
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

PART 4

Scheme membership

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.

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.