
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

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⁽¹⁾.
- (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⁽²⁾ 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—

(1) See regulation 13 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues.
(2) 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(3);

“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(4); 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

(3) [S.I. 2010/772](#); regulation 12 was amended by [S.I. 2012/215](#).

(4) 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⁽⁵⁾.

(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⁽⁶⁾ 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.

⁽⁵⁾ See regulation 19 for when an opt-in has effect.

⁽⁶⁾ 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(7); 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(8) 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.

(7) 1996 c.14.

(8) 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⁽⁹⁾ 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).

⁽⁹⁾ See regulation 13 for periods of unpaid leave during which the employment relationship continues.