
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

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(1);
 - (b) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(2);
 - (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)(3) 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)(4); and
 - (d) regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations 2000(5);
- “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(6);
- (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(7) (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

(1) [S.I. 1996/1172](#).

(2) [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](#).

(3) 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](#).

(4) 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.

(5) [S.I. 2000/1054](#). Regulation 3 was amended by [S.I. 2009/2930](#).

(6) [1989 c.6](#); see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

(7) [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⁽⁸⁾ (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.

(8) 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⁽⁹⁾(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.

⁽⁹⁾ 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⁽¹⁰⁾ for reconsideration under Schedule 1, the sheriff or tribunal hearing the appeal is bound by a final decision of a medical authority⁽¹¹⁾ 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.

⁽¹⁰⁾ See paragraph 1 of Schedule 1 for the meaning of "medical decision".

⁽¹¹⁾ 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(12) 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(13) 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.

(12) 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.

(13) 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(14) (interpretation of Part 1) (other than prescribed transfer credits for the purposes of section 91(5)(d) of PA 1995(15) (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.

(14) 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.

(15) 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⁽¹⁶⁾ 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

⁽¹⁶⁾ 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⁽¹⁷⁾;
 - “annual allowance charge” has the meaning given in section 227 (annual allowance charge) of FA 2004⁽¹⁸⁾;
 - “pension scheme input amount” has the same meaning as in section 237B(2) of FA 2004⁽¹⁹⁾ (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—

⁽¹⁷⁾ 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.

⁽¹⁸⁾ 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.

⁽¹⁹⁾ 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.