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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 142**

**The Police Pension Scheme (Scotland) Regulations 2015**

**PART 7**

**Retirement benefits**

**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<sup>(1)</sup>;
- (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.

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

(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;
- (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.