension.

(2) The provisional amount of each description of deferred earned pension is the sum of—

(a) the amount of the relevant accrued earned pension calculated under regulation 36 ("accrued amount");

(b) the retirement index adjustment for the accrued amount; and

(c) the assumed age addition (if any) for the accrued amount.

(3) The retirement index adjustment is not applied in relation to an amount of accrued earned pension if a transfer payment was made before the end of the last active scheme year in respect of the member's rights to that accrued pension.

(4) The provisional amount of each description of deferred added pension is the sum of—

(a) the amount of the relevant accrued added pension calculated under regulation 36 ("accrued amount");

(b) the retirement PIA index adjustment for the accrued amount; and

(c) the assumed age addition (if any) for the accrued amount.

(5) In this regulation—

"relevant accrued earned pension" means—

(a) for a deferred standard earned pension, accrued standard earned pension;

(b) for a deferred club transfer earned pension, accrued club transfer earned pension.

"relevant accrued added pension" means—

(c) for a deferred added (self only) pension, accrued added (self only) pension; and

(d) for a deferred added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

Adjustment of provisional amount

57.—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service becomes entitled to payment for life of a full retirement pension for that period of service.

(2) For the provisional amount of each description of deferred pension, the deferred member's account must specify—

(a) the late payment supplement (if any);

(b) the early payment reduction (if any); and

(c) the commutation amount (if any).

Closure of deferred member's account after gap in service not exceeding 5 years

58.—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service re-enters pensionable service under this scheme after a gap in service not exceeding 5 years.

(2) The scheme manager must—

(a) close the deferred member's account in relation to that period of service and treat the deferred member's account as if it were never established;

(b) re-establish the active member's account under Chapter 4 in relation to that period of service; and

(c) make entries in the active member's account as if, during the gap in service, the member—

(i) was in pensionable service under this scheme; but

(ii) received no pensionable earnings.

CHAPTER 6

Retirement account

Establishment of retirement account

59.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is a pensioner member of this scheme in relation to 2 or more continuous periods of pensionable service, this Chapter applies separately in relation to each of those periods of service.

(3) When an active member of this scheme becomes entitled to the immediate payment of a retirement pension in relation to that period of service, the scheme manager must—

(a) close the active member's account for that period of service; and

(b) establish an account for the pensioner member for that period of service.

(4) For the purpose of these Regulations, an account established for a pensioner member under paragraph (3)(b) is called a retirement account.

Amount of retirement earned pension and retirement added pension

60.—(1) The retirement account must specify the amount of retirement earned pension and retirement added pension.

(2) The amount of retirement earned pension is the sum of—

(a) the amount of accrued earned pension calculated under regulation 36 ("accrued amount");

(b) the retirement index adjustment for the accrued amount; and

(c) the assumed age addition (if any) for the accrued amount.

(3) The amount of a description of retirement added pension (if any) is the sum of—

(a) the amount of the relevant accrued added pension calculated under regulation 36 ("accrued amount");

(b) the retirement PIA index adjustment for the accrued amount; and

(c) the assumed age addition (if any) for the accrued amount.

(4) For each amount of retirement earned pension and retirement added pension, the retirement account must specify—

(a) the early payment reduction (if any); and

(b) the commutation amount (if any).

(5) In this regulation, "relevant accrued added pension" means—

(a) for a retirement added (self only) pension, accrued added (self only) pension; and

(b) for a retirement added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

Closure of retirement account

61. The scheme manager must close a retirement account if—

(a) a retirement earned pension ceases to be payable under Part 7; or

(b) an ill-health pension under this scheme ceases to be payable under Part 7.

CHAPTER 7

Pension accounts for pension credit members

Establishment of pension credit member's account

62.—(1) The scheme manager must establish a pension account for each pension credit member of this scheme ("the pension credit member's account").

(2) If a pension credit is derived from 2 or more pension debit members, the scheme manager must establish a pension credit member's account in relation to each pension debit member.

(3) On the establishment of a pension credit member's account, the pension credit member's account must specify the amount of credited pension, and for that amount—

(a) the early payment reduction (if any); and

(b) the commutation amount (if any).

(4) On the establishment of the pension credit member's account, the accounts established under this Part for the pension debit member must be reduced by the relevant amount.

(5) In this regulation—

"amount of credited pension" means an amount equal to the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 to WRPA 1999; and

"relevant amount" is the amount determined by the scheme manager in accordance with actuarial guidance having regard to—

(a) the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of PSA 1993(**42**) in respect of the pension credit member's right to benefits under this scheme attributable (directly or indirectly) to the pension credit; and

(b) sections 29 (creation of pension credits and debits) and 31 (reduction of benefit) of WRPA 1999.

Other pension accounts

63. If a pension credit member of this scheme is also an active member, deferred member or pensioner member of this scheme, the scheme manager must establish a pension credit member's account in addition to any other account established for the member under this Part.

PART 6

Retirement pensions payable on grounds of permanent medical unfitness

CHAPTER 1

General

Medical unfitness

64. In these Regulations—

(**42**) Part 4A was inserted by the Welfare Reform and Pensions Act 1999 (c. 30) section 37.

"infirmity" means a disease, injury, or medical condition, and includes a mental disorder, injury or condition;

"injury" includes any injury or disease, whether of body or of mind; and

"medical unfitness", in relation to a member of the police force or a former member of the police force, means inability occasioned by infirmity of mind or body—

(a) to perform the ordinary duties of a member of the police force; or

(b) to engage in any regular employment.

Permanent medical unfitness

65.—(1) In these Regulations, a reference to a member of the police force or a former member of the police force ("the member") being permanently medically unfit is taken to be a reference to—

(a) the member being medically unfit at the time the selected medical practitioner decides the question; and

(b) that medical unfitness being at that time likely to be permanent.

(2) For the purpose of deciding whether or not the member's medical unfitness is likely to be permanent, the member is taken to receive normal appropriate medical treatment.

(3) In this regulation, "appropriate medical treatment" does not include medical treatment that the employer decides is reasonable for the member to refuse.

(4) The member may appeal under regulation 197 (appeals to sheriff) or 198 (appeals to tribunal) against a decision of the employer as to whether a refusal to accept medical treatment is reasonable.

Decision of selected medical practitioner

66.—(1) This regulation applies for the purpose of this Part.

(2) The selected medical practitioner must decide that the member is permanently medically unfit for performing the ordinary duties of a member of the police force if the practitioner is of the opinion that—

(a) the member is unable to perform the ordinary duties of a member of the police force; and

(b) that inability is occasioned by infirmity of mind or body and is likely to continue until the day on which—

(i) the member reaches normal pension age under this scheme; or

(ii) the member dies (if the selected medical practitioner considers the member is likely to die before reaching normal pension age under this scheme).

(3) The selected medical practitioner must decide that the member is permanently medically unfit for engaging in any regular employment if the practitioner is of the opinion that—

(a) the member is unable to perform the ordinary duties of a member of the police force;

(b) that inability is occasioned by infirmity of mind or body and is likely to continue until the day on which—

(i) the member reaches normal pension age under this scheme; or

(ii) the member dies (if the selected medical practitioner considers the member is likely to die before reaching normal pension age under this scheme); and

(c) the member is unable to engage in regular employment otherwise than as a member of the police force.

Refusal to be medically examined or attend interviews

67.—(1) The employer may make a determination under this Part on such evidence and medical advice as the employer in its discretion thinks necessary if—

(a) a question as to whether a member of the police force is permanently medically unfit is referred to a selected medical practitioner for decision; and

(b) the member wilfully or negligently fails to submit to any medical examination or to attend any interviews that the selected medical practitioner considers necessary in order to make a decision.

(2) An appeal under Schedule 1 against a decision of a selected medical practitioner is taken to be withdrawn if—

(a) a question as to whether a member of the police force is permanently medically unfit is referred to an appeal board for decision; and

(b) the person wilfully or negligently fails to submit to any medical examination or to attend any interviews that the appeal board considers necessary in order to make a decision.

A report under this Part

68. For the purpose of these Regulations—

(a) a reference to a report under Part 6 is a reference to—

(i) a report under regulation 71, 73 or 76 ("the report under this Part"); or

(ii) a report given under Schedule 1 on an appeal or reconsideration if that report has replaced the report under this Part; and

(b) a reference to a report under regulation 71, 73 or 76 is a reference to—

(i) a report under that regulation; or

(ii) a report given under Schedule 1 on an appeal or reconsideration if the report under Schedule 1 has replaced the report under this Part.

CHAPTER 2

Compulsory ill-health retirement

Application of Chapter

69. This Chapter applies in relation to a member of the police force ("the member")—

(a) who is an active member of this scheme; or

(b) who, for the purpose of determining entitlement to payment of benefits to or in respect of the member, is taken to be an active member of this scheme(**43**).

Former member of the police force

70. For the purpose of this Chapter, a former member of the police force is taken to be a member of the police force.

(**43**) See Chapter 1 of Part 4 (active membership) for when a member of the police force is taken to be an active member of this scheme.

Referral of medical questions for purpose of regulation 72

71.—(1) Before considering whether a person in service as a member of the police force ("the member") should be compulsorily retired under regulation 72, the employer must refer the following questions to a selected medical practitioner for decision—

(a) whether the member is medically unfit for performing the ordinary duties of a member of the police force;

(b) whether that medical unfitness is likely to be permanent;

(c) whether the member is medically unfit for engaging in any regular employment; and

(d) whether that medical unfitness is likely to be permanent.

(2) The selected medical practitioner must—

(a) examine or interview the member as the selected medical practitioner thinks appropriate;

(b) decide the questions referred to the selected medical practitioner under paragraph (1); and

(c) give the employer and the member a report containing a decision on those questions.

(3) That report is final, subject to—

(a) an appeal under Schedule 1 against the decision of the selected medical practitioner; or

(b) the referral under Schedule 1 of the decision of the selected medical practitioner for reconsideration.

Compulsory retirement on grounds of permanent medical unfitness

72.—(1) This regulation applies if—

(a) the employer refers questions relating to the member's permanent medical unfitness to a selected medical practitioner under regulation 71(1);

(b) the selected medical practitioner gives the employer and the member a report under that regulation; and

(c) the report contains the decision that the member is permanently medically unfit for performing the ordinary duties of a member of the police force.

(2) The employer, after considering all the relevant circumstances and all the advice and information available to it (including input from the member)—

(a) may require the member to retire on the date the employer considers the member ought to retire on the ground that the member is permanently medically unfit for performing the ordinary duties of a member of the police force; or

(b) may require the member to continue to serve as a member of the police force.

Compulsory retirement of member who was required to continue to serve

73.—(1) This regulation applies if, under regulation 72(2)(b) (compulsory retirement on grounds of permanent medical unfitness), the employer requires the member to continue to serve as a member of the police force.

(2) The employer, at any time in its discretion it determines, may consider whether the member's medical unfitness has ceased, significantly worsened or significantly improved.

(3) In considering the matters mentioned in paragraph (2), the employer must refer the following questions to a selected medical practitioner for decision—

(a) whether the member continues to be medically unfit for performing the ordinary duties of a member of the police force; and

(b) if so, whether—

(i) the member is also medically unfit for engaging in any regular employment; and

(ii) that medical unfitness is likely to be permanent.

(4) The selected medical practitioner must examine or interview the member as the selected medical practitioner thinks appropriate.

(5) If the selected medical practitioner decides that the member continues to be medically unfit for performing the ordinary duties of a member of the police force, the selected medical practitioner does not need to decide if that medical unfitness is likely to be permanent.

(6) The selected medical practitioner must give the employer and the member a report containing the decisions on the questions referred under paragraph (3).

(7) That report is final, subject to—

(a) an appeal against the decision under Schedule 1; or

(b) the referral of the decision for reconsideration under Schedule 1.

(8) The employer must require the member to retire on the ground that the member is permanently medically unfit for performing the ordinary duties of a member of the police force if, after considering all the relevant circumstances and all the advice and information available to it, the employer determines that the member ought to retire.

Compulsory retirement void if appeal successful

74. The compulsory retirement of a member under this Part is void if—

(a) the selected medical practitioner decides that the member is permanently medically unfit for performing the ordinary duties of a member of the police force;

(b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and

(c) the appeal board decides that the member is not permanently medically unfit for performing the ordinary duties of a member of the police force.

CHAPTER 3

Early payment of full retirement pension on grounds of permanent medical unfitness

Application of Chapter

75.—(1) This Chapter applies in relation to a member of the police force who is a deferred member of this scheme.

(2) For the purpose of this Chapter, a former member of the police force is taken to be a member of the police force.

Referral of medical questions for purpose of early payment of a full retirement pension on grounds of permanent medical unfitness

76.—(1) Before considering whether a deferred member of this scheme is entitled to early payment of a full retirement pension on grounds of permanent medical unfitness, the employer must refer the following questions to a selected medical practitioner for decision—

(a) whether the member is medically unfit for performing the ordinary duties of a member of the police force;

(b) whether that medical unfitness is likely to be permanent;

(c) whether the member is medically unfit for engaging in any regular employment; and

(d) whether that medical unfitness is likely to be permanent.

(2) The selected medical practitioner must—

(a) examine or interview the member as the selected medical practitioner thinks appropriate;

(b) decide the questions referred to the selected medical practitioner under paragraph (1); and

(c) give the employer and the member a report containing a decision on those questions.

(3) That report is final, subject to—

(a) an appeal under Schedule 1 against the decision of the selected medical practitioner; or

(b) the referral under Schedule 1 of the decision of the selected medical practitioner for reconsideration.

(4) For the purpose of paragraph (1), "early payment" means payment before the member reaches the member's state pension age(**44**).

PART 7

Retirement benefits

CHAPTER 1

General

Application of Part

77.—(1) This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme ("period of service").

(2) In this Part, "active member", in relation to this scheme, means a person—

(a) who is an active member of this scheme; or

(b) who, for the purpose of determining entitlement to payment of benefits to or in respect of the member, is taken to be an active member of this scheme(**45**).

Qualifying service

78.—(1) In these Regulations, "qualifying service" means the total of—

(a) any continuous period of pensionable service under this scheme not counting—

(i) any gap in service;

(ii) any career break;

(iii) any other period of unpaid leave;

(b) if a transfer payment has been received by this scheme in respect of a member's accrued rights under another occupational pension scheme, the member's period of pensionable service under that scheme;

(c) for a 2006 transition member with continuity of service, the member's period of pensionable service under the 2006 scheme before the member's transition date(**46**); and

(**44**) See regulation 81(3) for entitlement to early payment of a full retirement pension on grounds of permanent medical unfitness.

(**45**) See Chapter 1 of Part 4 (active membership) for when a member of the police force is taken to be an active member of this scheme.

(**46**) This includes any service transferred into the 2006 scheme before the member's transition date.

(d) for a 1987 transition member with continuity of service, the period of pensionable service the member is entitled to reckon under the 1987 scheme before the member's transition date(**47**).

(2) In calculating the member's qualifying service, a period of part-time service under this scheme or under the existing police pension scheme counts as if it were a period of full-time service.

(3) None of the following is counted when calculating qualifying service—

(a) any pensionable service under this scheme in respect of which a person's rights under this scheme are extinguished(**48**);

(b) any pensionable service under the existing police pension scheme in respect of which a person's rights under that scheme are extinguished;

(c) any service transferred into the 1987 scheme after the member's closing date;

(d) any unauthorised absence from eligible service.

Descriptions of full retirement pension

79. For the purpose of this Part, the descriptions of full retirement pension are—

(a) retirement standard earned pension;

(b) retirement club transfer earned pension;

(c) retirement added (self only) pension; and

(d) retirement added (all beneficiaries) pension.

CHAPTER 2

Full retirement benefits

Entitlement to full retirement pension (active members)

80.—(1) An active member of this scheme who has reached normal minimum pension age (P) is entitled to payment for life of a retirement earned pension if—

(a) P has ceased to be in pensionable service under this scheme;

(b) P has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to the member;

(c) P has left eligible service; and

(d) P claims payment of a full retirement pension under regulation 82 (claim - active members).

(2) On becoming entitled to payment for life of a retirement earned pension, P is entitled to payment for life of a retirement added pension of any description if the retirement account specifies an amount of retirement added pension of that description.

Entitlement to full retirement pension (deferred members)

81.—(1) A deferred member of this scheme is entitled to payment for life of a retirement earned pension if paragraph (2), (3) or (4) applies.

(2) This paragraph applies if—

(**47**) This includes any service transferred into the 1987 scheme before the member's transition date.

(**48**) Regulation 167 provides for extinguishment of rights following the refund of all members' contributions and payments for added pension made by the member. Regulation 176 provides for extinguishment of rights following the making of a transfer value payment.

(a) the member has reached the member's state pension age;

(b) the member has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to the member; and

(c) the member has left eligible service.

(3) This paragraph applies if—

(a) the member has not reached the member's state pension age;

(b) the member has left eligible service;

(c) the selected medical practitioner gives a report under regulation 76 (early payment on grounds of permanent medical unfitness) that the member is permanently medically unfit for engaging in any regular employment; and

(d) the member is eligible under this scheme for payment of ill-health benefits(**49**).

(4) This paragraph applies if—

(a) the member has reached normal minimum pension age but has not reached the member's state pension age;

(b) the member has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to the member;

(c) the member has left eligible service; and

(d) the member claims payment of a full retirement pension under regulation 86 (claim for early payment otherwise than on grounds of permanent medical unfitness (deferred members)).

(5) On becoming entitled to payment for life of a retirement earned pension, P is entitled to payment for life of a retirement added pension of any description if the deferred member's account specifies a provisional amount of the relevant deferred added pension.

(6) In this regulation, "relevant deferred added pension" means—

(a) for a retirement added (self only) pension, a deferred added (self only) pension;

(b) for a retirement added (all beneficiaries) pension, a deferred added (all beneficiaries) pension.

Claim for payment of full retirement pension (active members)

82.—(1) This regulation applies in relation to an active member of this scheme.

(2) A claim for payment of a full retirement pension—

(a) may only be made by written notice to the scheme manager; and

(b) must comply with the notice period specified in regulation 83.

(3) If the member claims payment of the pension before reaching normal pension age under this scheme, the notice must state if the member has opted to buy out the early payment reduction.

(4) A full retirement pension calculated under regulation 88 (active members) is payable to the member in respect of each month as from the member's last day of eligible service.

(**49**) See Chapter 4 of Part 4 for when a member is eligible under this scheme for payment of ill-health benefits.

Notice period for active members

83.—(1) The following members must give at least 3 months' notice of intent to claim the pension—

(a) an inspector of constabulary (other than an assistant inspector of constabulary);

(b) a member of the police force holding one of the following ranks—

(i) Chief Constable;

(ii) Deputy Chief Constable; or

(iii) Assistant Chief Constable.

(2) The following members must give at least one month's notice of intent to claim the pension—

(a) an assistant inspector of constabulary;

(b) a member of the police force holding a rank not mentioned in paragraph (1).

(3) For the purpose of this regulation, a person engaged on relevant service is deemed to hold the rank to which the member is entitled to revert at the end of the period of relevant service.

(4) The scheme manager may in its discretion accept a shorter notice period determined by the scheme manager.

Full retirement pension payable at member's state pension age (deferred members)

84.—(1) This regulation applies in relation to a deferred member of this scheme who becomes entitled under regulation 81(2) to payment of a full retirement pension on reaching the member's state pension age.

(2) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, the member is taken to claim payment of the full retirement pension when the member reaches the member's state pension age.

(3) A full retirement pension calculated under regulation 89 (deferred members) is payable to the member in respect of each month as from the day on which the member reaches the member's state pension age.

Full retirement pension payable early on grounds of permanent medical unfitness (deferred members)

85.—(1) This regulation applies in relation to a deferred member of this scheme who becomes entitled under regulation 81(3) to payment of a full retirement pension on grounds of permanent medical unfitness.

(2) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, the deferred member is taken to claim payment of the full retirement pension on the earlier of—

(a) the date on which the deferred member asked the employer to refer the questions to the selected medical practitioner under regulation 76; or

(b) the date on which the employer referred those questions on its own initiative.

(3) A full retirement pension calculated under regulation 89 (deferred members) is payable to the member in respect of each month as from the date on which the member is taken to claim payment of the pension under paragraph (2).

Claim for early payment of full retirement pension otherwise than on grounds of permanent medical unfitness (deferred members)

86.—(1) A deferred member of this scheme who claims early payment of a full retirement pension otherwise than on grounds of permanent medical unfitness must give at least one month's notice of intent to claim payment of the pension.

(2) The claim for payment of the pension may only be made by written notice to the scheme manager.

(3) The notice—

(a) must state if the member has opted to buy out the early payment reduction; and

(b) must specify the date from which payment of the pension is claimed.

(4) A full retirement pension calculated under regulation 89 (deferred members) is payable to the member in respect of each month as from the date specified in the notice.

Members who have been dismissed or required to resign

87.—(1) This regulation applies to a member of the police force—

(a) who is dismissed or is required to resign; and

(b) who has reached normal minimum pension age.

(2) This paragraph applies if the member has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to the member.

(3) If paragraph (2) does not apply, the member is entitled to a refund of all member contributions and payments for added pension under Part 10 (contributions).

(4) If paragraph (2) applies, unless the member chooses to defer payment of the pension—

(a) for the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, the member is taken to claim payment of a full retirement pension on the date of dismissal; and

(b) the member is entitled to payment for life of a full retirement pension calculated under regulation 88 (active members) in respect of each month as from the date of dismissal.

(5) If paragraph (2) applies and the member chooses to defer payment of the pension, the member becomes entitled to payment for life of a full retirement pension—

(a) under regulation 81(2) when the member reaches the member's state pension age; or

(b) under regulation 81(4), if the member claims early payment of the pension under regulation 86 (claim for early payment otherwise than on grounds of permanent medical unfitness (deferred members)).

Annual rate of full retirement pension (active members)

88.—(1) This regulation applies when an active member of this scheme becomes entitled to payment for life of a full retirement pension.

(2) The annual rate of each description of full retirement pension payable to the member is calculated by—

(a) taking the amount of that description of full retirement pension specified in the retirement account;

(b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and

(c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

Annual rate of full retirement pension (deferred members)

89.—(1) This regulation applies when a deferred member of this scheme becomes entitled to payment for life of a full retirement pension.

(2) The annual rate of any description of full retirement pension payable to the member is calculated by—

(a) taking the provisional amount of the relevant description of deferred pension specified in the deferred member's account;

(b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;

(c) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and

(d) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if—

(a) the member buys out the early payment reduction in relation to that description of full retirement pension; or

(b) the full retirement pension comes into payment early on grounds of permanent medical unfitness(**50**).

(4) In this regulation, "the relevant description of deferred pension" means—

(a) for a retirement standard earned pension, deferred standard earned pension;

(b) for a retirement club transfer earned pension, deferred club transfer earned pension;

(c) for a retirement added (self only) pension, deferred added (self only) pension; and

(d) for a retirement added (all beneficiaries) pension, deferred added (all beneficiaries) pension.

Full retirement pension ceasing to be payable

90.—(1) A full retirement pension ceases to be payable to a member who re-enters pensionable service under this scheme within 28 days after the last day of the service in relation to which the pension was payable.

(2) If paragraph (1) applies in relation to a member—

(a) the scheme manager must—

(i) cease to pay the pension; and

(ii) recover any payment of pension or lump sum made;

(b) the retirement account must be closed; and

(c) the active member's account must be re-established under Part 5 (pension accounts) and treated as if it had never been closed.

(**50**) See regulation 81(3) for when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

CHAPTER 3

Ill-health pension

Payment thresholds

91.—(1) A member of this scheme meets the lower tier threshold for payment of an ill-health pension ("lower tier threshold") under this Chapter if the selected medical practitioner gives a report under Part 6 containing the decision that—

(a) the member is permanently medically unfit for performing the ordinary duties of a member of the police force; but

(b) the member is not permanently medically unfit for engaging in any regular employment.

(2) A member of this scheme meets the upper tier threshold for payment of an ill-health pension ("upper tier threshold") under this Chapter if the selected medical practitioner gives a report under Part 6 containing the decision that the member is permanently medically unfit for engaging in any regular employment.

Entitlement to payment of ill-health pension

92.—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to payment for life of an ill-health pension under this Chapter if the conditions in paragraph (2) are met.

(2) The conditions are—

(a) the employer requires the member to retire on a date determined by the employer under Part 6;

(b) the member has at least 2 years' qualifying service or is permanently medically unfit as the result of an injury received without the member's default in the execution of duty; and

(c) the member is eligible under this scheme for payment of ill-health benefits.

(3) An ill-health pension under this Chapter is payable as follows—

(a) if the member meets the lower tier threshold, a lower tier ill-health pension is payable;

(b) if the member meets the upper tier threshold—

(i) a lower tier ill-health pension is payable; and

(ii) an enhanced upper tier ill-health pension is payable.

(4) A retirement added pension of any description is payable with a lower tier ill-health pension if the retirement account specifies an amount of retirement added pension of that description.

(5) For a transition member with continuity of service, a transition member's ill-health pension is payable under paragraph 23 of Schedule 4.

(6) For a pensioner member who becomes entitled to an enhanced upper tier ill-health pension under regulation 102 or 103, an ill-health pension is payable in accordance with that regulation.

Claim for payment of ill-health pension

93.—(1) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, an active member of this scheme is taken to claim payment of an ill-health pension under this Chapter on the date on which the member is required to retire under Part 6.

(2) An ill-health pension under this Chapter is payable to the member in respect of each month as from the date on which the member was required to retire under Part 6.

Annual rate of ill-health pension under this scheme

94.—(1) The annual rate of ill-health pension under this scheme(**51**) is calculated as follows(**52**).

(2) The annual rate of a lower tier ill-health pension is calculated in the same way as the annual rate of retirement earned pension(**53**) is calculated under regulation 88 (annual rate of full retirement pension (active members)), but without subtracting the early payment reduction.

(3) The annual rate of any retirement added pension payable with a lower tier ill-health pension is calculated in the same way as it is calculated under regulation 88 (annual rate of full retirement pension (active members)), but without subtracting the early payment reduction.

(4) The annual rate of an enhanced upper tier ill-health pension payable to a member whose aggregate period of service is less than 5 years is the lesser of—

(a) $\textit{total accrued earned pension} \times 3$; and

(b) $\dfrac{\textit{final pay}}{56.1} \times \dfrac{\textit{assumed period of pensionable service}}{2}$

where—

"total accrued earned pension" means—

(a) for a 2006 transition member with continuity of service, the total amount of accrued earned pension under both this scheme and the 2006 scheme; or

(b) for any other member, the amount of accrued earned pension under this scheme;

"assumed period of pensionable service" means the period (expressed in years)—

(a) beginning with the day after the member's period of service ceased; and

(b) ending with the day before the day on which the member will reach normal pension age under this scheme (assuming that the member lives until that age); and

"final pay" has the meaning given in regulation 149.

(5) The annual rate of an enhanced upper tier ill-health pension payable to a member whose aggregate period of service is 5 years or more is—

$$\frac{\textit{final pay}}{56.1} \times \frac{\textit{assumed period of pensionable service}}{2}$$

where—

"assumed period of pensionable service" has the same meaning as in paragraph (4); and

"final pay" has the meaning given in regulation 149.

(6) In this regulation, "aggregate period of service" means—

(a) for a 2006 transition member with continuity of service—

(i) the member's continuous period of pensionable service under this scheme; and

(ii) the member's pensionable service under the 2006 scheme before the member's transition date; or

(b) for any other member, the member's continuous period of pensionable service under this scheme.

(**51**) For the annual rate of a transition member's ill-health pension, see Schedule 4, Part 6.
(**52**) An ill-health pension is payable from the day after the date on which the employer requires the member to retire under Part 6.
(**53**) Regulation 36 provides for the calculation of an amount of accrued earned pension. This amount forms the basis for determining the amount of retirement earned pension under regulation 60. The annual rate of retirement earned pension in relation to active members is calculated under regulation 88.

(7) For a member whom the scheme manager determines under regulation 28 (re-determination of eligibility) is eligible under this scheme for payment of ill-health benefits, the member's continuous period of pensionable service under this scheme is taken to begin on the date of that determination.

(8) In calculating a member's aggregate period of service, a period of part-time service under this scheme or under the 2006 scheme counts as if it were a period of full-time service.

(9) In calculating a member's assumed period of pensionable service ("the assumed period"), the member is taken to be in part-time service during the assumed period for the same proportion of time as the member was in part-time service during the member's aggregate period of service.

Deferment of added pension attributable to recent payments

95.—(1) This regulation applies in relation to a member of this scheme—

(a) who is entitled to payment for life of an ill-health pension under this scheme; and

(b) whose active member's account at the end of the last day of pensionable service specifies an amount of accrued added pension that is attributable in whole or in part to a lump sum payment for added pension made under Schedule 3 within the 12 months before the relevant day.

(2) The member becomes a deferred member of this scheme in respect of that amount of accrued added pension and accordingly—

(a) a deferred member's account must be established under Part 5 (pension accounts);

(b) that amount of accrued added pension must be specified in the deferred member's account as the provisional amount of the relevant description of deferred added pension; and

(c) that amount of accrued added pension is not included in the calculation of the annual rate of retirement added pension payable with the lower tier ill-health pension.

(3) In paragraph (1), "the relevant day" means—

(a) the day on which the employer first referred the questions under regulation 71 (referral of medical questions for purpose of regulation 72) to the selected medical practitioner for a decision by virtue of which the member is entitled to payment of the ill-health pension; or

(b) if the member was on sick leave on that day and did not return to service from that leave, the day on which that leave began.

CHAPTER 4

Reduction of ill-health benefits

Referral of medical question for purpose of reduction of benefits

96.—(1) This regulation applies if the employer is considering the exercise of powers under regulation 97 (reduction of pension in case of default).

(2) The employer must refer to a selected medical practitioner for decision the question whether the person has brought about or substantially contributed to the medical unfitness by the person's own default.

(3) The decision of the selected medical practitioner on the question referred under this regulation must take the form of a report.

(4) A copy of the report must be given to the employer and to the member.

(5) That report is final, subject to—

(a) an appeal against the decision under Schedule 1; or

(b) the referral of the decision for reconsideration under Schedule 1.

Reduction of pension in case of default

97.—(1) This regulation applies in relation to—

(a) a deferred member of this scheme who on the ground of permanent medical unfitness for engaging in any regular employment becomes entitled under regulation 81(3) to payment of a full retirement pension before reaching the member's state pension age(**54**);

(b) an active member of this scheme who becomes entitled under Chapter 3 to payment of an ill-health pension under this scheme; or

(c) a pensioner member of this scheme who becomes entitled under Chapter 5 to payment of an enhanced upper tier ill-health pension.

(2) The employer may reduce the amount of full retirement pension or ill-health pension under this scheme by an amount not exceeding a half of that to which the member would otherwise be entitled if the selected medical practitioner gives a report on the question referred under regulation 96 (referral of medical question for purpose of reduction of benefits) containing the decision that the member has become medically unfit by the member's own default.

(3) For the purpose of this regulation, the selected medical practitioner may decide that the member has become medically unfit by the member's own default if, in the opinion of the selected medical practitioner, the member has brought about, or has substantially contributed to, the member's medical unfitness.

(4) The reduction of a pension under this regulation ceases to have effect—

(a) in respect of a member mentioned in paragraph (1)(a) or (b), when the member reaches normal pension age under this scheme; or

(b) in respect of a member mentioned in paragraph (1)(c), when the member reaches the member's state pension age.

(5) When the member reaches the member's state pension age, if the reduced pension is less than the amount of full retirement pension that would have been payable to the member under regulation 81(2) had the member reached the member's state pension age when the member left eligible service, the scheme manager must increase the pension to that amount.

(6) The member may appeal under regulation 197 (appeals to sheriff) or 198 (appeals to tribunal) against the decision of the employer to reduce a pension under this regulation.

Refusal to be medically examined

98. The employer may make a decision under this Chapter on such evidence and medical advice as the employer in its discretion thinks necessary if—

(a) the question in regulation 96 (referral of medical question for purpose of reduction of benefits) is referred to a selected medical practitioner for decision; and

(b) the member wilfully or negligently fails to submit to any medical examination or to attend any interviews that the selected medical practitioner considers necessary in order to make a decision.

Decision of employer void if appeal against decision of selected medical practitioner is successful

99. A decision of the employer under this Chapter is void if—

(a) the selected medical practitioner decides that the member has brought about or substantially contributed to the medical unfitness by the member's own default;

(**54**) See regulation 81(3) for when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

(b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and

(c) the appeal board decides that the member did not bring about or substantially contribute to the medical unfitness by the member's own default.

CHAPTER 5

Review of ill-health benefits

Review of lower tier ill-health pension

100.—(1) This regulation applies in relation to a person (P) who—

(a) is receiving payment of a lower tier ill-health pension but not an enhanced upper tier ill-health pension; and

(b) has not reached normal pension age under this scheme.

(2) The employer may periodically review whether P's medical unfitness has ceased or significantly worsened.

(3) A periodic review under paragraph (2) may be carried out at any time the employer in its discretion determines.

(4) The employer must carry out a review as to whether P's medical unfitness has ceased or significantly worsened if the employer is notified that P's medical unfitness has worsened.

(5) In carrying out a review under paragraph (2) or (4), the employer must refer the questions in regulation 107(2) (referral of medical questions for purpose of a review: lower tier ill-health pension) to a selected medical practitioner for decision.

(6) In this regulation, "medical unfitness" means inability occasioned by infirmity of mind or body to perform the ordinary duties of a member of the police force.

Cancellation of lower tier ill-health pension if medical unfitness ceases

101.—(1) This regulation applies if—

(a) the employer carries out a review under regulation 100; and

(b) the selected medical practitioner gives a report on the questions referred under regulation 107(2) containing the decision that P has ceased to be medically unfit for performing the ordinary duties of a member of the police force.

(2) The employer may give P notice that P may rejoin the police force—

(a) within the period of 3 months beginning with the date on which P is given the notice; and

(b) at a rank not lower than the rank which P held immediately before the ill-health pension became payable.

(3) The lower tier ill-health pension ceases to be payable to P on the earlier of—

(a) the last day of the 3 month period; or

(b) the day on which P rejoins the police force.

(4) Paragraph (5) applies if—

(a) a lower tier ill-health pension ceases to be payable under paragraph (3)(a); but

(b) P is not entitled to receive payment of a full retirement pension under Chapter 2 (full retirement benefits) because P has less than 2 years qualifying service.

(5) The employer must pay the difference to P if the aggregate of the following is less than P's aggregate pension contributions in respect of the relevant period of service—

(a) the sums paid in respect of the pension; and

(b) the actuarial value, determined by the scheme manager in accordance with actuarial tables, of any pension to which P is entitled under regulation 195 (guaranteed minimum under section 14 of PSA 1993).

Entitlement to enhanced upper tier ill-health pension following claim for payment

102.—(1) This regulation applies if—

(a) the employer carries out a review under regulation 100(4) (review of lower tier ill-health pension); and

(b) the selected medical practitioner gives a report on the questions referred under regulation 107(2) containing the decision that P is permanently medically unfit for engaging in any regular employment.

(2) P is entitled to payment of an enhanced upper tier ill-health pension from the claim date, calculated in accordance with regulation 94 (annual rate of ill-health pension under this scheme) and payable in accordance with this regulation in addition to the lower tier ill-health pension.

(3) The enhanced upper tier ill-health pension is payable in respect of each month as from the claim date.

(4) P is not taken to claim payment of an enhanced upper tier ill-health pension if the claim date is more than 5 years after the date on which P became entitled to payment for life of the lower tier ill-health pension.

(5) The time limit in paragraph (4) does not apply if P's medical unfitness is attributable to a progressive medical condition which, of its nature, could have been expected, as at the time of P's retirement, to affect P with increasing severity.

(6) In this regulation—

"claim date" means the date on which the employer is notified that P's medical unfitness has worsened; and

"progressive medical condition" means—

(a) a medical condition specified in Schedule 2 (progressive medical conditions); or

(b) a medical condition specified on a list published by the Scottish Ministers for the purpose of this regulation.

Entitlement to enhanced upper tier ill-health pension following periodic review

103.—(1) This regulation applies if—

(a) the employer carries out a periodic review under regulation 100(2) (review of lower tier ill-health pension); and

(b) the selected medical practitioner gives a report on the questions referred under regulation 107(2) containing the decision that P is permanently medically unfit for engaging in any regular employment.

(2) P is entitled to payment of an enhanced upper tier ill-health pension from the claim date, calculated in accordance with regulation 94 (annual rate of ill-health pension under this scheme) and payable in accordance with this regulation in addition to the lower tier ill-health pension.

(3) P is not entitled to payment of an enhanced upper tier ill-health pension under this regulation if the claim date is more than 5 years after the date on which P became entitled to payment for life of the lower tier ill-health pension.

(4) The time limit in paragraph (3) does not apply if P's medical unfitness is attributable to a progressive medical condition which, of its nature, could have been expected, as at the time of P's retirement, to affect P with increasing severity.

(5) The enhanced upper tier ill-health pension is payable in respect of each month as from the claim date.

(6) In this regulation, "claim date" means the date on which the employer refers the questions in regulation 107(2) (referral of medical questions for purpose of a review: lower tier ill-health pension) to a selected medical practitioner for decision.

Review and cancellation of enhanced upper tier ill-health pension

104.—(1) This regulation applies in relation to a person (P) who—

(a) is receiving payment of both a lower tier ill-health pension and an enhanced upper tier ill-health pension; and

(b) has not reached P's state pension age.

(2) The employer may periodically review whether the person's medical unfitness has ceased or significantly improved.

(3) A review may be carried out at intervals of no less than 5 years as the employer in its discretion determines.

(4) The employer must refer the questions in regulation 107(3) (referral of medical questions for purpose of a review: enhanced upper tier ill-health pension) to a selected medical practitioner for decision.

(5) If the selected medical practitioner gives a report on the questions referred under regulation 107(3) containing the decision that P has ceased to be medically unfit for engaging in any regular employment, P ceases to be entitled to payment of the enhanced upper tier ill-health pension.

(6) P ceases to be entitled to payment of the enhanced upper tier ill-health pension—

(a) at the end of the period of 3 months beginning with the date of the report which contains the decision by the selected medical practitioner that P has ceased to be medically unfit for engaging in any regular employment; or

(b) if earlier, the day on which P returns to eligible service.

(7) P remains entitled to payment for life of the lower tier ill-health pension unless—

(a) the employer, on a review under another regulation in this Chapter, refers the questions under regulation 107(2) (referral of medical questions for purpose of a review: lower tier ill-health pension) to the selected medical practitioner for decision; and

(b) the selected medical practitioner gives a report on those questions containing the decision that P has ceased to be medically unfit for performing the ordinary duties of a member of the police force.

(8) In paragraph (2), "medical unfitness" means inability occasioned by infirmity of mind or body to engage in any regular employment.

Cancellation of ill-health pension: failure to receive appropriate medical treatment

105.—(1) This regulation applies if—

(a) the employer carries out a review under regulation 100 (review of lower tier ill-health pension) or 104 (review and cancellation of enhanced upper tier ill-health pension);

(b) the selected medical practitioner gives P a written notice stating the opinion that—

(i) P's medical unfitness for performing the ordinary duties of a member of the police force would be expected to have ceased if P had received normal appropriate medical treatment; and

(ii) P is not receiving, or has not received, appropriate medical treatment; and

(c) the employer gives P a written notice stating the opinion that P's failure to receive appropriate medical treatment is attributable to P's wilfulness or negligence and giving notice of the employer's powers under paragraph (2).

(2) The employer may cease payment of the ill-health pension if the employer decides that—

(a) P's failure to receive appropriate medical treatment is attributable to P's wilfulness or negligence; and

(b) P has persisted in that failure after receiving both—

(i) a written notice from the selected medical practitioner under paragraph (1)(b); and

(ii) a written notice from the employer under paragraph (1)(c).

(3) In this regulation—

"appropriate medical treatment" does not include medical treatment that the employer decides is reasonable for P to refuse(**55**); and

"medical unfitness" means inability occasioned by infirmity of mind or body to perform the ordinary duties of a member of the police force.

Review and cancellation of full retirement pension which came into payment early on grounds of permanent medical unfitness

106.—(1) This regulation applies in relation to a person (P) who—

(a) is receiving payment of a full retirement pension which came into payment early on grounds of permanent medical unfitness(**56**); and

(b) has not reached P's state pension age.

(2) The employer may periodically review whether P's medical unfitness has ceased.

(3) A review may be carried out at intervals of no less than 5 years as the employer in its discretion determines.

(4) The employer must refer the questions in regulation 107(4) (referral of medical questions for purpose of a review: full retirement pension) to a selected medical practitioner for decision.

(5) If the selected medical practitioner gives a report on the questions referred under regulation 107(4) containing the decision that the member has ceased to be medically unfit for engaging in any regular employment, the scheme manager must cease to make payments of the full retirement pension from the beginning of the next pay period.

(6) In this regulation, "medical unfitness" means inability occasioned by infirmity of mind or body to engage in any regular employment.

Referral of medical questions for purpose of a review

107.—(1) This regulation applies in relation to the following reviews.

(2) Where the employer is considering whether the medical unfitness of a person receiving payment of a lower tier ill-health pension but not an enhanced upper tier ill-health pension has ceased

(**55**) See provisions on appeals.
(**56**) See regulation 81(3) for when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

or significantly worsened, the employer must refer the following questions to a selected medical practitioner for decision—

(a) whether the person continues to be medically unfit for performing the ordinary duties of a member of the police force; and

(b) if so, whether—

(i) the person is also medically unfit for engaging in any regular employment; and

(ii) that medical unfitness is likely to be permanent.

(3) Where the employer is considering whether the medical unfitness of a person receiving payment of both a lower tier ill-health pension and an enhanced upper tier ill-health pension has ceased or significantly improved, the employer must refer the following questions to a selected medical practitioner for decision—

(a) whether the person continues to be medically unfit for engaging in any regular employment; and

(b) if not, whether the person continues to be medically unfit for the performance of the ordinary duties of a member of the police force.

(4) Where the employer is considering whether the medical unfitness of a person receiving payment of a full retirement pension which came into payment early on grounds of permanent medical unfitness has ceased, the employer must refer the question whether the person continues to be medically unfit for engaging in any regular employment to a selected medical practitioner for decision.

(5) If the selected medical practitioner decides that the question mentioned in paragraph (2)(a) or a question mentioned in paragraph (3) or (4) is answered in the affirmative, the selected medical practitioner does not need to consider the question as to the likelihood of that medical unfitness continuing permanently.

(6) The decision of the selected medical practitioner on a question referred under this regulation must take the form of a report.

(7) A copy of the report must be given to the employer and to the member.

(8) That report is final, subject to—

(a) an appeal against the decision under Schedule 1; or

(b) the referral of the decision for reconsideration under Schedule 1.

Refusal to be medically examined

108. The employer may make a decision under this Chapter on such evidence and medical advice as the employer in its discretion thinks necessary if—

(a) a question as to the medical unfitness of a member of the police force is referred to a selected medical practitioner for decision; and

(b) the member wilfully or negligently fails to submit to any medical examination or to attend any interviews that the selected medical practitioner considers necessary in order to make a decision.

Decision of employer void if appeal against decision of selected medical practitioner is successful

109.—(1) A decision of the employer under this Chapter is void if—

(a) the selected medical practitioner decides that—

(i) the member is permanently medically unfit for performing the ordinary duties of a member of the police force; or

(ii) the member is permanently medically unfit for engaging in any regular employment;

(b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and

(c) the appeal board decides that the member is not so permanently medically unfit.

(2) A decision of the employer under this Chapter is void if—

(a) the selected medical practitioner decides that—

(i) the member is not permanently medically unfit for performing the ordinary duties of a member of the police force; or

(ii) the member is not permanently medically unfit for engaging in any regular employment;

(b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and

(c) the appeal board decides that the member is so permanently medically unfit.

CHAPTER 6

Payment options

Options under this Chapter

110. The options under this Chapter are—

(a) the option under regulation 112 to buy out the early payment reduction;

(b) the option under regulation 113 to defer payment of a retirement added pension;

(c) the option under regulation 114 (option to commute part of pension) to exchange part of a full retirement pension or ill-health pension for a lump sum.

Exercising an option under this Chapter

111.—(1) A member may exercise an option under this Chapter by written notice to the scheme manager.

(2) In this Chapter, "option notice" means a notice by which a member exercises an option under this Chapter.

Option to buy out early payment reduction

112.—(1) This regulation applies if a member of this scheme claims payment of a full retirement pension under Chapter 2 and—

(a) if the member is an active member, the member has not reached normal pension age under this scheme; or

(b) if the member is a deferred member, the member has not reached the member's state pension age.

(2) The member may opt under this regulation to buy out the early payment reduction that would otherwise apply to the calculation of the annual rate of full retirement pension.

(3) The cost must be met by way of a special payment to this scheme—

(a) made by the member;

(b) made by the employer of an active member or a deferred member in eligible service; or

(c) made partly by the member and partly by the employer.

(4) Any special payment by the employer must be made with the consent of the scheme manager.

(5) The cost of buying out the early payment reduction is an amount determined by the scheme manager in accordance with actuarial guidance.

(6) Any special payment made by a member must be made in accordance with the requirements of the scheme manager.

Option to defer payment of retirement added pension

113.—(1) This regulation applies in relation to a member of this scheme who, on or after reaching normal pension age under this scheme, becomes entitled to payment for life of a retirement added pension of any description.

(2) The member may opt under this regulation to defer payment of the retirement added pension of that description.

(3) A member who exercises the option under this regulation becomes a deferred member of this scheme in respect of the retirement added pension of that description and accordingly—

(a) a deferred member's account must be established under Part 5 (pension accounts); and

(b) the amount of retirement added pension of that description must be specified in the deferred member's account as the provisional amount of deferred added pension of that description.

(4) The member is entitled to payment for life of the retirement added pension of that description when the member claims payment of that pension.

(5) A member may only claim payment of a pension under this regulation by giving at least one month's written notice to the scheme manager.

(6) The notice must specify the date from which payment of the pension is claimed.

(7) The annual rate of retirement added pension is calculated in accordance with regulation 89 (annual rate of full retirement pension (deferred members)).

Option to commute part of pension

114.—(1) A member who becomes entitled to payment for life of a full retirement pension or an ill-health pension may opt under this regulation to exchange part of the pension for a lump sum.

(2) An option under this regulation may only be exercised before the first payment of the pension is made.

(3) If a member exercises the option, for every £1 by which the amount of the member's annual rate of full retirement pension or ill-health pension is reduced, the member must be paid a lump sum of £12.

(4) The lump sum may not be more than 25% of the amount advised by the scheme actuary as representing the cash value of the pension.

(5) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of FA 2004 (see section 241 of that Act).

(6) If paragraph (7) applies, the member may opt to exchange only so much of the pension that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in actuarial tables.

(7) This paragraph applies if the member has a guaranteed minimum under section 14 of PSA 1993 in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer

payment from another pension scheme in respect of which the member had such a guaranteed minimum.

PART 8

Benefits for pension credit members

Interpretation

115. In this Part, "claim date" has the meaning given in regulation 117 (claim for payment of pension credit member's pension).

Entitlement to pension credit member's pension

116. A pension credit member (P) of this scheme who has reached normal minimum pension age is entitled to payment for life of a pension credit member's pension under this scheme if—

(a) the pension sharing order under which P is entitled to the pension credit has taken effect;

(b) P has claimed payment of the pension under this Part; and

(c) the scheme manager is satisfied that on the claim date the requirements of regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(**57**) are met.

Claim for payment of pension credit member's pension

117.—(1) The claim for payment of a pension credit member's pension may only be made by written notice to the scheme manager.

(2) The notice must specify the date from which payment of the pension is claimed ("claim date").

(3) The notice must be given at least one month before the claim date.

Payment of pension credit member's pension

118. A pension credit member's pension is payable in respect of each month as from the claim date.

Annual rate of pension credit member's pension

119. The annual rate of a pension credit member's pension is calculated by—

(a) taking the amount of credited pension specified in the pension credit member's account;

(b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and

(c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

Pension credit member's rights

120.—(1) If regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (early retirement or deferred retirement) applies, the scheme manager must be reasonably satisfied that the requirements of that regulation have been met.

(**57**) S.I. 2000/1054.

(2) Benefits that are attributable (directly or indirectly) to a pension credit may not be aggregated with any other benefit to which a pension credit member is entitled under this scheme.

(3) If a pension credit member is a dual capacity member, benefits are payable to or in respect of the member in each of the member's capacities.

Option for pension credit member to commute part of pension

121.—(1) A pension credit member who becomes entitled to payment of a pension credit member's pension under this scheme may opt to exchange part of the pension for a lump sum.

(2) The option under this regulation may only be exercised—

(a) by written notice to the scheme manager; and

(b) before the first payment of the pension is made.

(3) If a pension credit member exercises the option under this regulation, for every £1 by which the amount of the member's annual rate of pension credit member's pension is reduced, the member must be paid a lump sum of £12.

(4) A pension credit member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of FA 2004 (see section 241 of that Act).

(5) This regulation does not apply if the pension debit member from whose rights the pension is derived received a lump sum under Part 7 (retirement benefits) before the date on which the pension sharing order takes effect.

Option for pension credit member to commute whole pension (serious ill-health)

122.—(1) This regulation applies in relation to a pension credit member whom a selected medical practitioner certifies has a life-expectancy of less than 12 months.

(2) The pension credit member may opt to exchange the whole of the pension credit member's pension under this scheme for a lump sum.

(3) The option under this regulation ("this option") may only be exercised—

(a) by written notice to the scheme manager; and

(b) before the first payment of the pension is made.

(4) The lump sum—

(a) is an amount equal to the total annual amount of the pension credit member's pension, multiplied by 5; and

(b) must be paid to the pension credit member as soon as is reasonably practicable after this option is exercised.

(5) In this regulation, "total annual amount" in relation to a pension credit member's pension means the total of—

(a) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date this option is exercised, but without subtracting the early payment reduction (if any); and

(b) the amount of increase (if any) in the annual rate of that pension under PIA 1971 calculated as at that date.

(6) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.

PART 9

Death benefits

CHAPTER 1

Application of Part

Application of Part

123.—(1) This Part applies in relation to death benefits payable in respect of a continuous period of pensionable service under this scheme ("period of service").

(2) In this Part, "active member", in relation to this scheme, means a person—

(a) who is an active member of this scheme; or

(b) who, for the purpose of determining entitlement to payment of benefits to or in respect of the member, is taken to be an active member of this scheme(**58**).

CHAPTER 2

Pensions for surviving adults

Surviving adults

124. In these Regulations—

"surviving adult", in relation to a deceased member of this scheme, means the member's surviving spouse, surviving civil partner or surviving adult partner;

"surviving civil partner", in relation to a deceased member of this scheme, means a person who was in a civil partnership(**59**) with the member at the date of the member's death; and

"surviving spouse", in relation to a deceased member of this scheme, means a person who was married to the member at the date of the member's death.

Meaning of "surviving adult partner"

125.—(1) A person (P) is a surviving adult partner of a deceased member of this scheme if—

(a) the member has sent to the scheme manager a written declaration in a form required by the scheme manager signed by both the member and P that—

(i) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;

(ii) either P was financially dependent on the member or P and the member were financially interdependent;

(iii) the member was able to marry or form a civil partnership with P; and

(iv) the member acknowledged an obligation to give the scheme manager a signed notice of revocation should the relationship terminate;

(b) the member has not revoked the declaration before the member's death; and

(c) P has satisfied the scheme manager that—

(i) the circumstances in sub-paragraphs (i) to (iii) of paragraph (a) continued to subsist at the time of the member's death; and

(**58**) See Chapter 1 of Part 4 (active membership) for when a member of the police force is taken to be an active member of this scheme.

(**59**) See section 1 of the Civil Partnership Act 2004 (c.33) for the meaning of "civil partnership".

(ii) the period of cohabitation had been of at least 2 years' duration at the time of the member's death.

(2) The scheme manager may in its discretion accept a shorter period of cohabitation if satisfied in the particular circumstances of the case that the member and P would have cohabited as partners for at least 2 years had the member not died.

(3) The member or P may revoke a declaration at any time by giving a signed notice to the scheme manager in any form the scheme manager requires.

(4) On receipt of a declaration or notice under this regulation, the scheme manager must send the member a written notification of its receipt.

Meaning of "surviving adult's pension"

126. In these Regulations, "surviving adult's pension" means any of the following pensions payable to a surviving adult under this Chapter—

(a) a surviving adult's earned pension;

(b) a surviving adult's lower tier ill-health pension;

(c) a surviving adult's enhanced upper tier ill-health pension;

(d) a surviving adult's added pension.

Entitlement to surviving adult's pension

127.—(1) This regulation applies in relation to a member who was at the date of death—

(a) an active member of this scheme with at least 2 years' qualifying service;

(b) a deferred member of this scheme; or

(c) a pensioner member of this scheme.

(2) The surviving adult of the member is entitled to immediate payment for life of a surviving adult's pension as follows—

(a) if the member was entitled to payment for life of a retirement earned pension at the date of the member's death, or would have become entitled to such a pension had the member not died, a surviving adult's earned pension;

(b) if the member was entitled to payment for life of a lower tier ill-health pension at the date of the member's death, a surviving adult's lower tier ill-health pension;

(c) if the member was entitled to payment for life of both a lower tier ill health pension and an enhanced upper tier ill-health pension at the date of the member's death, a surviving adult's lower tier ill-health pension and a surviving adult's enhanced upper tier ill-health pension;

(d) if the member was entitled to payment for life of a retirement added (all beneficiaries) pension at the date of the member's death or would have become entitled to such a pension had the member not died, a surviving adult's added pension.

(3) The scheme manager may in its discretion withhold a surviving adult's pension that would otherwise be payable to a surviving spouse if the member and the surviving spouse were married less than 6 months before the member's death.

(4) The scheme manager may in its discretion withhold a surviving adult's pension that would otherwise be payable to a surviving civil partner if the civil partnership was formed less than 6 months before the member's death.

(5) Paragraphs (3) and (4) are subject to regulation 141 (guaranteed minimum pensions for surviving spouses and civil partners).

Surviving adult's pension payable in respect of pension debit member

128. The annual rate of surviving adult's pension payable in respect of a pension debit member is calculated by reference to the pension debit member's rights under these Regulations as reduced under section 31 of WRPA 1999.

Annual rate of surviving adult's pensions payable on death of pensioner member

129.—(1) This regulation applies on the death of a pensioner member of this scheme (P).

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the annual rate of retirement earned pension calculated without subtracting the early payment reduction (if any).

(3) The annual rate of a surviving adult's lower tier ill-health pension is an amount equal to 50% of the annual rate of P's lower tier ill-health pension.

(4) The annual rate of a surviving adult's enhanced upper tier ill-health pension is an amount equal to 50% of the annual rate of P's enhanced upper tier ill-health pension.

(5) The annual rate of a surviving adult's added pension is an amount equal to 50% of the annual rate of retirement added (all beneficiaries) pension calculated without subtracting the early payment reduction (if any).

(6) In accordance with section 7(4) of PIA 1971, for the purposes of this regulation there is to be disregarded any increase in the annual rate of a pension since the beginning date for that pension.

Annual rate of surviving adult's pensions payable on death of deferred member

130.—(1) This regulation applies on the death of a deferred member of this scheme.

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the sum of the provisional amount of deferred earned pension specified in the deferred member's account.

(3) The annual rate of a surviving adult's added pension is an amount equal to 50% of the provisional amount of deferred added (all beneficiaries) pension specified in the deferred member's account.

(4) In this regulation "deferred earned pension" means—

(a) deferred standard earned pension; and

(b) deferred club transfer earned pension (if any).

Annual rate of surviving adult's pensions payable on death of active member

131.—(1) This regulation applies on the death of an active member of this scheme who has at least 2 years' qualifying service.

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the annual rate of ill-health pension under this scheme that would have been payable to the member on the date of the member's death had the member met the upper tier threshold.

(3) The annual rate of a surviving adult's added pension is an amount equal to 50% of the amount of retirement added (all beneficiaries) pension that would have been specified in the member's retirement account had the member become entitled to the immediate payment of such a pension on the date of the member's death.

Reduction in pensions in cases of wide age disparity

132.—(1) This regulation applies if, on the death of a member of this scheme, a surviving adult's becomes payable to a surviving adult who is more than 12 years younger than the member.

(2) The annual rate of the surviving adult's pension is reduced by the lower of—

(a) 50% of the amount of the annual rate of the pension calculated under regulation 129, 130 or 131; and

(b) 2.5 x (N –12)% of the amount of the annual rate of the pension so calculated,

where N is the number of whole years by which the surviving adult is younger than the member.

CHAPTER 3

Pensions for eligible children

Meaning of "eligible child's pension"

133. In these Regulations, "eligible child's pension" means any of the following pensions payable to an eligible child under this Chapter—

(a) a child's earned pension;

(b) a child's lower tier ill-health pension;

(c) a child's enhanced upper tier ill-health pension;

(d) a child's added pension.

Meaning of "eligible child"

134.—(1) In these Regulations, "eligible child", in relation to a deceased member of this scheme, means a person mentioned in paragraph (2) who meets one of the conditions in paragraph (3).

(2) The persons are—

(a) a natural child of a member born before the member's death;

(b) a natural child of a member born after the member's death if the child's mother was pregnant with the child at the date of the member's death;

(c) an adopted child or step-child of the member; or

(d) any other child or young person who, in the opinion of the scheme manager, at the date of the member's death was substantially dependent on the member, financially or because of physical or mental impairment.

(3) The conditions are—

(a) that the person is 18 or under;

(b) that the person is under 23 and in full-time education or full-time vocational training on a course of at least one year's duration;

(c) that the person is under 23 and, in the opinion of the scheme manager, unable to engage in any regular employment because of physical or mental impairment;

(d) that in the opinion of the scheme manager—

(i) the person is dependent on the member at the date of the member's death because of physical or mental impairment;

(ii) the person is unable to engage in any regular employment because of that impairment; and

(iii) that impairment is likely to be permanent.

Eligible child's pension

135.—(1) This regulation applies if a member of this scheme dies leaving an eligible child.

(2) An eligible child's pension is only payable in respect of such period or periods during which a child or young person is an eligible child.

(3) An eligible child's pension is not payable in respect of any period before a child's birth.

(4) An eligible child's pension is payable in respect of an eligible child as follows—

(a) a child's earned pension is payable if the member was entitled to payment for life of a retirement earned pension at the date of the member's death or the member would have become entitled to such a pension had the member not died;

(b) a child's lower tier ill-health pension is payable if a lower tier ill-health pension was payable to the member at the date of the member's death;

(c) a child's enhanced upper tier ill-health pension is payable if an enhanced upper tier ill-health pension was payable to the member at the date of the member's death;

(d) a child's added pension is payable if the member was entitled to payment for life of a retirement added (all beneficiaries) pension at the date of the member's death or would have become entitled to such a pension had the member not died.

(5) Part 7 of Schedule 4 (transitional provisions) provides for payment of an eligible child's pension in respect of a transition member with continuity of service—

(a) who dies as an active member of this scheme; and

(b) who has at least 2 years' qualifying service.

Annual rate of eligible child's pension

136.—(1) The annual rate of an eligible child's pension is determined by reference to the annual rate of the corresponding surviving adult's pension (disregarding any reduction falling to be made under regulation 132 (wide age disparity)) whether or not a surviving adult's pension becomes payable on the death of the member.

(2) For the purposes of this regulation, the corresponding surviving adult's pensions are—

(a) for a child's earned pension, a surviving adult's earned pension;

(b) for a child's lower tier ill-health pension, a surviving adult's lower tier ill-health pension;

(c) for a child's enhanced upper tier ill-health pension, a surviving adult's enhanced upper tier ill-health pension; and

(d) for a child's added pension, a surviving adult's added pension.

(3) If an eligible child's pension is payable in respect of one or 2 eligible children, the annual rate of eligible child's pension is equal to 50% of the annual rate of the corresponding surviving adult's pension.

(4) If an eligible child's pension is payable in respect of 3 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of 50% of the annual rate of the corresponding surviving adult's pension.

(5) In this regulation, "the appropriate fraction" means $\frac{2}{Y}$ where—

Y is the number of eligible children in respect of whom the annual rate of eligible child's pension is calculated.

(6) In calculating the annual rate of eligible child's pension payable on the death of a pension debit member of this scheme, the reduction of the pension debit member's benefits under section 31 of WRPA 1999 is disregarded.

CHAPTER 4

Payment of pensions for surviving adults and eligible children

Payment of pensions under this Part

137.—(1) A surviving adult's pension is payable in respect of each month as from the date of the member's death.

(2) An eligible child's pension is payable—

(a) in respect of each month as from the date of a member's death; or

(b) for an eligible child born after the member's death, in respect of each month as from the day on which that child is born.

(3) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a person is taken to claim payment of a surviving adult's pension or eligible child's pension in respect of a member—

(a) on the date of the member's death; or

(b) for an eligible child born after the member's death, on the day on which that child is born.

(4) An eligible child's pension payable in respect of an eligible child aged under 18 must be paid—

(a) if the child is in the care of the member's surviving adult, to the surviving adult (unless the scheme manager directs otherwise); and

(b) in any other case, to a person determined by the scheme manager.

(5) A person who receives a sum under paragraph (3) must apply that sum for the benefit of the child.

Suspension and recovery of pensions paid under this Part

138.—(1) This regulation applies if—

(a) on a member's death a pension is paid under this Part; and

(b) it later appears to the scheme manager that the member or the person to whom the pension was paid made a false declaration or deliberately suppressed a material fact in connection with the claim for payment.

(2) The scheme manager may—

(a) cease paying the pension; and

(b) recover any payment of the pension.

(3) Paragraph (2) does not affect any other right the scheme manager has to recover a payment or an overpayment.

Provisional payment of eligible child's pension: later adjustments

139.—(1) This regulation applies where—

(a) an active member, deferred member or pensioner member of this scheme has died;

(b) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children at the date of the member's death and that there were then no other eligible children; and

(c) it later appears that—

(i) a person in respect of whom an eligible child's pension was paid was not an eligible child on the date of death;

(ii) on that date one or more other persons was an eligible child; or

(iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters in paragraph (1)(c).

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

Adjustment of benefits to comply with FA 2004 where members die over 75

140.—(1) This regulation applies if—

(a) a member of this scheme dies after reaching the age of 75; and

(b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 of FA 2004 (the pension death benefit rules) (see paragraphs 16 to 16C of Schedule 28 to that Act).

(2) The benefit payable to the person may be adjusted in any way as determined by the scheme manager so that it qualifies as a dependants' scheme pension for the purposes of section 167 of FA 2004.

Guaranteed minimum pensions for surviving spouses and civil partners

141.—(1) This regulation applies in relation to a person (P) who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member who has a guaranteed minimum under section 17 of PSA 1993 in relation to the member's benefits under this scheme.

(2) Nothing in these Regulations permits or requires anything that would cause requirements under PSA 1993 that relate to such a person or that relate to the rights of such a person not to be met in relation to P.

(3) Nothing in these Regulations prevents anything from being done which is necessary or expedient for the purpose of meeting such requirements in relation to P.

(4) The following paragraphs are without prejudice to the generality of paragraphs (2) and (3).

(5) If apart from this regulation a pension would not be payable to P under this Part—

(a) a pension the weekly rate of which is equal to the guaranteed minimum is payable to P for life; or

(b) pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(6) If apart from this regulation the weekly rate of a pension payable to P under this Part would be less than the guaranteed minimum, the pensions payable are increased to the amount specified in paragraph (5).

(7) Paragraphs (5) and (6) do not apply to a pension that is—

(a) forfeited as a result of a conviction for treason; or

(b) forfeited under regulation 201 (forfeiture: offences committed by members) where the relevant offence within the meaning of that regulation is an offence under the Official Secrets Acts 1911 to 1989(**60**).

(**60**) 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".

CHAPTER 5

Nominations for lump sum death grants

Nominations for lump sum death grants

142.—(1) A member of this scheme may nominate an individual to receive a lump sum death grant.

(2) A nomination may only be made by giving a signed notice to the scheme manager in a form the scheme manager requires.

(3) A member may revoke or alter a nomination by giving a further signed notice to the scheme manager in a form the scheme manager requires.

(4) On receipt of a notice under this regulation, the scheme manager must send the member a written notification of its receipt.

Invalid nominations of individuals

143.—(1) If the nomination of an individual is invalid, any lump sum death grant that would have been payable to the individual is payable to the member's executors.

(2) A nomination of an individual is invalid if—

(a) the individual predeceases the member; or

(b) the individual is convicted of the offence of murder of the member.

(3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of the culpable homicide of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

Recovery of payment if nomination found to be invalid

144.—(1) The scheme manager may recover a lump sum death grant paid to any person if the person's nomination is subsequently found to be invalid.

(2) Paragraph (1) does not affect any other right the scheme manager has to recover a payment or an overpayment.

CHAPTER 6

Payment of lump sum death grants

Payment of lump sum death grants: general

145.—(1) A lump sum death grant is payable in respect of—

(a) an active member of this scheme who dies; or

(b) a pension credit member of this scheme who dies before any benefits attributable (directly or indirectly) to a pension credit become payable.

(2) A lump sum death grant is payable whether or not a surviving adult's pension or death gratuity is payable in respect of the member.

(3) A lump sum death grant is not payable in respect of a member who dies after reaching 75 (see regulation 148 for payment of a pension instead of a lump sum for members who have reached 75).

Persons who may be paid lump sum death grant

146.—(1) The scheme manager must pay a lump sum death grant to any surviving spouse or surviving civil partner of the member, unless immediately before the member's death—

(a) the member and the spouse or civil partner were separated by an order or decree of a competent court; and

(b) the member was not required by the order to contribute, and was not in fact regularly contributing—

(i) to the support of the spouse or civil partner; or

(ii) to the support of a child of the spouse or civil partner.

(2) If a lump sum death grant is not paid under paragraph (1), the scheme manager may in its discretion pay a lump sum death grant to any surviving adult partner of the member, if the surviving adult partner—

(a) claims payment of a surviving adult's pension; and

(b) satisfies the scheme manager that at the time of the member's death—

(i) the circumstances stated in the declaration under regulation 125 (meaning of "surviving adult partner") continued to subsist; and

(ii) the member and the surviving adult partner had cohabited for at least 2 years.

(3) The scheme manager may in its discretion accept a shorter period of cohabitation if satisfied in the particular circumstances of the case that the member and P would have cohabited as partners for at least 2 years had the member not died.

(4) If a lump sum death grant is not paid under paragraph (1) or (2), the scheme manager may in its discretion pay a lump sum death grant to a person nominated under regulation 142 if the nomination has effect at the date of the member's death.

(5) If a lump sum death grant is not paid under paragraph (1), (2) or (4), the scheme manager may in its discretion pay a lump sum death grant to the member's executors.

(6) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a surviving spouse or surviving civil partner of a deceased member is taken to claim payment of a lump sum death grant on the date of the member's death.

Pension protection lump sum death benefit

147.—(1) A lump sum death grant is treated for the purposes of FA 2004 as a pension protection lump sum death benefit if and to the extent that—

(a) the member has given written notice to the scheme manager that the lump sum death grant is to be so treated; and

(b) the lump sum death grant meets all of the conditions required by FA 2004 for it to be treated as a pension protection lump sum death benefit (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to FA 2004(**61**)).

(2) The scheme manager may deduct tax from the lump sum death grant if the scheme manager is liable for tax under section 206 of FA 2004 in respect of a pension protection lump sum death benefit.

Payment of pension instead of lump sum death grant for members who have reached 75

148.—(1) This regulation applies if an active member dies after reaching 75.

(**61**) Paragraph 14 was amended by the Finance Act 2011 (c.11), Schedule 16, paragraphs 32 and 34.

(2) The scheme manager must pay a pension under this regulation to any surviving spouse or surviving civil partner of the member.

(3) If there is no surviving spouse or surviving civil partner, the scheme manager may pay a pension to—

(a) a surviving adult partner of the member;

(b) a person nominated by the member under regulation 142; or

(c) the member's executors.

(4) The restrictions in regulation 146 (persons who may be paid lump sum death grant) relating to payment of a lump sum death grant also apply to payment of a pension under this regulation.

(5) A pension payable under this regulation is payable in respect of each month as from the date of the member's death for the 5 year period beginning with the date of death.

(6) The amount of each payment of pension must be equal to the sum of—

(a) the amount of pension that would have been payable to the member had the member—

(i) become entitled to payment of the pension on the date of death; and

(ii) lived until the end of the 5 year period beginning with the date of death; and

(b) any increases in the annual rate of that pension under PIA 1971 during the 5 year period.

(7) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a surviving spouse or surviving civil partner of a deceased member is taken to claim payment of a pension under this regulation on the date of the member's death.

CHAPTER 7

Amount of lump sum death grant

Meaning of "final pay"

149.—(1) In these Regulations, "final pay" in relation to a continuous period of pensionable service under this scheme ("period of service") means the greater of the following amounts—

(a) the amount of a member's pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;

(b) the amount of a member's pensionable earnings payable in respect of any scheme year in the 10 scheme years immediately before the last active scheme year ("the earnings year").

(2) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater—

(a) if the member's period of service was less than 12 months, the amount in paragraph (1)(a) is an amount equal to the member's annualised final pay; and

(b) the amount in paragraph (1)(b) is adjusted for inflation in accordance with paragraph (3).

(3) The amount of pensionable earnings payable in respect of the earnings year is adjusted for inflation by increasing it by the same amount as that by which the annual rate of a pension of an amount equal to the amount of pensionable earnings would have been increased under PIA 1971 by the day following the last day of pensionable service if—

(a) that pension was eligible to be so increased; and

(b) the beginning date for that pension was the first day of the next scheme year after the earnings year.

(4) For the purpose of this regulation—

(a) "annualised final pay" has the meaning given by regulation 159;

(b) in respect of a period of assumed pay under this scheme, "pensionable earnings" means the member's assumed pay; and

(c) if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes the member's pensionable earnings under the existing police pension scheme before the transition date for that member.

Meaning of "annualised final pay"

150.—(1) This regulation applies for the purpose of regulation 149(2)(a) (meaning of "final pay").

(2) If the member's period of service was less than 12 months, the member's annualised final pay is—

$$FP \times \frac{365}{N}$$

where—

FP is the amount of the member's pensionable earnings payable in respect of that period of service; and

N is the number of days in that period.

(3) But if the period of service includes 29th February, paragraph (1) has effect with "366" substituted in place of "365".

(4) For the purpose of this regulation—

(a) in respect of a period of assumed pay under this scheme, "pensionable earnings" means the member's assumed pay; and

(b) if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes the member's pensionable earnings under the existing police pension scheme before the transition date for that member.

Amount of lump sum death grant payable on death of active member

151.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme ("period of service").

(2) If the member is a transition member with continuity of service, the period of service includes the member's period of pensionable service under the existing police pension scheme before the transition date for that member.

(3) The amount of the lump sum death grant payable in respect of a person (P) who dies as an active member is—

(a) if P's period of service was at least 12 months—

$$P\text{'s final pay} \times 3$$

(b) if P's period of service was less than 12 months—

$$P\text{'s annualised final pay} \times 3$$

Amount of lump sum death grant payable on death of pension credit member

152.—(1) This regulation applies if a pension credit member of this scheme dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death grant is equal to—

$$\text{annual rate of pension} \times 3$$

where—

"annual rate of pension" means the annual rate of pension credit member's pension to which the member would have been entitled if the member had reached the member's state pension age on the date of the member's death.

Amount payable under court order to former spouse or civil partner

153.—(1) This regulation applies if on or after the death of a member of this scheme the scheme manager is required under a court order to pay any part of a lump sum death grant to the member's former spouse or civil partner.

(2) The amount of the lump sum death grant is first determined as if no such order had been made, and then this Part applies as if the amount of the lump sum death grant were reduced by the amount payable under the court order.

CHAPTER 8

Death gratuities

Application of Chapter

154.—(1) This Chapter applies in relation to a member's continuous period of pensionable service under this scheme ("the period of service").

(2) If a member has more than one period of service, this Chapter applies in relation to each period of service.

Death gratuities - dependants

155.—(1) This regulation applies in relation to a member of this scheme—

(a) who dies as a deferred member or pensioner member of this scheme if the death results from an injury received in the execution of duty; or

(b) who dies as a pensioner member of this scheme if the member dies within 2 years after becoming a pensioner member.

(2) The scheme manager may in its discretion grant a gratuity to any person who at the date of the member's death was in the opinion of the scheme manager—

(a) wholly or partly financially dependent on the member; or

(b) wholly or partly dependent on the member because of physical or mental impairment.

(3) The total amount of any gratuities granted under this regulation must not exceed the sum of all member contributions and payments for added pension made by the member under this scheme.

Death gratuity - estate

156.—(1) This regulation applies in relation to a member of this scheme—

(a) who dies as a deferred member or pensioner member of this scheme if the death results from an injury received in the execution of duty; or

(b) who dies as a pensioner member of this scheme if the member dies within 2 years after becoming a pensioner member.

(2) If the sum of the amounts in paragraph (3) is less than the sum of all member contributions and payments for added pension made by the member under this scheme, the scheme manager must pay to the member's executors a gratuity equal to the difference.

(3) The amounts are—

(a) any amount of pension or lump sum paid to the member in relation to the period of service, together with any increase under PIA 1971;

(b) the capitalised value (determined by the scheme manager in accordance with actuarial tables) of any surviving adult's pension or eligible child's pension granted in respect of the member's death;

(c) if the member is also a pension credit member, the actuarial value of any pension credit; and

(d) any gratuity granted under regulation 155 (death gratuities - dependants) in respect of the member's death.

(4) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a claim for payment of a gratuity under this regulation is taken to be made on the date of the member's death.

CHAPTER 9

Prevention of duplication of benefits

Payment of one benefit only in respect of deceased member

157.—(1) This regulation applies for the purpose of determining benefits payable to a surviving adult or eligible child (P) in respect of a member's continuous period of pensionable service under this scheme.

(2) P is not entitled to be paid in respect of the member's period of service both—

(a) a surviving adult's pension or an eligible child's pension; and

(b) an award under the Injury Benefits Regulations.

(3) P may choose which of the benefits in paragraph (2) P wishes to be paid.

(4) If P chooses which benefit P wishes to be paid, the scheme manger must pay P that benefit.

(5) If P does not choose which benefit P wishes to be paid, the scheme manager must pay P—

(a) the benefit which is for the time being greater; or

(b) if the amount of both benefits is the same, that amount.

PART 10

Contributions

Amount of pensionable earnings

158.—(1) For the purpose of determining the rate of member contributions under this Part, the amount of a member's pensionable earnings for any period is determined in accordance with this regulation.

(2) The amount of pensionable earnings for any pay period for a person in full-time service as a member of the police force means the rate of pay to which the member is entitled as such a member in that pay period, account being taken of any retrospective increase in that rate.

(3) The amount of pensionable earnings for any pay period for a member in part-time service is the amount of pensionable earnings that would be payable to that member in that pay period if the member were in full-time service.

(4) Unless paragraph (5), (6) or (7) applies, the amount of the member's pensionable earnings during any period of assumed pay is equal to the member's assumed pay.

(5) For any period of assumed pay under regulation 25(2)(a) (assumed pay - reduced pay), the amount of the member's pensionable earnings is equal to the member's reduced pay while on sick leave, paid adoption leave, paid maternity leave, paid parental leave, paid maternity support leave or paid adoption support leave.

(6) For any period of assumed pay under regulation 25(2)(b) (assumed pay - statutory pay), the amount of the member's pensionable earnings is the amount of statutory pay actually paid to or for the member in respect of the period of adoption leave, maternity leave, parental leave, maternity support leave or adoption support leave.

(7) For any period of assumed pay under regulation 25(2)(d) (assumed pay - permanent service), if the service pay is less than the rate of pay (account being taken of any retrospective increase in that rate) to which the member was entitled at the beginning of the period of permanent service, the amount of the member's pensionable earnings is equivalent to that rate of pay.

Annualised rate of pensionable earnings

159.—(1) For the purpose of this Part, a member's annualised rate of pensionable earnings is calculated in accordance with this regulation.

(2) Where a member's pensionable earnings for a scheme year are payable to the member in 12 instalments, the member's annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$12P$$

where P is the amount of a payment of the member's pensionable earnings.

(3) Where a member's pensionable earnings for a scheme year are payable to the member otherwise than in 12 instalments, the member's annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$P \times \frac{365}{N}$$

where—

P is the amount of a payment of the member's pensionable earnings; and

N is the number of days in the relevant pay period.

(4) For the purpose of paragraph (3), the relevant pay period is—

(a) for the first payment of pensionable earnings, the period beginning on the member's first day of pensionable service and ending on the day before the day that this payment of pensionable earnings is made; or

(b) otherwise, the period beginning on the day the previous payment of pensionable earnings was made and ending on the day before the day that this payment of pensionable earnings is made.

(5) If the scheme year in which the payment of pensionable earnings is made includes 29th February, paragraph (3) has effect with "366" substituted in place of "365".

Rate of member contributions

160.—(1) For scheme years falling between 1stApril 2015 and 31st March 2019, an active member of this scheme must pay contributions to this scheme ("member contributions") on the member's pensionable earnings for each pay period at a rate determined under this regulation ("member contributions rate").

(2) The member contributions rate is 13.46% if the scheme manager determines under Chapter 4 of Part 4 that the member is eligible under this scheme for payment of ill-health benefits(**62**).

(3) The member contributions rate is 10.96% if the scheme manager determines under regulation 27 (determination of eligibility for payment of ill-health benefits) that the member is ineligible under this scheme for payment of ill-health benefits ("reduced member contributions rate").

(4) A reduced member contributions rate ceases to apply to a member from the date the scheme manager determines under regulation 28 (re-determination of eligibility for ill-health benefits) that the member is eligible under this scheme for payment of ill-health benefits.

Payment of member contributions

161.—(1) Member contributions for each pay period are to be deducted by the member's employer from the member's pensionable earnings for that pay period.

(2) A member's employer may make contributions on the member's behalf in circumstances determined by the scheme manager.

Option to pay member contributions for period of unpaid leave

162.—(1) This regulation applies in respect of an active member of this scheme who returns from a period of—

(a) unpaid adoption leave;

(b) unpaid maternity leave;

(c) unpaid parental leave;

(d) unpaid maternity support leave;

(e) unpaid adoption support leave; or

(f) unpaid sick leave.

(2) For the purpose of paragraph (1), unpaid leave does not include any leave in respect of which statutory pay is payable under the Social Security Contributions and Benefits Act 1992.

(3) The member may by written notice to the scheme manager opt to pay the amount of contributions that would have been payable for the period of unpaid leave.

(4) A member may exercise this option in relation to one or more periods of unpaid sick leave if—

(a) each period of unpaid sick leave does not exceed 6 months; and

(b) the total period of unpaid sick leave does not exceed 12 months.

(5) The option must be exercised by the earlier of—

(a) the end of the 3 month period beginning with the day on which the member returns to work; and

(b) the member's last day of pensionable service under this scheme.

(6) On receipt of a notice under paragraph (3), the scheme manager must calculate the amount of contributions payable and give the member a notice stating that amount.

(7) For the purpose of calculating the amount of contributions payable, the annual rate of the member's pensionable earnings is taken to be the rate that applied at the beginning of the period of unpaid leave.

(**62**) See Chapter 2 of Part 4 (determination of eligibility for ill-health benefits under this scheme).

Payment of member contributions for unpaid leave

163.—(1) Within 6 months after receiving a notice under regulation 162(6) ("payment period"), the member must pay to the scheme manager the full amount stated in that notice.

(2) If the member leaves eligible service before the full amount is paid, the member must pay the balance within 2 months of leaving eligible service, as long as this falls within the payment period.

(3) The amount may be paid by—

(a) a lump sum payment made by the member; or

(b) instalments deducted by the member's employer from the member's pay.

(4) If the full amount is not paid by the end of the payment period, the scheme manager taking into account the unpaid amount must determine the period of unpaid leave in respect of which the member is taken to receive pensionable earnings.

(5) The member is taken to have paid the full amount if—

(a) the member dies within the payment period; or

(b) the member dies—

(i) before the end of the 3 month period beginning with the day on which the member returns to work; and

(ii) before giving notice under regulation 162(3).

Employer contributions

164.—(1) Each employer of an active member of this scheme must pay contributions to this scheme in respect of the member at the rate of 23.1% of the member's annualised rate of pensionable earnings ("employer contributions").

(2) Employer contributions must be paid at the intervals the scheme manager in accordance with actuarial guidance may for the time being determine.

(3) In addition, the employer must pay the following charges to this scheme at the rate and at the intervals the scheme manager may for the time being determine—

(a) annual administration charges;

(b) any other administrative charges.

Deduction of payments for added pension under Schedule 3

165. Schedule 3 has effect for the purpose of enabling deductions of payments for added pension.

Refund of all member contributions and payments for added pension made by the member

166.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme ("the period of service").

(2) If paragraph (3) applies, the scheme manager must refund all member contributions and payments for added pension made by the member in relation to the period of service.

(3) This paragraph applies if—

(a) the member opted out under regulation 22 (opting out before the end of the initial period of eligible service); or

(b) the member's pensionable service ceases and—

(i) the member has less than 2 years' qualifying service; and

(ii) if a transfer payment has been received by this scheme in relation to the member, it was from another occupational pension scheme.

(4) Member contributions and payments for added pension made by the member are not refundable if—

(a) a transfer payment has been made in respect of the member's accrued rights to benefits under this scheme; or

(b) a retirement pension has become payable to the member in respect of the period of service.

(5) If paragraph (3)(b) applies, the member is entitled to be paid an amount equal to the sum of all member contributions and payments for added pension made by the member, less an amount equal to the income tax payable under section 205 (short service refund lump sum charge) of FA 2004(**63**) as a result of a refund of those contributions and payments.

(6) If all member contributions and payments for added pension made by the member are refunded under this regulation, the member's rights under this scheme in relation to the period of service are extinguished.

(7) For the purpose of an appeal to the sheriff under regulation 197 or an appeal to a tribunal under regulation 198, a person is taken to claim payment of a refund of contributions and payments under this regulation if the conditions in paragraph (3) are met.

Member repays refund of contributions on rejoining this scheme

167.—(1) This regulation applies to a member who—

(a) was in pensionable service under this scheme ("earlier period of service");

(b) received a refund under regulation 166 (refund of all member contributions and payments for added pension made by the member) in relation to that earlier period of service; and

(c) after a gap in service not exceeding 5 years, re-joins this scheme.

(2) If within 6 months after re-joining this scheme (or any longer time the scheme manager determines) the member repays to the scheme manager the amount of the refund received under regulation 166, the active member's account must be adjusted to specify the amount of accrued earned pension as at the last day of pensionable service for the earlier period of service.

PART 11

Transfers

CHAPTER 1

Preliminary

Application of Part

168. This Part—

(a) supplements the rights conferred by or under Chapter 4 of Part 4 of PSA 1993 (transfer values) and is without prejudice to that Chapter; and

(b) supplements the rights conferred by or under Chapter 5 of that Part (early leavers: cash transfer sums and contribution refunds)(**64**) and is without prejudice to that Chapter.

(**63**) Section 205 was amended by the Finance Act 2013 (c.29), Schedule 46, paragraphs 119 and 121 and S.I. 2010/536.
(**64**) Chapter 5 of Part 4 of PSA 1993 was inserted by section 264 of the Pensions Act 2004 (c.35).

Interpretation of Part

169. In this Part—

"cash equivalent", in relation to benefits under this scheme other than accrued earned pension, means an amount calculated in accordance with regulations made under section 97 of PSA 1993;

"club scheme" means a registered occupational pension scheme (other than a connected scheme) that has agreed to make and receive club transfer value payments under the club transfer arrangements;

"club transfer arrangements" means arrangements approved by the Scottish Ministers as providing reciprocal arrangements between this scheme and other registered occupational pension schemes for making and receiving club transfer value payments;

"club transfer value", in relation to accrued earned pension under this scheme or under another club scheme, means an amount calculated by the scheme manager—

(a) in accordance with the club transfer arrangements; and

(b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

"club transfer value payment" means payment of a club transfer value;

"guarantee date" has the meaning given in regulation 172 (statement of entitlement);

"guaranteed cash equivalent", in relation to benefits under this scheme other than accrued earned pension, means the cash equivalent of those benefits at the guarantee date, as specified in a statement of entitlement;

"sending scheme" means a club scheme which pays a club transfer value;

"statement of entitlement", in relation to the accrued rights to benefits under this scheme of a deferred member, means a statement by the scheme manager at the guarantee date setting out—

(a) the cash equivalent of benefits under this scheme other than accrued earned pension; and

(b) the club transfer value of accrued earned pension under this scheme;

"transfer payment" means a transfer value payment or a club transfer value payment;

"transfer value" means—

(a) for accrued rights to benefits under this scheme (other than rights to accrued earned pension), an amount equal to—

  (i) the guaranteed cash equivalent of those benefits; or

  (ii) the guaranteed cash equivalent together with any increase payable under regulation 174 (calculating the amount of a transfer value or club transfer value); and

(b) for accrued rights to benefits under another pension scheme (other than rights to accrued club transfer earned pension), an amount—

  (i) determined by the scheme actuary of that scheme; and

  (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme; and

"transfer value payment" means a payment of a transfer value.

CHAPTER 2

Transfers out

Transfer payments made to other schemes or pension arrangements

170.—(1) Subject to regulation 175 (request for transfer out after member repays to scheme manager a refund received under regulation 174), a transfer payment may only be made in respect of the accrued rights to benefits of a deferred member of this scheme.

(2) A transfer payment may only be made to—

(a) a registered pension scheme that is not a connected scheme; or

(b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004 (see section 169(2)(**65**) of that Act).

(3) A transfer payment may not be made in respect of rights that are attributable (directly or indirectly) to a pension credit.

(4) A member may only require the scheme manager to use a transfer payment in a way specified in section 95(2)(**66**) of PSA 1993.

(5) A member may only require the scheme manager to make a club transfer value payment in the period of 12 months beginning with the day on which the member becomes eligible to be an active member of the club scheme to which the payment is to be made.

(6) If section 96(2)(**67**) of PSA 1993 applies, benefits attributable to the following may be excluded from the transfer payment—

(a) the member's accrued rights to a guaranteed minimum pension; or

(b) the member's accrued rights attributable to service in contracted-out employment on or after 6th April 1997.

(7) In this regulation, "contracted-out employment" has the meaning given in section 8(1) of PSA 1993.

Application for a statement of entitlement

171.—(1) This regulation applies in relation to a deferred member of this scheme (P) who requires a transfer payment to be made in respect of P's accrued rights to benefits under this scheme.

(2) Before requesting the transfer payment, P must apply for a statement of entitlement by written notice to the scheme manager.

(3) P may withdraw the application by written notice to the scheme manager at any time before the statement is provided.

(4) P may make a second application by written notice to the scheme manager in the period of 12 months beginning with the date of the first application.

Statement of entitlement

172.—(1) The scheme manager must specify in the statement of entitlement the date by reference to which the cash equivalent or club transfer value is calculated ("guarantee date").

(2) Unless paragraph (4) applies, the guarantee date must fall within both the following periods—

(**65**) Section 169(2) was amended by the Finance Act 2013 (c.29), section 53(2) and (3).
(**66**) Section 95(2) was amended by S.I. 2001/3649.
(**67**) Section 96(2) was amended by PA 1995, paragraph 63 of Schedule 5; WRPA 1999, paragraph 3 of Schedule 2 and Part 1 of Schedule 13; the Pensions Act 2007 (c.22), paragraphs 1 and 29 of Schedule 4 and Part 6 of Schedule 7; and S.I. 2011/1730.

(a) the 3 months beginning with the date of the member's application for the statement of entitlement ("the 3 month period"); and

(b) the 10 days ending with the date on which the member is provided with that statement ("the 10 day period").

(3) In counting the 10 day period, Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the 6 months beginning with the date of the member's application for the statement of entitlement if, for reasons beyond the control of the scheme manager, the information needed to calculate the amount of the cash equivalent or club transfer value cannot be obtained before the end of the 3 month period.

Request for transfer payment to be made

173.—(1) A deferred member of this scheme who is provided with a statement of entitlement may request a transfer payment to be made in respect of the member's accrued rights to benefits under this scheme.

(2) The request for the transfer payment must—

(a) be made by written notice to the scheme manager;

(b) specify the pension scheme or other pension arrangement to which the transfer payment is to be made; and

(c) meet any other conditions the scheme manager requires.

(3) The member by written notice to the scheme manager may withdraw the request at any time before the transfer payment is made.

(4) The member may not withdraw the request if an agreement for the use of the whole or part of the transfer payment has already been entered into with a third party.

Calculating the amount of a transfer value or club transfer value

174.—(1) If a transfer value is paid later than 6 months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 97 of PSA 1993.

(2) If a club transfer value is paid later than 6 months after the guarantee date, the amount of the club transfer value as specified in the statement of entitlement must be increased if necessary so that it is equal to the amount it would have been if the guarantee date had been the date on which the payment is made.

(3) If the transfer value or club transfer value is less than the minimum transfer value, the amount of the transfer value or club transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(4) In this regulation, "minimum transfer value" means the total of—

(a) the sum of all member contributions and payments for added pension made by the member; and

(b) the sum of all transfer payments received by this scheme in relation to the member.

Request for transfer out after member repays to scheme manager a refund received under regulation 166

175.—(1) This regulation applies to a member who—

(a) receives a refund under regulation 166 (refund of all member contributions and payments for added pension made by the member); and

(b) enters new pension arrangements with a new employer.

(2) The member may request a transfer payment to be made under this Chapter to the new pension arrangements in respect of the member's accrued rights to benefits under this scheme if the member repays to the scheme manager the amount refunded under regulation 166 and any interest payable under paragraph (3)—

(a) within 12 months of entering a new club scheme (or any longer period the scheme manager determines); or

(b) within 6 months of entering any other pension arrangements (or any longer period the scheme manager determines).

(3) Interest is payable on the amount refunded under regulation 166 if the member repays that amount more than a year after the member receives the refund.

(4) For the purpose of paragraph (3), interest is calculated at the rate of 5% each year, compounded with yearly rests.

Effect of transfers out

176. If a transfer payment is made under this Chapter in respect of a member's accrued rights to benefits under this scheme, those rights are extinguished.

CHAPTER 3

Transfers in

Application of Chapter

177. This Chapter applies in relation to an active member of this scheme (P) who has accrued rights under another pension scheme.

Interpretation of Chapter

178. In this Chapter—

"club transfer statement" means a statement under regulation 182 of the amount of club transfer earned pension;

"transfer date" means the earlier of—

(a) if the scheme manager has provided a transfer statement or a club transfer statement, the last day of the period of 2 months beginning with the date of the statement; and

(b) the day on which the transfer payment is received by the scheme manager;

"transfer payment request" means a request to the scheme manager under this Chapter that a transfer payment be accepted from another pension scheme;

"transfer statement" means a statement under regulation 180(2).

Request for acceptance of a transfer payment

179.—(1) P may by written notice to the scheme manager request that a transfer payment be accepted in respect of some or all of P's accrued rights to benefits under another pension scheme.

(2) A transfer payment request—

(a) must specify—

(i) the pension scheme from which the transfer payment is to be made; and

(ii) the anticipated amount of the transfer payment;

(b) must meet any other conditions the scheme manager requires; and

(c) subject to paragraph (3), must be made during the period of 12 months beginning with P's first day of eligible service.

(3) The scheme manager may treat a transfer payment request as having been made earlier than it was if the scheme manager considers it reasonable to do so in the circumstances.

(4) Subject to paragraph (5), on receiving a transfer payment request, the scheme manager may accept the transfer payment if the conditions (if any) that the scheme manager required are met.

(5) The scheme manager may not accept a transfer payment if—

(a) it would be applied in whole or in part in respect of—

(i) the member's entitlement to a guaranteed minimum pension; or

(ii) the entitlement of the member's spouse or civil partner to a guaranteed minimum pension; and

(b) it is less than the amount required for that purpose, as calculated by the scheme manager in accordance with actuarial guidance and actuarial tables prepared for the purposes of this paragraph.

Transfer statement

180.—(1) This regulation applies in relation to a request for a transfer value payment to be accepted from another pension scheme.

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager to provide a statement of the amount of transferred pension that P will be entitled to count under regulation 181 (amount of transferred pension) if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount specified in the transfer statement must be an amount calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to—

(a) factors relating to P's circumstances as at the end of that 2-month period; and

(b) any other factors as at the date of the statement that the scheme actuary considers should apply.

Amount of transferred pension

181.—(1) This regulation applies in relation to any transfer value payment received in relation to P from another pension scheme.

(2) For the scheme year in which the transfer date falls, the amount of transferred pension P is entitled to count in respect of the transfer payment is—

(a) the amount specified in the transfer statement; or

(b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

(3) The amount of transferred pension P is entitled to count in a scheme year must not be more than 50% of P's annual rate of pensionable earnings at the day P becomes an active member of this scheme.

Club transfer statement

182.—(1) This regulation applies in relation to a request by P for a club transfer value payment to be accepted from another club scheme.

(2) The scheme manager may require that, before making the transfer payment request, P must ask the scheme manager to provide a statement of the amount of club transfer earned pension that P will be entitled to count under regulation 183 if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount of club transfer earned pension specified in the statement must be calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to—

(a) factors relating to P's circumstances as at the end of that 2-month period; and

(b) any other factors as at the date of the statement that the scheme actuary considers should apply.

(4) The statement must specify the basis on which an amount of accrued earned pension is revalued under the sending scheme while a member is in pensionable service under that scheme.

Amount of club transfer earned pension

183.—(1) This regulation applies in relation to a club transfer value payment received from another club scheme in relation to P.

(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension P is entitled to count in respect of a club transfer value payment is—

(a) the amount specified in the club transfer statement; or

(b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

CHAPTER 4

England and Wales and NI transfers

Interpretation

184. In this Chapter, "another police pension scheme" means a police pension scheme other than this scheme.

Transfers out

185.—(1) This regulation applies if a person—

(a) ceases to be an active member of this scheme; and

(b) begins pensionable service under another police pension scheme.

(2) This regulation does not apply if—

(a) the person begins pensionable service under another police pension scheme after a gap in pensionable service exceeding 5 years;

(b) all member contributions and payments for added pension made by the member under this scheme have been refunded under regulation 166; or

(c) a retirement pension has become payable under this scheme.

(3) On the first day of pensionable service in another police pension scheme, the member's accrued rights to benefits under this scheme become the member's accrued rights to benefits under the other police pension scheme.

Transfers in

186.—(1) This regulation applies if a person—

(a) ceases to be an active member of another police pension scheme; and

(b) begins pensionable service under this scheme.

(2) This regulation does not apply if—

(a) the person begins pensionable service under this scheme after a gap in pensionable service exceeding 5 years;

(b) a repayment of contributions has been made to the person under the other police pension scheme; or

(c) a retirement pension has become payable to the person under the other police pension scheme.

(3) On the first day of pensionable service in this scheme, the member's accrued rights to benefits under the other police pension scheme become the member's accrued rights to benefits under this scheme.

PART 12

Actuarial valuations and employer cost cap

Appointment of scheme actuary and actuarial valuations

187.—(1) The Scottish Ministers must appoint an individual (the "scheme actuary") to provide a consulting service on actuarial matters in relation to this scheme and any connected scheme.

(2) The scheme actuary is responsible for—

(a) carrying out valuations of this scheme and any connected scheme; and

(b) preparing reports on the valuations.

(3) Before appointing an individual as scheme actuary the Scottish Ministers must be satisfied that the individual is appropriately qualified to carry out valuations of this scheme and any connected scheme in accordance with directions under Section 11 of the Act ("the Treasury directions").

(4) The scheme manager is responsible for providing the scheme actuary with any data that the scheme actuary requires in order to carry out a valuation and prepare a report on the valuation.

(5) A valuation of this scheme and any connected scheme and the preparation of a report on the valuation must be carried out in accordance with the Treasury directions.

(6) Valuations of this scheme must be carried out within a time-frame which enables requirements in the Treasury directions regarding dates applicable to the valuation to be met.

Employer cost cap

188.—(1) The employer cost cap for this scheme is 12.3% of pensionable earnings of members of this scheme.

(2) In the circumstances specified in paragraph (4), the Scottish Ministers must consult such persons (or those appearing to the Scottish Ministers to represent such persons) as appear to the Scottish Ministers likely to be affected by any steps that will be taken, with a view to reaching agreement on the steps required to achieve the target cost for this scheme.

(3) If, following such consultation, agreement is not reached the fraction of the member's pensionable earnings specified in regulation 49 (amount of pension for a scheme year) as the amount

of standard earned pension for a scheme year must be adjusted for pensionable earnings after the date of the adjustment, so that the target cost for this scheme is achieved.

(4) The circumstances are that the cost of this scheme goes beyond the margin either side of the employer cost cap for this scheme specified in regulations under section 12(5)(a) of the Act.

(5) In this regulation—

"cost of this scheme" means the cost of this scheme calculated following a valuation in accordance with regulation 187; and

"target cost for this scheme" means the target cost for this scheme specified in regulations under section 12(5)(b) of the Act.

PART 13

Supplementary

CHAPTER 1

Dual capacity members

Meaning of "dual capacity member"

189.—(1) A person (P) is a dual capacity member of this scheme if—

(a) P is a member of this scheme in 2 or more of the following capacities—

(i) an active member;

(ii) a deferred member;

(iii) a pensioner member;

(b) P is both a pension credit member of this scheme and a member of this scheme in one or more of the following capacities—

(i) an active member;

(ii) a deferred member;

(iii) a pensioner member;

(c) P is a member of this scheme in relation to 2 or more continuous periods of pensionable service; or

(d) P is a pension credit member of this scheme entitled to 2 or more pension credits.

(2) For the purpose of paragraph (1)(a) and (b)—

(a) in determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person's rights in that capacity are to be disregarded; and

(b) in determining whether a person who is an active member or pensioner member is also a deferred member, the fact that the person is an active member or pensioner member and the person's rights in that capacity are to be disregarded.

Payment of benefits to or in respect of a dual capacity member

190.—(1) If a person is a dual capacity member of this scheme—

(a) the benefits that are payable to or in respect of the member in each of the member's capacities are treated separately for the purposes of these Regulations; and

(b) the amounts payable to or in respect of the member in each of the member's capacities are determined accordingly.

(2) In relation to payment of death benefits, paragraph (1) does not prevent the calculation under regulation 151 (amount of lump sum death grant payable on the death of an active member) of a lump sum death grant payable on the death of an active member of this scheme being made by reference to amounts that are relevant to the member in another capacity.

CHAPTER 2

Payment of benefits: general

Reduction in pension debit member's benefits

191.—(1) The benefits to which a pension debit member is entitled under Part 7 are subject to the reduction to be made under section 31 of WRPA 1999.

(2) Member contributions and payments for added pension refunded under Part 10 to a pension debit member are subject to the reduction to be made under section 31 of WRPA 1999.

Late payment of retirement index adjustment or retirement PIA index adjustment

192. Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment or retirement PIA index adjustment to be paid before the end of the last active scheme year.

Commutation of small pensions

193.—(1) This regulation applies if—

(a) the pension entitlement of a single capacity member or the pension entitlement of a single capacity member's beneficiary does not exceed the small pensions commutation maximum; or

(b) the total pension entitlement of a dual capacity member or the total pension entitlement of a dual capacity member's beneficiary does not exceed the small pensions commutation maximum.

(2) Unless the member has reached the member's state pension age, this regulation does not apply if—

(a) the pension entitlement of the member or the member's beneficiary under paragraph (1)(a) is equal to or exceeds the member's guaranteed minimum; or

(b) the total pension entitlement of the member or the member's beneficiary under paragraph (1)(b) is equal to or exceeds the member's guaranteed minimum.

(3) The scheme manager may pay the member or the member's beneficiary a lump sum of an amount advised by the scheme actuary as representing the cash value of the pension if—

(a) the member or the member's beneficiary consents to receipt of a lump sum in place of the pension; and

(b) the requirements of the commutation provisions that apply in the circumstances are met.

(4) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.

(5) In this regulation—

"beneficiary", in relation to a deceased member, means the surviving adult or eligible child of the member;

"the commutation provisions" means the provisions permitting the commutation of pensions set out in—

(a) regulation 19, 20 or 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**68**);

(b) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(**69**);

(c) paragraph 7 of Schedule 29 (authorised lump sums – supplementary) to FA 2004 (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)(**70**) and, in relation to a pension payable under Part 9 (death benefits), paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)(**71**); and

(d) regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations 2000(**72**);

"single capacity member" means a member of this scheme who is not a dual capacity member; and

"the small pensions commutation maximum" means the amount that is permitted to be commuted having regard to the commutation provisions that apply in the circumstances.

CHAPTER 3

Guaranteed minimum pensions

Interpretation and application

194.—(1) This Chapter does not apply to—

(a) a pension that is forfeited—

(i) as a result of a conviction for treason; or

(ii) under regulation 201 (forfeiture: offences committed by members), in a case where the relevant offence within the meaning of that regulation is an offence under the Official Secrets Acts 1911 to 1989(**73**);

(b) a pension that is commuted under regulation 122 (option for pension credit member to commute whole pension: serious ill-health); or

(c) a pension that is commuted under regulation 193 (commutation of small pensions) where the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**74**) (payment of a guaranteed minimum pension as a lump sum) are met.

(2) But if any other provision of this scheme is inconsistent with this Chapter, this Chapter prevails.

(3) In this Chapter—

(a) "GMP age"—

(i) for a man, means 65; and

(ii) for a woman, means 60; and

(**68**) S.I. 1996/1172.
(**69**) S.I. 1997/785. Regulation 2 was amended by S.I. 2002/681, S.I. 2005/706, S.I. 2006/744, S.I. 2006/778 and S.I. 2009/2930.
(**70**) Paragraph 7 was amended by the Finance Act 2011 (c.11), Schedule 16, paragraphs 23 and 29 and Schedule 18, paragraphs 1, 3 and 4 and S.I. 2006/572.
(**71**) Paragraph 20 was amended by the Finance Act 2011 (c.11), Schedule 16, paragraphs 32 and 39 and Schedule 18, paragraphs 1, 3 and 6.
(**72**) S.I. 2000/1054. Regulation 3 was amended by S.I. 2009/2930.
(**73**) 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".
(**74**) S.I. 1996/1172. Regulation 162 was substituted by S.I. 2006/744 and amended by S.I. 2006/1337, S.I. 2009/2930 and S.I. 2010/499.

(b) references to the amount of a pension are to its amount after the subtraction of the commutation amount (if any).

Guaranteed minimum under section 14 of PSA 1993

195.—(1) This regulation applies in relation to a member of this scheme (P) who has a guaranteed minimum under section 14 of PSA 1993(**75**) (earner's guaranteed minimum) in relation to benefits under this scheme.

(2) Nothing in these Regulations permits or requires anything that would cause requirements under that Act in relation to such a member and such a member's rights under a scheme not to be met in relation to P.

(3) Nothing in these Regulations prevents anything from being done which is necessary or expedient for the purpose of meeting such requirements in relation to P.

(4) The following provisions are without prejudice to the generality of paragraphs (2) and (3).

(5) Paragraph (6) applies if, apart from this regulation—

(a) a pension would not be payable to P under this scheme; or

(b) the weekly rate of the pensions payable would be less than the guaranteed minimum.

(6) A pension at a weekly rate equal to the guaranteed minimum is payable to P for life from—

(a) the date on which P reaches GMP age; or

(b) the date on which pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(7) A pension is not payable under paragraph (6) until P leaves eligible service if, after reaching GMP age, P continues in eligible service.

(8) A pension is not payable under paragraph (6) until P leaves employment if—

(a) after reaching GMP age, P continues in employment that is not eligible service; and

(b) P consents to a postponement of P's entitlement under paragraph (6).

(9) If P continues in employment for 5 years after reaching GMP age and does not then leave employment, P is entitled from the end of that period to so much of P's pension under Parts 7 and 8 as equals P's guaranteed minimum (or, as the case may be, to so much of P's pensions under Parts 7 and 8 as together have a weekly rate equal to P's guaranteed minimum), unless P consents to a further postponement of P's entitlement under paragraph (6).

(10) In the circumstances provided for in paragraph (7), (8) or (9), the amount of the guaranteed minimum to which P is entitled under paragraph (6) is increased in accordance with section 15 of PSA 1993 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed).

(11) Paragraph (12) applies if P has a guaranteed minimum under section 14 of PSA 1993 in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

(12) If P becomes entitled to payment for life of a pension under Parts 7 and 8 before reaching GMP age, the weekly rate of the pension, so far as attributable to the transfer payment, must not be less than the guaranteed minimum, multiplied by such factor as is indicated in actuarial tables for a person of P's age and sex at the date on which the pension becomes payable.

(**75**) Section 14 was amended by the Pensions Act 1995 (c.26), Schedule 5, paragraph 27 and Schedule 7, Part 3; the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), Schedule 1, paragraph 38; and the Proceeds of Crime Act 2002 (c.29), Schedule 11, paragraphs 1 and 22.

Contracting–out rights

196.—(1) This regulation applies if—

(a) P has ceased to be in employment that is contracted-out employment by reference to this scheme; and

(b) paragraph (2) applies.

(2) This paragraph applies if either—

(a) a transfer payment in respect of all P's rights to benefits under this scheme, except P's rights in respect of P's guaranteed minimum or rights under section 9(2B) of PSA 1993(**76**)(requirements for certification of schemes: general) ("P's contracting-out rights") has been made; or

(b) P has no rights to benefits under this scheme apart from P's contracting-out rights.

(3) If this regulation applies—

(a) from the date on which P reaches GMP age, P is entitled to a pension payable for life at a weekly rate equal to P's guaranteed minimum (if any); and

(b) from the date on which P reaches normal pension age under this scheme, P is entitled to a lump sum and pension in respect of P's rights under section 9(2B) of PSA 1993.

(4) Despite paragraph (3), P is not to be regarded as a pensioner member of this scheme for the purpose of Part 9 (death benefits).

(5) In this regulation, "contracted-out employment" has the meaning given in section 8(1) of PSA 1993.

CHAPTER 4

Appeals in relation to payment of benefits

Appeals to sheriff

197.—(1) This regulation applies in relation to payment of benefits under this scheme to or in respect of a member of the police force.

(2) The member or person claiming payment of a benefit in respect of the member (P) may, subject to regulation 199 (limitation on appeals), appeal to the sheriff against any of the following decisions—

(a) a decision by the scheme manager to refuse to accept P's claim for payment of a benefit;

(b) a decision by the scheme manager to refuse to pay P a benefit the entitlement to which arises on the fulfilment of conditions which do not include a claim for payment;

(c) a decision by the scheme manager to refuse to accept P's claim for payment of a benefit larger than the benefit granted to P;

(d) a decision by the employer under regulation 65 (permanent medical unfitness) as to whether a refusal to accept medical treatment is reasonable;

(e) a decision by the employer under regulation 105 (cancellation of ill-health pension: failure to receive appropriate medical treatment) as to whether a refusal to accept medical treatment is reasonable;

(f) a decision by the employer under regulation 97 (reduction of pension in case of default) to reduce the amount of pension payable to the member.

(**76**) Subsection (2B) was inserted by the Pensions Act 1995 (c.26,) section 136(3) and amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999, Schedule 1, paragraph 35.

(3) The sheriff, after enquiring into the case, may make such order in the matter as appears to the sheriff to be just.

Appeals to tribunal

198.—(1) This regulation applies in relation to payment of benefits under this scheme to or in respect of an inspector of constabulary.

(2) The member or person claiming payment of a benefit in respect of the member (P) may, subject to regulation 199, lodge an appeal with the Scottish Ministers against any of the following decisions—

(a) a decision by the scheme manager to refuse to accept P's claim for payment of a benefit;

(b) a decision by the scheme manager to refuse to pay P a benefit the entitlement to which arises on the fulfilment of conditions which do not include a claim for payment;

(c) a decision by the scheme manager to refuse to accept P's claim for payment of a benefit larger than the benefit granted to P;

(d) a decision by the employer under regulation 65 (permanent medical unfitness) as to whether a refusal to accept medical treatment is reasonable;

(e) a decision by the employer under regulation 105 (cancellation of ill-health pension: failure to receive appropriate medical treatment) as to whether a refusal to accept medical treatment is reasonable;

(f) a decision by the employer under regulation 97 (reduction of pension in case of default) to reduce the amount of pension payable to the member.

(3) Regulation 115 (procedure on appeals to tribunal) sets out the procedure for appeals under this regulation.

Limitation on appeals

199.—(1) A person may not appeal under regulation 197 (appeals to sheriff) or 198 (appeals to tribunal) against anything done by the scheme manager, employer or pension supervising authority under a power conferred by these Regulations which is expressly stated to be a power in respect of which the scheme manager, employer or pension supervising authority may exercise a discretion.

(2) Unless the sheriff hearing an appeal under regulation 197 or a tribunal hearing an appeal under regulation 198 refers a medical decision(**77**) for reconsideration under Schedule 1, the sheriff or tribunal hearing the appeal is bound by a final decision of a medical authority(**78**) under Schedule 1.

CHAPTER 5

Forfeiture and set-off

Pension supervising authority

200.—(1) For the purpose of this Chapter, the pension supervising authority is the Scottish Police Authority.

(2) The pension supervising authority may require the scheme manager to withhold benefits payable to a member under this Chapter.

(**77**) See paragraph 1 of Schedule 1 for the meaning of "medical decision".
(**78**) See paragraph 1 of Schedule 1 for the meaning of "medical authority".

Forfeiture: offences committed by members

201.—(1) If a member is convicted of a relevant offence, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable under this scheme to or in respect of the member.

(2) Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of "relevant offence".

(3) The scheme manager may only withhold that part of a person's pension that exceeds any guaranteed minimum to which the person is entitled under—

(a) section 14 of PSA 1993 (earner's guaranteed minimum); or

(b) section 17(**79**) of that Act (minimum pension for surviving spouses and civil partners).

(4) In this regulation—

"forfeiture certificate" means a certificate given by the Scottish Ministers stating that they consider that the offence—

(a) has been gravely injurious to the interests of the State; or

(b) is liable to lead to serious loss of confidence in service by members of the police force; and

"relevant offence" means—

(a) one or more offences under the Official Secrets Acts 1911 to 1989(**80**) for which the member has been sentenced on the same occasion to—

(i) a term of imprisonment of at least 10 years; or

(ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years;

(b) an offence committed in connection with the member's service as a member of the police force and in respect of which the Scottish Ministers have issued a forfeiture certificate.

Forfeiture: offences committed by a member's beneficiary

202.—(1) If the beneficiary of a deceased member of this scheme is convicted of a relevant criminal offence, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable to the beneficiary in respect of the member.

(2) The scheme manager may withhold benefits but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 17 of PSA 1993.

(3) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 9 (death benefits) applies as if the beneficiary had died before the member.

(4) In this regulation—

"beneficiary", in relation to a deceased member of this scheme, means the surviving adult or eligible child of the member;

"relevant criminal offence" means—

(a) the murder of the member;

(b) the culpable homicide of the member; or

(c) any other offence of which the unlawful killing of the member is an element.

(**79**) Section 17 was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), Schedule 1, paragraph 39; the Child Support, Pensions and Social Security Act 2000 (c.19), Schedule 5, paragraph 1 and Schedule 9, Part 3; the Pensions Act 2004 (c.35), section 284(2); the Pensions Act 2007 (c.22), section 14(2); the Marriage (Same Sex Couples) Act 2013 (c.30), Schedule 4, paragraphs 18 and 20; and S.I. 2005/2050 and S.I. 2014/560.

(**80**) 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".

Forfeiture: relevant monetary obligations and relevant monetary losses

203.—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable to P under this scheme.

(2) The scheme manager may withhold benefits but may only withhold that part of P's pension that exceeds any guaranteed minimum to which P is entitled under section 14 of PSA 1993.

(3) The scheme manager may not withhold more than the lesser of—

(a) the amount of the relevant monetary obligation or relevant monetary loss; and

(b) the value of P's entitlement to benefits.

(4) The scheme manager may only withhold benefits if—

(a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or

(b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—

(i) under an order of a competent court;

(ii) in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

(5) In this regulation—

"relevant monetary obligation" means a monetary obligation which—

(a) was incurred to the Crown or P's employer (if different);

(b) was incurred after P became an active member of this scheme;

(c) arose out of P's criminal, negligent or fraudulent act or omission; and

(d) arose out of or was connected with P's service as a member of the police force; and

"relevant monetary loss" means a monetary loss which—

(a) was caused to this scheme; and

(b) arose as a result of P's criminal, negligent or fraudulent act or omission.

Set-off

204.—(1) The pension supervising authority may require the scheme manager to set off a relevant monetary obligation against a member's entitlement to benefits under this scheme.

(2) In this regulation, a "relevant monetary obligation" is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

(3) The conditions are that the monetary obligation—

(a) was incurred to the Crown or P's employer (if different);

(b) was incurred after P became an active member of this scheme; and

(c) arose out of or was connected with P's service as a member of the police force.

(4) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of P's criminal, negligent or fraudulent act or omission.

(5) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of a payment made to P in error by the scheme manager.

(6) Paragraph (7) applies if a set-off is to be applied as a result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

(7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P's entitlement to benefits that represents transfer credits within the meaning of section 124(1) of PA 1995(**81**) (interpretation of Part 1) (other than prescribed transfer credits for the purposes of section 91(5)(d) of PA 1995(**82**) (exceptions from the inalienability of occupational pensions)).

(8) The scheme manager may only apply a set-off against that part of a member's pension that exceeds any guaranteed minimum to which the member is entitled under section 14 of PSA 1993.

(9) The value of the set-off applied must not exceed the lesser of—

(a) the amount of the relevant monetary obligation; and

(b) the value of P's entitlement to benefits.

(10) The scheme manager may only set off a relevant monetary obligation against P's entitlement to benefits if—

(a) there is no dispute as to the amount of the relevant monetary obligation; or

(b) the relevant monetary obligation is enforceable—

(i) under an order of a competent court;

(ii) in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

Forfeiture and set-off: procedure

205.—(1) If the pension supervising authority proposes to require the scheme manager to withhold benefits or apply a set-off against a person's entitlement to benefits, the pension supervising authority must notify the person of the proposal in writing.

(2) If the scheme manager withholds benefits under regulation 203 (forfeiture: relevant monetary obligations and relevant monetary losses) or applies a set-off against an entitlement to benefits under regulation 204 (set-off), the scheme manager must give the member a certificate showing—

(a) the amount withheld or set off; and

(b) the effect of the withholding or set-off on the member's benefits under this scheme.

Forfeiture: appeals to sheriff

206.—(1) If the pension supervising authority proposes to require the scheme manager to withhold any benefits payable in respect of a person's service as a member of the police force ("the member"), the member or a person claiming payment of a benefit in respect of the member may, subject to regulation 199 (limitations on appeals), appeal against the proposal to the sheriff.

(2) On an appeal made under paragraph (1), the sheriff may by order—

(a) confirm or reject the proposal; or

(b) amend the proposal so as to reduce the extent to which the benefits are withheld.

(3) The scheme manager must comply with any order made by the sheriff.

(**81**) Section 124(1) was amended by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 12, paragraphs 43 and 61, the Child Support, Pensions and Social Security Act 2000 (c.19), Schedule 5, paragraph 8; the Pensions Act 2004, section 7(2), Schedule 12, paragraphs 34, 43 and 69 and Schedule 13, Part 1 and S.I. 2005/2053, 2006/745 and 2014/560.

(**82**) Section 91(5)(d) was amended by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 12, paragraphs 43 and 57. See S.I. 1997/785 which prescribes the transfer credits.

Forfeiture: appeals to tribunal

207.—(1) If the pension supervising authority proposes to require the scheme manager to withhold any benefits payable to an inspector of constabulary ("the member"), the member or a person claiming payment of a benefit in respect of the member may, subject to regulation 199 (limitations on appeals), lodge an appeal against the proposal with the scheme manager.

(2) Regulation 215 (procedure on appeals to tribunal) sets out the procedure for appeals under this regulation to the tribunal.

CHAPTER 6

Payment and deduction of tax

Scheme manager to be scheme administrator for purposes of Part 4 of Finance Act 2004

208. The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on the scheme administrator by or under Part 4 of FA 2004 (pension schemes etc).

Payment on behalf of members of lifetime allowance charge

209.—(1) A member of this scheme may request the scheme manager to pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of FA 2004 ("the amount") if—

(a) an event that is a benefit crystallisation event ("the event") listed in the table in section 216(1) of FA 2004(**83**) occurs in relation to the member; and

(b) the member and the scheme manager are jointly and severally liable in relation to the event.

(2) A request may only be made by notice given to the scheme manager before the event occurs.

(3) The scheme manager may only comply with a request if the member pays the amount to the scheme manager on or before the date on which the event occurs.

Reduction of benefits where lifetime allowance charge payable

210.—(1) This regulation applies if—

(a) an event that is a benefit crystallisation event ("the event") listed in the table in section 216(1) of FA 2004 ("the table") occurs in relation to a member;

(b) the member and the scheme manager are jointly and severally liable in relation to the event; and

(c) no request has been duly made under regulation 209 in relation to the event or, if such a request has been made, the scheme manager is prevented from complying with it by paragraph (3) of that regulation.

(2) If this regulation applies—

(a) the scheme manager must pay the tax payable on the event;

(b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced; and

(**83**) Section 216(1) was amended by the Finance Act 2005 (c.7), Schedule 10, paragraphs 1, 31 and 42; the Finance Act 2006 (c.25), Schedule 23, paragraphs 1 and 30; the Finance Act 2008 (c.9), Schedule 29, paragraphs 1, 4 and 5; and the Finance Act 2011 (c.11), Schedule 16, paragraphs 43, 62, 73 and 104.

(c) in the case of any other event in the table, the amount or value of the benefits payable to or in respect of the member must be reduced.

(3) The amount or value of the reduction—

(a) must fully reflect the amount of the tax so paid;

(b) must be determined in accordance with guidance provided by the scheme manager; and

(c) in the case of any reduction to pension benefits, must be consistent with normal actuarial practice.

Information about payment of annual allowance charge

211.—(1) If a member's pension scheme input amount for this scheme for a tax year exceeds the amount of the annual allowance for that tax year, paragraph (2) applies in respect of the member for that tax year.

(2) The scheme manager must, no later than 31st July after the end of the tax year, provide the member with any information the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for that tax year.

(3) In this regulation—

"annual allowance" has the meaning given in section 228 (annual allowance) of FA 2004(**84**);

"annual allowance charge" has the meaning given in section 227 (annual allowance charge) of FA 2004(**85**);

"pension scheme input amount" has the same meaning as in section 237B(2) of FA 2004(**86**) (liability of scheme administrator); and

"tax year" means a period of one year which is the period of assessment for income tax purposes.

Reduction of benefits where annual allowance charge paid by scheme manager

212.—(1) This regulation applies where—

(a) a member gives valid notice to the scheme manager of joint and several liability for an annual allowance charge under section 237B(3) of FA 2004; and

(b) the scheme manager satisfies the liability specified in the notice.

(2) The amount or value of the benefits payable to or in respect of the member for the tax year to which the notice relates must be reduced by the scheme manager in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount or value of the reduction of benefits—

(a) must fully reflect the amount paid by the scheme manager; and

(b) must be consistent with normal actuarial practice.

(4) Benefits may only be reduced under this regulation to the extent that the reduction would not result in the loss of any part of a guaranteed minimum pension to which a person is entitled under section 14 (earner's guaranteed minimum) or 17 (minimum pension for surviving spouses and civil partners) of PSA 1993.

(5) In this regulation—

(**84**) Section 228 was substituted by the Finance Act 2011, Schedule 17, paragraph 4 and was amended by the Finance Act 2013 (c.29), section 49.

(**85**) Section 227 was amended by the Finance Act 2009 (c.10), Schedule 2, paragraphs 10 and 15 and the Finance Act 2011, Schedule 17, paragraph 3.

(**86**) 2004 c.12; section 237B was inserted by the Finance Act 2011 (c.11), Schedule 17, paragraph 15 and was amended by the Finance Act 2013 (c.29), Schedule 46, paragraphs 119 and 129.

"annual allowance charge" has the meaning given in section 227 (annual allowance charge) of FA 2004; and

"tax year" means a period of one year which is the period of assessment for income tax purposes.

CHAPTER 7

General

General prohibition on unauthorised payments

213. Nothing in these Regulations requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of FA 2004 (pension schemes etc.) (see section 160(5) of that Act).

Calculation of periods of membership and service

214.—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days and fractions of a day, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that require to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

This is subject to paragraph (3).

(3) If membership or service is referred to in these Regulations as membership or service in years—

(a) the days referred to in paragraph (1); and

(b) the full days referred to in paragraph (2),

are converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to 4 decimal places.

(4) If a period of membership or service is less than one year, this regulation applies as if the words "whole years, and" were omitted from paragraph (1) and the words "in excess of the period of whole years" were omitted from paragraph (3).

Procedure on appeals to tribunal

215.—(1) An appeal lodged with the scheme manager under regulation 198(2) (appeals to tribunal: payment of benefits) or 207(1) (forfeiture: appeals to tribunal) must—

(a) be made by notice in writing; and

(b) specify the grounds of appeal.

(2) The scheme manager, on receiving a notice of appeal, must appoint an appeal tribunal ("the tribunal") to hear the appeal.

(3) The tribunal must consist of 3 persons including—

(a) an advocate or solicitor of not less than 7 years' standing who must be appointed as chair;

(b) a former member of the police force who before leaving the police force held a rank not below Superintendent.

(4) The tribunal must—

(a) determine the time and place of the hearing and of any postponed or adjourned hearing; and

(b) give reasonable notice of those details to the parties.

(5) Either party may—

(a) be represented before the tribunal by counsel, a solicitor or any other person the party considers appropriate;

(b) adduce evidence; and

(c) cross-examine witnesses.

(6) The tribunal must determine its own procedure but—

(a) the tribunal must have regard to the practice of the sheriff that applies to an appeal under regulation 197 (appeals to sheriff); and

(b) the rules of evidence that apply to an appeal under that regulation apply to an appeal under this regulation.

(7) The tribunal, after hearing and determining the appeal, may make any order as appears to it just.

(8) The order must state the reasons for the decision and each of the parties must be given a copy.

(9) Either party may appeal to the sheriff in accordance with rules of court on any point of law arising from a decision of the tribunal under this regulation.

Evidence of entitlement

216.—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

(a) the person's identity; and

(b) the person's continuing entitlement to payment of any amount.

(2) If the person does not provide the required evidence, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

Provision of benefit information statements to members

217. The scheme manager must provide benefit information statements to each active member of this scheme in accordance with—

(a) section 14 of the Act (information about benefits); and

(b) Treasury directions given under that section.

Transitional provisions

218. Schedule 4 (transitional provisions) has effect.

St Andrew's House,
Edinburgh
24th March 2015

JOHN SWINNEY
A member of the Scottish Government

SCHEDULE 1 Regulations 67, 71, 96,107 and 199

Medical decisions: appeals and reconsideration

Interpretation

1. In this Schedule—

"appeal board" means a board appointed paragraph 6 of this Schedule;

"final" decision has the meaning given in paragraph 3;

"medical decision" means a decision contained in—

(a) a report by the selected medical practitioner under regulation 71 (referral of medical questions to a selected medical practitioner for purpose of regulation 72);

(b) a report by the selected medical practitioner under regulation 73 (compulsory retirement of member who was required to continue to serve);

(c) a report by the selected medical practitioner under regulation 76 (referral of medical questions for purpose of early payment of a full retirement pension on grounds of permanent medical unfitness);

(d) a report by the selected medical practitioner under regulation 97 (referral of medical questions for purpose of reduction of benefits);

(e) a report by the selected medical practitioner under regulation 107 (referral of medical questions for purpose of a review);

(f) a report by the appeal board under paragraph 2(5) (appeal against decision of a selected medical practitioner); or

(g) a fresh report by a medical authority under paragraph 3 (referral of final decision for reconsideration);

"medical authority" means a selected medical practitioner or an appeal board;

"selected medical practitioner" means—

(a) a single duly qualified medical practitioner selected by the employer; or

(b) a board of duly qualified medical practitioners selected by the employer.

Appeal against decision of a selected medical practitioner

2.—(1) Within 28 days after a member of the police force receives a copy of a report by the selected medical practitioner containing a medical decision (or such longer period as the employer may allow), the member may give notice of appeal to the employer against the decision in accordance with paragraph 7 (procedure and costs on appeals to appeal board).

(2) An appeal under this paragraph is to be held in accordance with paragraph 7.

(3) Sub-paragraph (4) applies if, within a further 28 days after the employer receives the notice of appeal (or such longer period as the employer may allow), the member gives the employer a statement of the grounds of appeal.

(4) The employer must, unless the member and the employer agree to a further reference to a selected medical practitioner under paragraph 3 refer the appeal to an appeal board for decision.

(5) The decision of the appeal board, if it disagrees with any part of the report of the selected medical practitioner, must be expressed in the form of a report.

(6) Subject to paragraph 3, that report is final.

(7) A copy of the report must be given to the scheme manager and to the member.

Referral of final decision for reconsideration

3.—(1) This paragraph applies if a medical authority has given a final decision in relation to a member of the police force ("the member").

(2) For the purpose of this Schedule, a medical authority has given a final decision if—

(a) the selected medical practitioner has given a medical decision and the time for giving notice of appeal against the decision under paragraph 2(1) has expired without an appeal being made;

(b) the selected medical practitioner has given a medical decision and, following the giving of notice of appeal under paragraph 2(1), the employer has not yet referred the appeal to an appeal board; or

(c) an appeal has been made to an appeal board and the appeal board has given a decision.

(3) The employer and the member may, by agreement, refer the final decision to the medical authority for reconsideration.

(4) The medical authority must reconsider the final decision and, if necessary, issue a fresh report.

(5) A copy of the fresh report must be given to the scheme manager and to the member.

(6) The fresh report is final, subject to—

(a) any further reconsideration of the final decision under this paragraph; or

(b) an appeal under paragraph 2 against the medical decision.

(7) In sub-paragraph (6), "appeal" means an appeal in respect of which a notice of appeal was given before the medical decision was referred under this paragraph.

(8) In this paragraph, "medical decision" does not include a decision contained in a fresh report issued under this paragraph.

Referral of final decision by sheriff or tribunal

4.—(1) If a sheriff or a tribunal hearing an appeal under regulation 197 or 198 considers that the evidence before the medical authority which gave a final decision was inaccurate or inadequate—

(a) the sheriff or tribunal may refer the final decision to the medical authority for reconsideration in the light of such facts as the court or tribunal may direct; and

(b) the medical authority must reconsider the final decision and, if necessary, issue a fresh report.

(2) A copy of the fresh report must be given to the scheme manager and to the member.

(3) Subject to any further reconsideration under paragraph 3, the fresh report is final.

Referral to appointed medical practitioner

5.—(1) If a final decision is referred to a medical authority for reconsideration under paragraph 3 or 4 and the medical authority is unable or unwilling to act, the final decision may be referred to an appointed medical practitioner.

(2) The decision of an appointed medical practitioner has effect as if it were that of the medical authority who gave the final decision.

(3) In this paragraph, "appointed medical practitioner" means a duly qualified medical practitioner or a board of duly qualified medical practitioners—

(a) agreed by the member and the employer; or

(b) appointed by the sheriff or tribunal.

Appointment of appeal board

6.—(1) An appeal board must consist of not less than 3 medical practitioners—

(a) who are appointed by the employer in accordance with arrangements approved by the scheme manager; and

(b) of whom one must be appointed chair.

(2) At least one member of the appeal board must be a specialist in a medical condition relevant to the appeal.

(3) Where there is an equality of voting among members of the appeal board, the chair has a casting vote.

(4) There must be paid to the members of the appeal board—

(a) such fees as are determined in accordance with arrangements made by the scheme manager; or

(b) where no such arrangements have been made, such fees and allowances as the scheme manager may from time to time determine.

(5) Any fees or allowances so payable must, subject to paragraph 10 (costs payable if hearing is cancelled, adjourned or postponed)—

(a) be paid by the employer; and

(b) be treated as part of the expenses of the employer for the purposes of this paragraph.

Procedure and costs on appeals to appeal board

7.—(1) The notice of appeal and the statement of grounds of appeal must be in writing.

(2) The employer must send copies of the following documents to the scheme manager and to the appeal board—

(a) the notice of appeal;

(b) the statement of grounds of appeal; and

(c) any other documents the scheme manager considers necessary.

Hearing the appeal

8.—(1) The appeal board must—

(a) appoint a time and place for hearing the appeal and for any further hearings it may consider necessary; and

(b) give notice of the hearing to the appellant and the employer ("the parties to the appeal").

(2) Notice of a hearing must be given at least 2 months before the hearing (or any shorter period the parties to the appeal agree).

(3) The parties to the appeal must, not less than 35 days (including weekends and public holidays) before the date appointed for a hearing, inform the appeal board whether they intend to be represented at the hearing.

(4) The appeal board may interview or examine the appellant at any hearing.

(5) Any hearing (including any medical examination of the appellant) may be attended by—

(a) the selected medical practitioner or, if the selected medical practitioner is unavailable, a duly qualified medical practitioner appointed for the purpose by the employer; and

(b) a duly qualified medical practitioner appointed for the purpose by the appellant.

(6) A medical practitioner mentioned in sub-paragraph (5) who attends a hearing may only observe a medical examination.

(7) If any hearing includes a medical examination, only medical practitioners may be present for that part of the hearing.

(8) The appeal board must supply the parties to the appeal with a written statement of its decision.

(9) If the appeal board disagrees with any part of the selected medical practitioner's report, the appeal board must supply a revised report.

(10) A copy of the revised report must be given to the scheme manager and to the member.

Written evidence or a written statement

9.—(1) A party to an appeal who intends to submit written evidence or a written statement at a hearing must, subject to sub-paragraph (2), submit it to the appeal board and the other party not less than 35 days before the date appointed for the hearing.

(2) If a party submits written evidence or a written statement under sub-paragraph (1), the other party may, not less than 7 days before the date appointed for the hearing, submit written evidence or a written statement in response.

(3) Any evidence or statement submitted under sub-paragraph (2) must be submitted to the appeal board and the party who submitted the evidence or statement under sub-paragraph (1).

(4) The appeal board may postpone or adjourn the date appointed for the hearing if—

(a) written evidence or a written statement is submitted in contravention of this paragraph; or

(b) it appears necessary to do so for the proper determination of the appeal.

(5) References in this paragraph to periods of days include weekends and public holidays.

Costs payable if hearing is cancelled, adjourned or postponed

10.—(1) Subject to the following provisions, the expenses of each party to the appeal must be borne by that party.

(2) This sub-paragraph applies if a hearing is cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the employer less than 22 days (including weekends and public holidays) before the date appointed for the hearing.

(3) If sub-paragraph (2) applies, the appeal board must require the employer to pay to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending or arranging to attend the cancelled, adjourned or postponed hearing.

(4) This sub-paragraph applies if the appeal board determines that a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the appellant less than 22 days (including weekends and public holidays) before the date appointed for the hearing.

(5) If sub-paragraph (4) applies, the appeal board may require the appellant to pay towards the cost of the cancellation, adjournment or postponement such sum not exceeding the total costs of the cancellation, adjournment or postponement as the appeal board decides, taking account of representations from either party.

Costs payable on decision

11.—(1) Costs are payable in accordance with this paragraph on determination of the appeal.

(2) If the appeal board decides in favour of the appellant, the employer must refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending any hearing of the appeal.

(3) This sub-paragraph applies if the appeal board—

(a) decides in favour of the employer; and

(b) reports that in its opinion the appeal was frivolous or vexatious.

(4) If sub-paragraph (3) applies, the employer may, subject to sub-paragraph (5), require the appellant to pay towards the cost of the appeal such sum not exceeding the total fees and allowances of the members of the appeal board as the employer thinks fit.

(5) If the appeal board, after taking account of any representations from either party, decides there are exceptional reasons why the appellant should not pay towards the cost of the appeal—

(a) the appeal board must give the parties written notice of its decision; and

(b) the employer must not require the appellant to pay towards those costs.

SCHEDULE 2

Regulation 102

Progressive medical conditions

AIDS;

Alzheimer's disease;

Cancer;

Creutzfeld-Jacob disease;

Huntington's chorea;

Motor neurone disease;

Multiple sclerosis;

Nieman Pick disease;

Non-variant Creutzfeld-Jacob disease;

Parkinson's disease; and

Variant Creutzfeld-Jacob disease.

SCHEDULE 3

Regulations 49 and 165

Payments for added pension

PART 1

General

Interpretation

1. In this Schedule—

"added pension option" means the option to make payments for added pension;

"amount of accrued added pension" means the total of—

(a) the amount of accrued added (self only) pension (if any); and

(b) the amount of accrued added (all beneficiaries) pension (if any);

"appropriate pay period" means the pay period that the scheme manager considers appropriate;

"overall limit of added pension" has the meaning given in paragraph 2;

"periodical payment period" means the period for which periodical payments for added pension are payable;

"period of service", in relation to this scheme, means a continuous period of pensionable service under this scheme;

"the relevant day", in relation to a lump sum payment for added pension, means—

(a) if the scheme manager provides a statement of the amount of added pension, the first day after the period of one month beginning with the date of the statement; or

(b) otherwise, the day on which the lump sum payment is received by the scheme manager;

"the relevant scheme year" means the scheme year in which the relevant day falls; and

"statement of the amount of added pension" means the statement referred to in paragraph 15.

Meaning of "overall limit of added pension"

2.—(1) The overall limit of added pension is—

(a) £6,500 for any scheme year ending before 1st April 2016; and

(b) for any scheme year beginning on or after 1st April 2016—

(i) the overall limit of added pension determined by the Treasury in respect of that scheme year as published before the start of that scheme year; or

(ii) if no such determination is made, the amount calculated under sub-paragraph (2).

(2) The amount is the amount to which the annual rate of a pension of an amount equal to the overall limit of added pension for the previous scheme year would have been increased under PIA 1971 if—

(a) that pension were eligible to be so increased; and

(b) the beginning date for that pension were the first day of the previous scheme year.

Amount of accrued added pension may not exceed overall limit of added pension

3.—(1) At any given time, the total amount of accrued added pension in the active member's account may not exceed the overall limit of added pension.

(2) If a member has opted to make periodical payments for added pension under this scheme, the scheme manager may by written notice to the member cancel the added pension option if it appears to the scheme manager that the overall limit of added pension will be exceeded if the member continues to make the periodical payments.

(3) If the scheme manager cancels the option, the periodical payments cease to be payable from the next pay period beginning after the date specified in the notice of cancellation.

Refund of overpayments

4. The scheme manager must refund to a member the amount of any payment for added pension made by the member that results in the overall limit of added pension being exceeded.

PART 2

Exercising the added pension option

Added pension option exercisable by member

5.—(1) An active member of this scheme may opt to make payments for added pension to increase—

(a) the member's retirement benefits(**87**) for a period of service; or

(b) the member's retirement benefits and death benefits payable in respect of the member for a period of service.

(2) A member may exercise the added pension option by written notice to the scheme manager ("the option notice").

(3) The option notice must state whether the payments for added pension are to be made by—

(a) periodical payments; or

(b) a lump sum payment.

(4) A member may exercise the added pension option more than once but an option to make a lump sum payment for added pension may only be exercised once in any scheme year.

(5) An option to make a lump sum payment for added pension may only be exercised if the member—

(a) has been an active member of this scheme in relation to a continuous period of pensionable service for at least 12 months; and

(b) has been provided with a statement of the amount of added pension (if paragraph 15 applies).

PART 3

Periodical payments for added pension

Application of Part

6. This Part applies in relation to an active member of this scheme who opts to make periodical payments for added pension under this scheme.

Member's option to make periodical payments for added pension

7.—(1) The option notice must specify—

(a) the periodical payment period; and

(b) the amount of the periodical payment to be deducted by the member's employer from the member's pay in each pay period.

(2) The amount of the periodical payment may be expressed as—

(a) a percentage of the amount of a payment of the member's pensionable earnings; or

(b) a fixed sum.

(**87**) Added pension which increases the member's retirement benefits is payable to the member as part of the member's full retirement pension in accordance with the provisions of Part 7.

(3) The amount of the periodical payment must not be less than any minimum amount determined by the scheme manager.

Cancellation of option by member

8.—(1) The member may, by written notice to the scheme manager, cancel the option at any time during the periodical payment period ("notice of cancellation").

(2) If the member cancels the option, the periodical payments cease to be payable from the beginning of the next scheme year after the scheme manager receives the notice of cancellation.

Periodical payments

9.—(1) The periodical payments are payable by deduction by the member's employer from the member's pay during the periodical payment period.

(2) The periodical payment period—

(a) begins with—

(i) if the member exercises the option within 3 months after joining this scheme, the first appropriate pay period beginning on or after the date on which the scheme manager receives the option notice; or

(ii) in any other case, the first appropriate pay period of the scheme year beginning on or after the date on which the scheme manager receives the option notice; and

(b) ends on the earlier of—

(i) the date on which the member ceases to be an active member of this scheme; and

(ii) the date specified in the option notice.

(3) Subject to sub-paragraph (4), during a period of assumed pay the member may—

(a) stop the periodical payments; or

(b) continue the periodical payments as if the member were receiving pensionable earnings at the rate that applied at the beginning of the period of assumed pay.

(4) During any period in which the member is receiving statutory maternity pay within the meaning of the Social Security Contributions and Benefits Act 1992(**88**) or is on paid maternity leave, paid adoption leave, paid maternity support leave or paid adoption support leave, the member may—

(a) stop the periodical payments; or

(b) make periodical payments of an amount determined by reference to the member's actual pay during that period.

(5) If a member stops the periodical payments during a period of assumed pay, the member may by written notice to the scheme manager resume the periodical payments in the next pay period after the period of assumed pay ends.

Amount of added (self only) pension for a scheme year (periodical payments)

10.—(1) This paragraph applies in relation to each scheme year during which a member makes periodical payments to increase the member's retirement benefits only.

(2) An amount of added (self only) pension is credited to the active member's account for that scheme year.

(**88**) 1992 c.4.

(3) The amount is determined by the scheme manager in accordance with actuarial tables, having regard to the cost in the scheme year of providing retirement benefits to a person of the member's age and gender.

Amount of added (all beneficiaries) pension for a scheme year (periodical payments)

11.—(1) This paragraph applies in relation to each scheme year during which a member makes periodical payments to increase—

(a) the member's retirement benefits; and

(b) death benefits payable in respect of the member.

(2) An amount of added (all beneficiaries) pension is credited to the active member's account for that scheme year.

(3) The amount is determined by the scheme manager in accordance with actuarial tables, having regard to the cost in the scheme year of providing retirement benefits to—

(a) a person of the member's age; and

(b) dependants of a person of that age.

PART 4

Lump sum payments for added pension made by member

Application of Part

12. This Part applies in relation to an active member of this scheme who opts to make a lump sum payment for added pension under this scheme.

Member's option to make a lump sum payment for added pension

13.—(1) The option notice must specify the amount of the lump sum which must not be less than any minimum amount determined by the scheme manager.

(2) The lump sum is payable immediately to the scheme manager by deduction by the member's employer from the member's pay or otherwise.

Statement of amount of added pension

14.—(1) If the scheme manager so requires, the member before exercising the option must ask the scheme manager to provide a statement of the amount of added pension.

(2) A statement of the amount of added pension must set out the amount that would be credited to the active member's account if the lump sum is received by the scheme manager within one month after the date of the statement.

(3) The statement must also—

(a) specify the overall limit of added pension; and

(b) inform the member if it appears to the scheme manager that the overall limit of added pension would be exceeded if the active member's account is credited with the amount of added pension set out in the statement.

Amount of added (self only) pension (lump sum payment)

15.—(1) This paragraph applies if a member opts to make a lump sum payment to increase the member's retirement benefits only.

(2) Following payment of the lump sum by the member, an amount of added (self only) pension is credited to the active member's account for the relevant scheme year.

(3) The amount credited to the account is—

(a) if the scheme manager has provided a statement of the amount of added pension and the lump sum is received by the scheme manager within one month after the date of the statement, the amount specified in the statement; or

(b) otherwise, an amount determined by the scheme manager in accordance with actuarial tables having regard to—

(i) the amount of the lump sum;

(ii) the cost as at the relevant day of providing retirement benefits to a person of the member's age and gender;

(iii) factors relating to the member's circumstances as at the relevant day; and

(iv) any other factors as at the date of the statement of the amount of added pension to which the scheme actuary considers regard should be had.

Amount of added (all beneficiaries) pension (lump sum payment)

16.—(1) This paragraph applies if a member opts to pay a lump sum to increase—

(a) the member's retirement benefits; and

(b) death benefits payable in respect of the member.

(2) On payment of the lump sum by the member an amount of added (all beneficiaries) pension is credited to the active member's account in the relevant scheme year.

(3) The amount credited to the account is—

(a) if the scheme manager has provided a statement of the amount of added pension and the lump sum is received by the scheme manager within one month after the date of the statement, the amount specified in the statement; or

(b) otherwise, an amount determined by the scheme manager in accordance with actuarial tables having regard to—

(i) the amount of the lump sum;

(ii) the cost as at the relevant day of providing retirement benefits to a person of the member's age and dependants of a person of that age;

(iii) factors relating to the member's circumstances as at the relevant day; and

(iv) any other factors as at the date of the statement of the amount of added pension to which the scheme actuary considers regard should be had.

SCHEDULE 4 Regulation 218

Transitional provisions

PART 1

General

Interpretation

1. In this Schedule—

"the 1987 Regulations" means the Police Pensions Regulations 1987(**89**);

"the 2007 Regulations" means the Police Pensions (Scotland) Regulations 2007(**90**);

"1987 transition member" means a person—

(a) who is a member of the 1987 scheme by virtue of his or her pensionable service under that scheme before the transition date; and

(b) who is a member of this scheme by virtue of his or her pensionable service under this scheme;

"2006 transition member" means a person—

(a) who is a member of the 2006 scheme by virtue of his or her pensionable service under that scheme before the transition date; and

(b) who is a member of this scheme by virtue of his or her pensionable service under this scheme;

"active member", in relation to this scheme, means a person—

(a) who is an active member of this scheme; or

(b) who, for the purpose of determining entitlement to payment of benefits to or in respect of the member, is taken to be an active member of this scheme(**91**);

"closing date", in relation to a transition member, means—

(a) if the member is a tapered protection member of the existing police pension scheme, the tapered protection closing date for that member; or

(b) if the member is not a protected member of the existing police pension scheme, the scheme closing date;

"exception" means an exception to section 18(1) of the Act;

"full protection member"—

(a) in relation to the 1987 scheme, has the meaning given in Part 2 of this Schedule;

(b) in relation to the 2006 scheme, has the meaning given in Part 3 of this Schedule;

(c) in relation to the 1988 NI police pension scheme or the 2009 NI police pension scheme, has the meaning given in the 2015 NI police pension scheme; and

(d) in relation to an existing scheme other than the 1987 scheme or the 2006 scheme, means a person in respect of whom an exception under section 18(6) of the Act applies for the purpose of that scheme;

(**89**) S.I. 1987/257.
(**90**) S.S.I. 2007/201.
(**91**) See Chapter 1 of Part 4 (active membership) for when a member of the police force is taken to be an active member of this scheme.

"period of service"—

(a) in relation to this scheme, means a continuous period of pensionable service under this scheme;

(b) in relation to an existing scheme, the 1988 NI police pension scheme or the 2009 NI police pension scheme, means a period of pensionable service under that scheme;

"protected member", in relation to the existing police pension scheme, means a full protection member or tapered protection member of that scheme;

"protection period"—

(a) for a full protection member of the 1987 scheme, has the meaning given in Part 2 of this Schedule;

(b) for a full protection member of the 2006 scheme, has the meaning given in Part 3 of this Schedule;

(c) for a tapered protection member of the 1987 scheme, has the meaning given in Part 4 of this Schedule;

(d) for a tapered protection member of the 2006 scheme, has the meaning given in Part 5 of this Schedule;

"tapered protection member"—

(a) in relation to the 1987 scheme, has the meaning given in Part 4 of this Schedule;

(b) in relation to the 2006 scheme, has the meaning given in Part 5 of this Schedule;

(c) in relation to the 1988 NI police pension scheme or the 2009 NI police pension scheme, has the meaning given in the 2015 NI police pension scheme; and

(d) in relation to an existing scheme other than the 1987 scheme or the 2006 scheme, means a person in respect of whom an exception under section 18(6) of the Act applies for the purpose of that scheme; and

"transition date", in relation to a transition member, means—

(a) if the member is a tapered protection member of the existing police pension scheme, the day after the tapered protection closing date for that member;

(b) if the member is not a protected member of that scheme, the day after the scheme closing date.

Meaning of "tapered protection closing date"

2.—(1) The tapered protection closing date for a tapered protection member of the existing police pension scheme is a date between 24th May 2015 and 31st March 2022 (inclusive) determined by the scheme manager by reference to a table published for that purpose on the www.sppa.gov.uk website.

(2) If a tapered protection member falls within more than one sub-paragraph in a paragraph in Part 4 or 5 of this Schedule, the scheme manager must determine the tapered protection closing date by reference to the table which provides the latest tapered protection closing date.

Pensionable service under a police scheme

3.—(1) For the purpose of this Schedule, a transition member (T) is in pensionable service under a police scheme while T is on unpaid leave from the employment to which that service relates.

(2) For the purpose of sub-paragraph (1)—

"a police scheme" means—

(a) the 1987 scheme;

(b) the 1988 NI Police pension scheme;

(c) the 2006 scheme;

(d) the existing England and Wales police pension scheme;

(e) the 2009 NI police pension scheme;

(f) the 2015 England and Wales police pension scheme; or

(g) the 2015 NI police pension scheme; and

"unpaid leave", in relation to employment to which pensionable service under a police scheme relates, means—

(a) a career break; or

(b) any other period of unpaid leave—

(i) that does not exceed 5 years; and

(ii) during which the employment relationship continues (**92**).

Continuity of service (1987 transition members)

4.—(1) A 1987 transition member (T) has continuity of service for the purpose of these Regulations if T has continuity of service in relation to—

(a) a period of service under the 1987 scheme; and

(b) a period of service under this scheme.

(2) T has continuity of service in relation to a period of service under the 1987 scheme and a period of service under this scheme unless those periods of service are separated by any gap in pensionable service exceeding 5 years which—

(a) begins on or before T's transition date; and

(b) ends on the day on which T becomes an active member of this scheme.

(3) For the purpose of sub-paragraph (2), T is not on a gap in pensionable service after the scheme closing date while T is in pensionable service under—

(a) an existing scheme other than the 2006 scheme or the existing England and Wales police pension scheme;

(b) the 1988 NI police pension scheme;

(c) another scheme under section 1 of the Act providing for payment of retirement pensions;

(d) the 2015 NI police pension scheme.

Continuity of service (2006 transition members)

5.—(1) A 2006 transition member (T) has continuity of service for the purpose of these Regulations if T has continuity of service in relation to—

(a) a period of service under the 2006 scheme; and

(b) a period of service under this scheme.

(2) T has continuity of service in relation to a period of service under the 2006 scheme and a period of service under this scheme unless those periods of service are separated by a gap in pensionable service exceeding 5 years which—

(a) begins on or before T's transition date; and

(b) ends on the day on which T becomes an active member of this scheme.

(**92**) See regulation 13 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues.

(3) For the purpose of sub-paragraph (2), T is not on a gap in pensionable service after the scheme closing date while T is in pensionable service under—

(a) an existing scheme;

(b) the 1988 NI police pension scheme;

(c) the 2009 NI police pension scheme;

(d) another scheme under section 1 of the Act providing for payment of retirement pensions; or

(e) the 2015 NI police pension scheme.

Meaning of "active member" of the 1987 scheme or the equivalent NI police pension scheme

6.—(1) This paragraph applies in relation to—

(a) the 1987 scheme; and

(b) the 1988 NI police pension scheme.

(2) For the purpose of this Schedule, a transition member (T) is an active member of a scheme mentioned in sub-paragraph (1) on a given date if on that date T is in pensionable service(**93**) under that scheme.

Meaning of "active member" of the 2006 scheme or the equivalent NI police pension scheme

7.—(1) This paragraph applies in relation to—

(a) the 2006 scheme; and

(b) the 2009 NI police pension scheme.

(2) For the purpose of this Schedule, a transition member (T) is an active member of a scheme mentioned in sub-paragraph (1) on a given date if on that date—

(a) T is in pensionable service under that scheme; or

(b) T is on a gap in pensionable service not exceeding 5 years.

(3) For the purpose of sub-paragraph (2)(b), T is not on a gap in pensionable service after the scheme closing date while T is in pensionable service under—

(a) an existing scheme other than the 1987 scheme;

(b) the 2009 NI police pension scheme;

(c) another scheme under section 1 of the Act providing for payment of retirement pensions; or

(d) the 2015 NI police pension scheme.

Meaning of "active member" of an existing scheme

8.—(1) This paragraph applies in relation to an existing scheme other than the 1987 scheme or the 2006 scheme ("the existing scheme").

(2) For the purpose of this Schedule, a transition member (T) is an active member of the existing scheme on a given date if on that date—

(a) T is in pensionable service under that scheme; or

(b) T is on a gap in pensionable service not exceeding 5 years.

(3) For the purpose of sub-paragraph (2)(b), T is not on a gap in pensionable service after the scheme closing date while T is in pensionable service under—

(a) an existing scheme;

(**93**) See the definition of "pensionable service" in section 37 of the Act.

(b) the 1988 NI police pension scheme;

(c) the 2009 NI police pension scheme;

(d) another scheme under section 1 of the Act providing for payment of retirement pensions; or

(e) the 2015 NI police pension scheme.

PART 2

Exceptions for full protection members of the 1987 scheme

Meaning of "full protection member" (the 1987 scheme)

9.—(1) A person (P) to whom paragraph 11 applies is a full protection member of the 1987 scheme.

(2) P ceases to be a full protection member of the 1987 scheme when P ceases to be in pensionable service under that scheme.

Exception for full protection member during protection period

10.—(1) The protection period for a full protection member of the 1987 scheme—

(a) begins on the day after the scheme closing date; and

(b) ends when P ceases to be a full protection member of the 1987 scheme.

(2) In respect of the protection period—

(a) P is in pensionable service under the 1987 scheme;

(b) section 18(1) of the Act does not apply in respect of that pensionable service; and

(c) benefits are to be provided under the 1987 scheme to or in respect of P in relation to that pensionable service.

Active member of the 1987 scheme on scheme closing date

11.—(1) This paragraph applies if any of the following sub-paragraphs applies.

(2) This sub-paragraph applies if—

(a) P was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012; and

(b) on 1st April 2012, P had reached 45.

(3) This sub-paragraph applies if—

(a) P was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012;

(b) on 1st April 2012—

(i) P had reached 38; and

(ii) P had at least 20 years' pensionable service under the 1987 scheme.

(4) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of the 1988 NI police pension scheme;

(b) on the scheme closing date, P was an active member of the 1987 scheme;

(c) P did not have a gap in pensionable service between ceasing pensionable service under the 1988 NI police pension scheme and beginning pensionable service under the 1987 scheme; and

(d) P would have been a full protection member of the 1988 NI police pension scheme had P remained in pensionable service under that scheme.

PART 3

Exceptions for full protection members of the 2006 scheme

Meaning of "full protection member" (the 2006 scheme)

12.—(1) A person (P) to whom paragraph 14 applies is a full protection member of the 2006 scheme.

(2) P ceases to be a full protection member of the 2006 scheme when P ceases to be in pensionable service under that scheme.

Exception for full protection member during protection period

13.—(1) The protection period for a full protection member of the 2006 scheme—

(a) begins on the day after the scheme closing date; and

(b) ends when P ceases to be a full protection member of the 2006 scheme.

(2) In respect of the protection period—

(a) P is in pensionable service under the 2006 scheme;

(b) section 18(1) of the Act does not apply in respect of that pensionable service; and

(c) benefits are to be provided under the 2006 scheme to or in respect of P in relation to that pensionable service.

Active member of the 2006 scheme on scheme closing date

14.—(1) This paragraph applies if any of the following sub-paragraphs applies.

(2) This sub-paragraph applies if—

(a) on the scheme closing date and on 31stMarch 2012, P was an active member of the 2006 scheme; and

(b) unless P dies, P would reach 55 on or before 1st April 2022.

(3) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of the 1988 NI police pension scheme;

(b) on the scheme closing date, P was an active member of the 2006 scheme; and

(c) unless P dies, P would reach 55 on or before 1st April 2022.

(4) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of the 2009 NI police pension scheme;

(b) on the scheme closing date, P was an active member of the 2006 scheme; and

(c) unless P dies, P would reach 55 on or before 1st April 2022.

(5) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of an existing scheme other than the 2006 scheme ("the existing scheme");

(b) on the scheme closing date, P was an active member of the 2006 scheme; and

(c) unless P dies, P would reach 55 on or before 1st April 2022.

PART 4

Exceptions for tapered protection members of the 1987 scheme

Meaning of "tapered protection member" (the 1987 scheme)

15.—(1) A person (P) to whom paragraph 17 applies is a tapered protection member of the 1987 scheme.

(2) P ceases to be a tapered protection member of the 1987 scheme on whichever of the following days occurs first—

(a) P's tapered protection closing date; or

(b) the day on which P ceases to be in pensionable service under the 1987 scheme.

Exception for tapered protection members during protection period

16.—(1) The protection period for a tapered protection member of the 1987 scheme—

(a) begins on the day after the scheme closing date; and

(b) ends when P ceases to be a tapered protection member of the 1987 scheme.

(2) In respect of the protection period—

(a) P is in pensionable service under the 1987 scheme;

(b) section 18(1) of the Act does not apply in respect of that pensionable service; and

(c) benefits are to be provided under the 1987 scheme to or in respect of P in relation to that pensionable service.

Active member of the 1987 scheme on scheme closing date

17.—(1) This paragraph applies if any of the following sub-paragraphs applies.

(2) This sub-paragraph applies if—

(a) P was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012; and

(b) on 1st April 2012, P had reached 41 but had not reached 45.

(3) This sub-paragraph applies if—

(a) P was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012; and

(b) on 1st April 2012—

(i) P had reached 34 but had not reached 38; and

(ii) P had at least 20 years' pensionable service under the 1987 scheme.

(4) This sub-paragraph applies if—

(a) P was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012; and

(b) on 1st April 2012—

(i) P had reached 38 but had not reached 45; and

(ii) P had at least 16 but less than 20 years' pensionable service under the 1987 scheme.

(5) This sub-paragraph applies if—

(a) P was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012; and

(b) on 1st April 2012—

(i) P had not reached 38;

(ii) P had less than 20 years' pensionable service under the 1987 scheme; and

(iii) the sum of P's age in years and the number of years of P's pensionable service under the 1987 scheme is at least 54 but less than 58.

(6) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of the 1988 NI police pension scheme;

(b) on the scheme closing date, P was an active member of the 1987 scheme;

(c) P did not have a gap in pensionable service between ceasing pensionable service under the 1988 NI police pension scheme and beginning pensionable service under the 1987 scheme; and

(d) P would have been a full protection member or tapered protection member of the 1988 NI police pension scheme had P remained in pensionable service under that scheme.

PART 5

Exceptions for tapered protection members of the 2006 scheme

Meaning of "tapered protection member" (the 2006 scheme)

18.—(1) A person (P) to whom paragraph 20 applies is a tapered protection member of the 2006 scheme.

(2) P ceases to be a tapered protection member of the 2006 scheme on whichever of the following days occurs first—

(a) P's tapered protection closing date; or

(b) the day on which P ceases to be in pensionable service under the 2006 scheme.

Exception for tapered protection members during protection period

19.—(1) The protection period for a tapered protection member of the 2006 scheme—

(a) begins on the day after the scheme closing date; and

(b) ends when P ceases to be a tapered protection member of the 2006 scheme.

(2) In respect of the protection period—

(a) P is in pensionable service under the 2006 scheme;

(b) section 18(1) of the Act does not apply in respect of that pensionable service; and

(c) benefits are to be provided under the 2006 scheme to or in respect of P in relation to that pensionable service.

Active member of the 2006 scheme on scheme closing date

20.—(1) This paragraph applies if any of the following sub-paragraphs applies.

(2) This sub-paragraph applies if—

(a) on the scheme closing date and on 31stMarch 2012, P was an active member of the 2006 scheme; and

(b) unless P dies, P would reach 55 between 2nd April 2022 and 1stApril 2026 (inclusive).

(3) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of the 1988 NI police pension scheme;

(b) on the scheme closing date, P was an active member of the 2006 scheme; and

(c) unless P dies, P would reach 55 between 2nd April 2022 and 1stApril 2026 (inclusive).

(4) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of the 2009 NI police pension scheme;

(b) on the scheme closing date, P was an active member of the 2006 scheme; and

(c) unless P dies, P would reach 55 between 2nd April 2022 and 1stApril 2026 (inclusive).

(5) This sub-paragraph applies if—

(a) on 31stMarch 2012, P was an active member of an existing scheme other than the 2006 scheme ("the existing scheme");

(b) on the scheme closing date, P was an active member of the 2006 scheme; and

(c) unless P dies, P would reach 55 between 2nd April 2022 and 1stApril 2026 (inclusive).

PART 6

Payment of ill-health pension to transition members with continuity of service

Meaning of "ill-health pension" in relation to the existing police pension scheme

21. For the purpose of this Part, "ill-health pension", in relation to the existing police pension scheme, means—

(a) an ill-health award under regulation B3 of the 1987 Regulations (policeman's ill-health award); or

(b) a standard ill-health pension under regulation 30 of the 2007 Regulations (calculation of standard ill-health pension).

Meaning of "normal pension age under the existing police pension scheme"

22.—(1) This paragraph applies for the purpose of this Part.

(2) For a 2006 transition member, "normal pension age under the existing police pension scheme" means the normal pension age under the 2006 scheme.

(3) For a 1987 transition member, "normal pension age under the existing police pension scheme" means—

(a) the voluntary retirement age determined under regulation A4(4) of the 1987 Regulations; or

(b) for a member of the police force who does not have a voluntary retirement age under regulation A4(4) of the 1987 Regulations, the age of 60.

Transition member who has not reached normal pension age under the existing police pension scheme

23.—(1) This paragraph applies in relation to a transition member with continuity of service who—

(a) becomes entitled under Chapter 3 of Part 7 to payment for life of an ill-health pension; and

(b) has not reached normal pension age under the existing police pension scheme.

(2) If this paragraph applies—

(a) an ill-health pension is not payable under the existing police pension scheme;

(b) if the member is a 2006 transition member, a lump sum is not payable under regulation 28(1)(b) of the 2007 Regulations; and

(c) a pension is payable under this scheme in accordance with this paragraph ("transition member's ill-health pension").

(3) If the member meets the lower tier threshold only—

(a) the annual rate of transition member's ill-health pension is the sum of—

(i) the annual rate of a lower tier ill-health pension payable under Chapter 3 of Part 7; and

(ii) the amount of pension mentioned in sub-paragraph (5); and

(b) if the member is a 2006 transition member, the member is entitled to payment of a lump sum equivalent to the amount of lump sum that would have been payable to the member under regulation 28(1)(b) of the 2007 Regulations if the member had been entitled to the payment of an ill-health pension under the 2006 scheme.

(4) If the member meets the upper tier threshold—

(a) the annual rate of transition member's ill-health pension is the sum of—

(i) the annual rate of a lower tier ill-health pension payable under Chapter 3 of Part 7;

(ii) the annual rate of an enhanced upper tier ill-health pension payable under Chapter 3 of Part 7; and

(iii) the amount of pension mentioned in sub-paragraph (5); and

(b) if the member is a 2006 transition member, the member is entitled to payment of a lump sum equivalent to the amount of lump sum that would have been payable to the member under regulation 28(1)(b) of the 2007 Regulations if the member had been entitled to the payment of an ill-health pension under the 2006 scheme.

(5) The amount is—

(a) for a 2006 transition member, the annual rate of ill-health pension that would have been payable under the 2006 scheme if the member was entitled to payment of an ill-health pension under that scheme; or

(b) for a 1987 transition member, the better of the following—

(i) the annual rate of ill-health pension that would have been payable under the 1987 scheme on the member's closing date if P had retired on that date;

(ii) a pension that would have been payable on retirement under regulation B1, B2 or B5 of the 1987 scheme, calculated in accordance with paragraph 39 of this Schedule (calculation of weighted accrual for service in the 1987 scheme).

(6) If, after a transition member's ill-health pension becomes payable, a transfer payment is made from the existing police pension scheme in respect of the member's rights under that scheme, the scheme manager must deduct from the amount of pension mentioned in sub-paragraph (5) an amount equal to the value of the pension represented by that transfer payment.

(7) A retirement added pension of any description is payable with the lower tier ill-health pension if the retirement account specifies an amount of retirement added pension of that description.

(8) The proportion of a transition member's ill-health pension that represents the amount of pension mentioned in sub-paragraph (5) is subject to the same conditions, and ceases to be payable in the same circumstances, as if it were an ill-health pension payable under the existing police pension scheme.

(9) For the purpose of sub-paragraph (8)—

(a) the member's pensionable service since the closing date is taken to be pensionable service under the existing police pension scheme; and

(b) any member contributions paid under this scheme are taken to be paid under the existing police pension scheme.

When transition member reaches normal pension age under the existing police pension scheme

24.—(1) This paragraph applies in relation to a transition member with continuity of service who is receiving payment of a transition member's ill-health pension under paragraph 23.

(2) When the member reaches normal pension age under the existing police pension scheme—

(a) the proportion of the transition member's ill-health pension that represents the amount of pension mentioned in paragraph 23(5) ceases to be payable under this scheme;

(b) a pension becomes payable under the existing police pension scheme in accordance with sub-paragraph (3); and

(c) if the member is a 2006 transition member, a lump sum is not payable under regulation 28(1)(b) of the 2007 Regulations.

(3) A pension is payable under the existing police pension scheme as follows—

(a) for a 2006 transition member, a pension is payable under regulation 28(1)(a) of the 2007 Regulations; and

(b) for a 1987 transition member, an ill-health pension is payable under the 1987 scheme.

(4) For the purpose of sub-paragraph (3), in calculating the annual rate of pension payable under the existing police pension scheme the following are subtracted from the amount of pension calculated under that scheme—

(a) the proportion of the commutation amount (if any) that related to the amount of pension mentioned in paragraph 23(5); and

(b) an amount equal to any transfer payment made to another scheme before the member reached normal pension age under the existing police pension scheme.

(5) Before the amount in sub-paragraph (4)(a) is subtracted, it must be increased by the amount by which the annual rate of a pension of that amount would have been increased under PIA 1971 if—

(a) that pension was eligible to be so increased; and

(b) the beginning date for that pension was the date the transition member's ill-health pension became payable.

PART 7

Payment of death benefits in respect of transition members with continuity of service

Annual rate of surviving adult's pension payable under this scheme when a 1987 transition member dies as a pensioner member

25.—(1) This regulation applies in relation to a 1987 transition member with continuity of service who dies as a pensioner member of this scheme.

(2) Benefits for surviving spouses and surviving civil partners are not payable under the 1987 scheme in respect of the member.

(3) The annual rate of a surviving adult's earned pension is the sum of—

(a) the amount calculated under regulation 129; and

(b) the amount of annual pension which would have been payable under the 1987 scheme to the member's surviving spouse or surviving civil partner had those benefits been payable under that scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the member's surviving spouse or surviving civil partner would have been entitled under the 1987 scheme.

Annual rate of surviving adult's pension payable under this scheme when a 2006 transition member dies as a pensioner member

26.—(1) This regulation applies in relation to a 2006 transition member with continuity of service who dies as a pensioner member of this scheme.

(2) Benefits for surviving spouses, surviving civil partners or other adult dependants are not payable under the 2006 scheme in respect of the member.

(3) The annual rate of a surviving adult's earned pension is the sum of—

(a) the amount calculated under regulation 129; and

(b) the amount of annual pension which would have been payable under the 2006 scheme to the member's surviving spouse, surviving civil partner or other adult dependant had those benefits been payable under that scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the member's surviving spouse, surviving civil partner or other adult dependant would have been entitled under the 2006 scheme.

Annual rate of surviving adult's pension payable under this scheme when a 1987 transition member dies as a deferred member

27.—(1) This regulation applies in relation to a 1987 transition member with continuity of service who dies as a deferred member of this scheme.

(2) Benefits for surviving spouses or surviving civil partners are not payable under the existing police pension scheme in respect of the member.

(3) The annual rate of a surviving adult's earned pension is the sum of—

(a) the amount calculated under regulation 130; and

(b) the amount of annual pension which would have been payable under the 1987 scheme to the member's surviving spouse or surviving civil partner had those benefits been payable under that scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the member's surviving spouse or surviving civil partner would have been entitled under the 1987 scheme.

Annual rate of surviving adult's pension payable under this scheme when a 2006 transition member dies as a deferred member

28.—(1) This regulation applies in relation to a 2006 transition member with continuity of service who dies as a deferred member of this scheme.

(2) Benefits for surviving spouses, surviving civil partners or other adult dependants are not payable under the 2006 scheme in respect of the member.

(3) The annual rate of a surviving adult's earned pension is the sum of—

(a) the amount calculated under regulation 130; and

(b) the amount of annual pension which would have been payable under the 2006 scheme to the member's surviving spouse, surviving civil partner or other adult dependant had those benefits been payable under that scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the member's surviving spouse, surviving civil partner or other adult dependant would have been entitled under the 2006 scheme.

Annual rate of surviving adult's pension payable under this scheme when a 1987 transition member dies as an active member

29.—(1) This paragraph applies in relation to a 1987 transition member with continuity of service—

(a) who dies as an active member of this scheme; and

(b) who has at least 2 years' qualifying service.

(2) Benefits for surviving spouses or surviving civil partners are not payable under the existing police pension scheme in respect of the member.

(3) The annual rate of surviving adult's earned pension payable under this scheme is the sum of—

(a) the amount calculated under regulation 131; and

(b) the amount of annual pension which would have been payable under the 1987 scheme to the member's surviving spouse or surviving civil partner had those benefits been payable under that scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the member's surviving spouse or surviving civil partner would have been entitled under the 1987 scheme.

Annual rate of surviving adult's pension payable under this scheme when a 2006 transition member dies as an active member

30.—(1) This paragraph applies in relation to a 2006 transition member with continuity of service—

(a) who dies as an active member of this scheme; and

(b) who has at least 2 years' qualifying service.

(2) Benefits for surviving spouses, surviving civil partners or other adult dependants are not payable under the 2006 scheme in respect of the member.

(3) The annual rate of surviving adult's earned pension payable under this scheme is the sum of—

(a) the amount calculated under regulation 131; and

(b) the amount of annual pension which would have been payable under the 2006 scheme to the member's surviving spouse, surviving civil partner or other adult dependant had those benefits been payable under that scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the member's surviving spouse, surviving civil partner or other adult dependant would have been entitled under the 2006 scheme.

Payment of eligible child's pension in respect of any transition member

31.—(1) This paragraph applies in relation to a transition member with continuity of service—

(a) who dies as an active member of this scheme and has at least 2 years' qualifying service;

(b) who dies as a deferred member of the scheme;

(c) who dies as a pensioner member of this scheme.

(2) Benefits for eligible children are not payable under the existing police pension scheme in respect of the member.

(3) The annual rate of child's earned pension payable under this scheme is the sum of—

(a) the annual rate of child's earned pension calculated under regulation 136; and

(b) the amount of annual pension which would have been payable under the existing police pension scheme to any eligible children of the member had those benefits been payable under the existing police pension scheme in respect of the member.

(4) The amount of pension payable under paragraph (3)(b) is subject to the same conditions, and ceases to be payable in the same circumstances, as is the pension to which the eligible child would have been entitled under the existing police pension scheme.

Lump sum death grant payable on death of active member

32.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as an active member of this scheme.

(2) On the death of the member—

(a) a lump sum death grant is payable in respect of the member under regulation 151; but

(b) a death in service lump sum death grant is not payable under the existing police pension scheme.

Death gratuities - dependants

33.—(1) This paragraph applies in relation to a transition member with continuity of service—

(a) who dies as a deferred member or pensioner member of this scheme if the death results from an injury received in the execution of duty; or

(b) who dies as a pensioner member of this scheme if the member dies within 2 years after becoming a pensioner member.

(2) The scheme manager may in its discretion grant a gratuity under both this scheme and the 2006 scheme if the conditions for payment are met under both—

(a) regulation 155 (death gratuities – dependants); and

(b) regulation 44 of the 2007 Regulations (death gratuities – dependants).

(3) The scheme manager may grant a gratuity under both this scheme and the 1987 scheme if the conditions for payment are met under both—

(a) regulation 155; and

(b) regulation E2 of the 1987 Regulations (gratuities – dependent relatives).

Death gratuity – estate

34.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as a deferred member, pensioner member or active member of this scheme.

(2) The scheme manager may in its discretion grant a gratuity under both this scheme and the 2006 scheme if the conditions for payment are met under both—

(a) regulation 156 (death gratuity – estate); and

(b) regulation 45 of the 2007 Regulations (death gratuity – estate).

(3) The scheme manager may grant a gratuity under both this scheme and the 1987 scheme if the conditions for payment are met under both—

(a) regulation 156; and

(b) regulation E3 of the 1987 Regulations (gratuity – estate).

PART 8

Transitional provisions relating to the existing police pension scheme

Pensionable service under the existing police pension scheme

35.—(1) This paragraph applies in relation to a transition member with continuity of service (T).

(2) The provisions of the existing police pension scheme relating to purchase of increased benefits continue to apply after the closing date as if T continued in pensionable service under that scheme.

(3) T may choose to end payments for added 60ths or added years after joining this scheme.

(4) In determining whether T qualifies under the existing police pension scheme for retirement benefits (other than an ill-health pension), T's pensionable service under that scheme terminates when T's pensionable service under this scheme terminates.

(5) In determining T's final salary for any purposes of the existing police pension scheme under Schedule 7 to the Act (final salary link), pensionable earnings derived from service under this scheme are to be regarded as derived from service under the existing police pension scheme.

Becoming a deferred member of the existing police pension scheme

36.—(1) A transition member with continuity of service (T) does not become a deferred member of the existing police pension scheme unless T becomes a deferred member of this scheme.

(2) If T opts out of this scheme in relation to eligible service and T has at least 2 years' qualifying service(**94**)—

(a) T becomes a deferred member of the existing police pension scheme in relation to that service; and

(b) any periodical payments for added 60ths or added years cease to be payable.

(**94**) See Part 6 (retirement benefits) for the meaning of "qualifying service".

(3) If T re-enters pensionable service under this scheme after a gap in service not exceeding 5 years, T ceases to be a deferred member of the existing police pension scheme.

Qualifying for benefits on retirement under the existing police pension scheme

37.—(1) In determining whether a transition member with continuity of service (T) qualifies for benefits on retirement under the existing police pension scheme, T's pensionable service under the existing police pension scheme includes the total of—

(a) T's continuous period of pensionable service under this scheme; and

(b) if a transfer payment has been received by this scheme in respect of T's accrued rights under another occupational pension scheme, T's pensionable service under that scheme.

(2) In calculating the T's continuous period of pensionable service under this scheme, a period of part-time service counts as if it were a period of full-time service.

Refund of contributions under the existing police pension scheme

38. If a transition member with continuity of service (T) opts out of this scheme and T has less than 2 years' qualifying service, T must be refunded all member contributions under the existing police pension scheme.

Calculation of weighted accrual for service in the 1987 scheme

39.—(1) This paragraph applies to a 1987 transition member with continuity of service ("the member").

(2) This paragraph applies for the purpose of calculating benefits (other than an ill-health pension) payable under the 1987 scheme for the purposes of this Schedule.

(3) The accrual rate for the member in the 1987 scheme is calculated as follows—

$$accrued = nx\frac{r}{q}$$

where—

"n" is the accrual that the member would have built up—

(a) had the member remained in the 1987 scheme until the member ceased to be in pensionable service under this scheme, and

(b) had the member been in full-time service throughout the continuous period of pensionable service;

"r" is the member's pensionable service under the 1987 scheme only; and

"q" is the total number of years of continuous pensionable service under the 1987 scheme and this scheme.

(4) In calculating "n"—

(a) any period of part-time service is taken to be a period of full-time service; and

(b) the maximum accrual of 2/3 applies.

(5) In calculating "r"—

(a) part-time service is not taken to be full-time service; and

(b) the limit of 30 years' service applies.

(6) In calculating "q"—

(a) part-time service is taken to be full-time service; and

(b) the limit of 30 years' service applies.

(7) The annual rate of pension payable to the member under the 1987 scheme is calculated by multiplying the accrual rate by the member's final pay.

(8) If the member is in part-time service, the member's final pay is calculated using the full-time equivalent rate of the member's pensionable earnings.

Calculation of lump sum under the 1987 scheme

40.—(1) In calculating the limit on the lump sum payable under regulation B7(4) of the 1987 Regulations (commutation – general provision) to a 1987 transition member, the member's continuous period of pensionable service under this scheme is included when calculating the member's pensionable service under the 1987 scheme.

(2) In calculating the member's continuous period of pensionable service under this scheme, a period of part-time service counts as if it were a period of full-time service.

Declaration under existing police pension scheme continues to have effect

41.—(1) This paragraph applies if a transition member with continuity of service has not made a declaration under these Regulations that another adult is the dependant of the member for the purpose of death benefits under this scheme.

(2) An existing declaration has effect as if made under these Regulations until the transition member makes a declaration under these Regulations.

(3) In this paragraph, "existing declaration" means a declaration which—

(a) was made for the purpose of the existing police pension scheme; and

(b) as at the closing date, had effect under that scheme.

Nomination under existing police pension scheme continues to have effect

42.—(1) This paragraph applies if a transition member with continuity of service has not nominated a person under these Regulations to receive a lump sum death grant under this scheme.

(2) An existing nomination has effect as if made under these Regulations until the transition member makes a nomination under these Regulations.

(3) In this paragraph, "existing nomination" means a nomination which—

(a) was made for the purpose of the existing police pension scheme; and

(b) as at the closing date, had effect under that scheme.

PART 9

Transfer of final salary benefits

Meaning of "final salary benefits"

43.—(1) In this Part, "final salary benefits" means benefits accrued under a final salary scheme, subject to sub-paragraph (2).

(2) Where only part of the pension entitlement payable under a final salary scheme to or in respect of a person which is based on the pensionable service of that person is or may be determined by reference to the person's final salary, "final salary benefits" means the benefits in respect of which the pension entitlement is so determined.

Acceptance of club transfer value payments

44.—(1) If the scheme manager accepts a transfer payment under regulation 179 (request for acceptance of a transfer payment) on the condition that any part of the transfer payment that relates to the member's final salary benefits is to be paid into the existing police pension scheme, that part of the transfer payment must be paid into the 2006 scheme.

(2) Any part of a club transfer value payment received from another pension scheme that relates to a member's final salary benefits must be paid into the 2006 scheme.

Joining this scheme or the 2006 scheme

45.—(1) This paragraph applies to a person who transfers final salary benefits into the 2006 scheme after the scheme closing date.

(2) Unless the person is a protected member of the 2006 scheme—

(a) the person joins this scheme;

(b) the person is taken to be a transition member with continuity of service; and

(c) the service to which the final salary benefits relate is counted when calculating qualifying service.

(3) If the person is a protected member of the 2006 scheme, the person joins the 2006 scheme.

PART 10

Pensionable service after the scheme closing date

Transition member with continuity of service

46.—(1) A transition member with continuity of service joins this scheme—

(a) if the member is in pensionable service on the transition date, on that date; or

(b) if the member is not in pensionable service on the transition date, when the member re-enters pensionable service after that date.

(2) A transition member who does not have continuity of service joins this scheme when the member re-enters pensionable service—

(a) on or after the transition date; or

(b) on or after ceasing to be a full protection member.

Active member of the 1988 NI police pension scheme on scheme closing date who joins 1987 scheme

47.—(1) This paragraph applies in relation to a person (P) who—

(a) was an active member of the 1988 NI police pension scheme on the scheme closing date and on 31st March 2012; and

(b) ceases to be in pensionable service under the 1988 NI police pension scheme.

(2) P joins the 1987 scheme if—

(a) P does not have a gap in pensionable service after ceasing to be in pensionable service under the 1988 NI police pension scheme; and

(b) P would have been a full protection member or tapered protection member of the 1988 NI police pension scheme had P remained in pensionable service under that scheme.

(3) P is taken to be a full protection member or tapered protection member of the 1987 scheme.

(4) P's protection period—

(a) begins on the day P joins the 1987 scheme; and

(b) ends when P ceases to be a full protection member or tapered protection member of the 1987 scheme.

Active member of the 1988 NI police pension scheme on scheme closing date who joins 2006 scheme

48.—(1) This paragraph applies in relation to a person (P) who—

(a) was an active member of the 1988 NI police pension scheme on the scheme closing date and on 31stMarch 2012; and

(b) ceases to be in pensionable service under the 1988 NI police pension scheme.

(2) P joins the 2006 scheme if—

(a) P re-enters pensionable service not more than 5 years after ceasing to be in pensionable service under the 1988 NI police pension scheme; and

(b) P would have been a full protection member or tapered protection member of the 1988 NI police pension scheme had P remained in pensionable service under that scheme.

(3) P is taken to be a full protection member or tapered protection member of the 2006 scheme.

(4) P's protection period—

(a) begins on the day P joins the 2006 scheme; and

(b) ends when P ceases to be a full protection member or tapered protection member of the 2006 scheme.

Active member of the 1987 scheme on scheme closing date

49.—(1) This sub-paragraph applies in relation to a person (P) who—

(a) was an active member of the 1987 scheme on the scheme closing date and on 31stMarch 2012; and

(b) ceases to be in pensionable service under the 1987 scheme.

(2) This sub-paragraph applies in relation to a person (P) who—

(a) was an active member of the 1988 NI police pension scheme on 31stMarch 2012;

(b) was an active member of the 1987 scheme on the scheme closing date; and

(c) ceases to be in pensionable service under the 1987 scheme.

(3) P joins the 2006 scheme if—

(a) P re-enters pensionable service not more than 5 years after ceasing to be in pensionable service under the 1987 scheme; and

(b) P would have been a full protection member or tapered protection member of the 1987 scheme had P re-entered pensionable service under that scheme.

(4) P is taken to be a full protection member or tapered protection member of the 2006 scheme.

(5) P's protection period—

(a) begins on the day P joins the 2006 scheme; and

(b) ends when P ceases to be a full protection member or tapered protection member of the 2006 scheme.

Deferred member of the 1987 scheme on scheme closing date

50.—(1) This paragraph applies in relation to a member of the 1987 scheme (P) who—

(a) was not an active member of the 1987 scheme on the scheme closing date;

(b) has a gap in pensionable service of not more than 5 years; and

(c) re-enters pensionable service after the scheme closing date.

(2) Unless P is a protected member of the 2006 scheme—

(a) P joins this scheme; and

(b) P is taken to be a 1987 transition member with continuity of service.

(3) If the person is a protected member of the 2006 scheme, the person joins the 2006 scheme.

(4) For the purpose of sub-paragraph (1)(b), T is not on a gap in pensionable service after the scheme closing date while T is in pensionable service under—

(a) an existing scheme other than the 2006 scheme or the existing England and Wales police pension scheme;

(b) the 1988 NI police pension scheme;

(c) another scheme under section 1 of the Act providing for payment of retirement pensions;

(d) the 2015 NI police pension scheme.

Active member of the 2009 NI police pension scheme on scheme closing date

51.—(1) This paragraph applies in relation to a person (P) who—

(a) was an active member of the 2009 NI police pension scheme on the scheme closing date and on 31stMarch 2012; and

(b) ceases to be in pensionable service under the 2009 NI police pension scheme.

(2) P joins the 2006 scheme if—

(a) P re-enters pensionable service not more than 5 years after ceasing to be in pensionable service under the 2009 NI police pension scheme; and

(b) P would have been a full protection member or tapered protection member of the 2009 NI police pension scheme had P re-entered pensionable service under that scheme.

(3) P is taken to be a full protection member or tapered protection member of the 2006 scheme.

(4) P's protection period—

(a) begins on the day P joins the 2006 scheme; and

(b) ends when P ceases to be a full protection member or tapered protection member of the 2006 scheme.

Active member of the existing England and Wales scheme on the scheme closing date

52.—(1) This paragraph applies in relation to a person (P) who—

(a) on the scheme closing date and on 31stMarch 2012, was an active member of the existing England and Wales scheme;

(b) ceases to be in pensionable service under the existing England and Wales scheme;

(c) would have been a full protection member of the existing England and Wales scheme had P re-entered pensionable service under that scheme.

(2) P joins the 2006 scheme if—

(a) P re-enters pensionable service not more than 5 years after ceasing to be in pensionable service under the existing England and Wales scheme; and

(b) P would have been a full protection member or tapered protection member of the existing England and Wales scheme had P re-entered pensionable service under that scheme.

(3) P is taken to be a full protection member or tapered protection member of the 2006 scheme.

(4) P's protection period—

(a) begins on the day P joins the 2006 scheme; and

(b) ends when P ceases to be a full protection member or tapered protection member of the 2006 scheme.

Active member of an existing scheme on the scheme closing date

53.—(1) This paragraph applies in relation to a person (P) who—

(a) on the scheme closing date and on 31st March 2012, was an active member of an existing scheme ("the existing scheme") other than the 1987 scheme, the 2006 scheme or the existing England and Wales scheme;

(b) ceases to be in pensionable service under the existing scheme; and

(c) unless P dies, P would reach 55 on or before 1st April 2022.

(2) P joins the 2006 scheme if—

(a) P re-enters pensionable service not more than 5 years after ceasing to be in pensionable service under the existing scheme; and

(b) P would have been a full protection member or tapered protection member of the existing scheme had P re-entered pensionable service under that scheme.

(3) P is taken to be a full protection member or tapered protection member of the 2006 scheme.

(4) P's protection period—

(a) begins on the day P joins the 2006 scheme; and

(b) ends when P ceases to be a full protection member or tapered protection member of the 2006 scheme.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a career average revalued earnings scheme for the payment of pensions and other benefits to members of the Police Service of Scotland.

Part 2 provides for establishment and scope of the scheme.

Part 3 contains governance provisions including delegation of the scheme manager's functions and establishment of a pension board and a scheme advisory board.

Part 4 provides for scheme membership. It sets out the key concepts of eligible service, pensionable earnings and assumed pay. It contains eligibility and auto-enrolment provisions. It also provides for the determination of a new member's eligibility for payment of ill-health benefits.

Part 5 provides for the establishment of a member's pension accounts in relation to a continuous period of pensionable service under this scheme. It also provides for the establishment of a pension credit member's account.

Chapter 1 explains how the amount of accrued pension is calculated.

Chapter 2 explains how adjustments to amounts of accrued pension are calculated.

Chapter 4 provides for the establishment of the active member's account. This Chapter shows how the proportion of pensionable earnings accrued as pension is revalued each year until the member leaves pensionable service.

Chapter 5 provides for the establishment of the deferred member's account and explains how the provisional amount of each description of deferred pension is calculated.

Chapter 6 provides for the establishment of the retirement account. It shows how the amount of retirement earned pension is worked out.

Part 6 provides for compulsory ill-health retirement and early payment of full retirement pension on grounds of permanent medical unfitness.

Part 7 provides for a member's entitlement to payment of retirement benefits. It sets out the key concept of qualifying service. It specifies how the annual rate of pension is calculated for full retirement pensions and ill-health pensions, and provides for review and cancellation of ill-health benefits.

Part 8 provides for benefits for pension credit members.

Part 9 provides for death benefits. It provides for the recovery and suspension of benefits in certain cases.

Part 10 provides for the payment of contributions by members and employers.

Part 11 provides for making and receiving transfer payments.

Part 12 provides for actuarial valuations and employer cost cap.

Part 13 contains supplementary provisions on payment of pensions, payment and deduction of tax and miscellaneous provisions. It provides for appeals to the sheriff against certain decisions made under the scheme.

Schedule 1 provides for appeals against medical decisions and referral of a decision to a medical authority for reconsideration.

Schedule 2 lists progressive medical conditions.

Schedule 3 makes provision for payments for added pension.

Schedule 4 makes transitional provision.

An impact assessment has not been prepared for this instrument as no impact on the costs of business or the voluntary sector is foreseen.