
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 142

The Police Pension Scheme (Scotland) Regulations 2015

PART 6

Retirement pensions payable on grounds of permanent medical unfitness

CHAPTER 1

General

Medical unfitness

64. In these Regulations—

“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⁽¹⁾.

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.

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.

(1) 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.

(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⁽²⁾.

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