

2004 No. 2354

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment) (No. 3) Regulations 2004

<i>Made</i> - - - -	<i>8th September 2004</i>
<i>Laid before Parliament</i>	<i>10th September 2004</i>
<i>Coming into force</i> - -	<i>1st October 2004</i>

The Secretary of State, in exercise of the powers conferred upon him by section 1 of the Police Pensions Act 1976(a), with the consent of the Treasury(b) and after consultation with the Police Negotiating Board for the United Kingdom(c), hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Pensions (Amendment) (No. 3) Regulations 2004 and shall come into force on 1st October 2004.

(2) These Regulations extend to England and Wales only.

Amendment of the Police Pensions Regulations 1987

2.—(1) The Police Pensions Regulations 1987(d) are amended in accordance with this regulation.

(2) In regulation B1(5) (policeman's ordinary pension) after the words "permanently disabled" insert "and he is not ineligible under regulations G7 and G8 for a pension award payable on the ground of permanent disablement".

(3) In regulation B3(1) (policeman's ill-health award) after the words "preceding his retirement" insert "or to a regular policeman who under regulations G7 and G8 is ineligible for a pension award payable on the ground of permanent disablement."

(4) In regulation B5(4)(a) (policeman's deferred pension) after the words "permanently disabled" insert "and he is not ineligible under regulations G7 and G8 for a pension award payable on the ground of permanent disablement".

(5) For regulation G2(1) (pension contributions payable by regular policeman) substitute—

(a) 1976 c. 35. Section 1 is amended by section 2(3) of the Police Negotiating Board Act 1980 (c. 10), paragraph 28 of Schedule 7 to the Police Act 1996 (c. 16) and section 1(1) of the Police and Firemen's Pensions Act 1997 (c. 52). Functions under the Act as regards Scotland are transferred by article 2 of and Schedule 1 to S.I. 1999/1750.

(b) Formerly the Minister for the Civil Service: see S.I. 1981/1670.

(c) See section 2(3) of the Police Negotiating Board Act 1980 (c.10).

(d) S.I. 1987/257; relevant amendments were made by S.I. 1990/805, 1992/2349, 1994/641, 1996/867, 1998/577, 2000/1549, 2001/3888 and 2002/2529.

“(1) Subject to paragraph (3), a regular policeman shall pay to the police authority pension contributions at the rate of 1p a week less than–

(a) in a case where he is ineligible under regulation G7 or G8 for a pension award payable on the ground of permanent disablement, 7½ per cent of his pensionable pay; and

(b) in any other case, 11 per cent of his pensionable pay.”

(6) In regulation G4(5) (election not to pay pensions contributions)–

(a) at the end of sub-paragraph (ii) insert “, and”;

(b) after sub-paragraph (ii) insert the following sub-paragraph–

“(iii) a regular policeman in respect of whom it is finally determined, following a medical examination under regulation G7 or G8, that the likely cost of providing him with benefits under these Regulations is disproportionately high, shall be entitled to cancel his election under paragraph (1) only on the basis that he shall not be eligible to receive pension awards payable on the ground of permanent disablement.”

(7) After regulation G6 insert the following regulations–

“G7 Eligibility for pension awards payable on the ground of permanent disablement

(1) A person to whom this regulation applies, shall, if required by the police authority for that force, submit to an examination by a duly qualified medical practitioner selected by the authority (“the selected medical practitioner”) in order that the authority may determine his eligibility to receive pension awards payable on the ground of permanent disablement.

(2) This regulation applies to–

(a) a candidate for appointment to a police force (other than on transfer from another force), and

(b) a regular policeman who seeks under regulation G4(5) to cancel his election that regulation G2(1) shall not apply in his case.

(3) The selected medical practitioner shall report to the police authority his opinion on the likelihood and likely timing of that person becoming permanently disabled for the performance of his duty, and such a report shall, subject to an appeal under this regulation, be final.

(4) A copy of any such report shall be supplied to the person who is the subject of that report, at his request.

(5) The police authority shall determine, by applying the opinion of the selected medical practitioner and advice from the Government Actuary, whether the risk presented by that person that he will retire on the ground that he is permanently disabled is such that the likely cost of providing him with benefits under these Regulations is disproportionately high.

(6) The likely cost of providing a person with benefits under these Regulations shall be assessed as disproportionately high if it is more than 50% greater than the likely cost of providing such benefits to a person who does not have an identified risk of retirement on that ground.

(7) A person who it is determined under paragraph (5) presents such a risk shall, in accordance with these Regulations, be ineligible for pension awards payable on the ground of permanent disablement.

G8 Appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement

(1) A person who is dissatisfied with the opinion of the selected medical practitioner may appeal against the practitioner’s report if–

- (a) within 28 days of receiving a copy of it he gives notice that he intends to make such an appeal, and
- (b) within two months (or such longer period as may be agreed by the police authority) of receiving that copy he supplies evidence that a registered medical practitioner (“the appellant’s practitioner”) has examined him and disagrees with the selected medical practitioner’s opinion on the likelihood or likely timing (or both) of that person becoming permanently disabled for the performance of his duty.

(2) The police authority shall ask the selected medical practitioner to reconsider his report in the light of that evidence and, if necessary, to produce a revised report on the likelihood and likely timing of that person becoming permanently disabled for the performance of his duty.

(3) Where the police authority receives such a revised report, it shall determine, by applying the revised report and advice from the Government Actuary, whether that person shall be eligible for pension awards payable on the ground of permanent disablement, and if it determines that he is so eligible then that revised report shall be final.

(4) In any other case, the authority shall arrange for a third registered medical practitioner to examine the person.

(5) The third medical practitioner shall be acceptable to the selected medical practitioner and to the appellant’s practitioner, except that in the event of a failure to agree, the police authority may appoint such third medical practitioner as it considers appropriate.

(6) The third medical practitioner shall supply the police authority and the appellant with a written statement of his opinion, which, if it disagrees with any part of the report of the selected medical practitioner, shall take the form of a revised report on the likelihood and likely timing of that person becoming permanently disabled for the performance of his duty, which shall be final.

(7) Where the third medical practitioner produces a revised report, the police authority shall determine, by applying that report and advice from the Government Actuary, whether the appellant is eligible for pension awards payable on the ground of permanent disablement.”

(8) In Schedule A (glossary of expressions) at the appropriate place insert–

“‘pension award payable on the ground of permanent disablement’ means an award under regulation B1, B3 or B5.”

Amendment of the Police Pensions (Purchase of Increased Benefits) Regulations 1987

3.—(1) The Police Pensions (Purchase of Increased Benefits) Regulations 1987(a) are amended in accordance with this regulation.

(2) After regulation 8(1A) insert the following paragraph–

“(1B) Paragraph (1) shall not have effect in relation to a regular policeman who retires on ill-health grounds if under regulation G7(6) of the principal Regulations he is ineligible for a pension award payable on the ground of permanent disablement.”

(3) In regulation 8(2)(b) after the words “principal Regulations” insert “or”.

(4) After regulation 8(2)(b) insert the following sub-paragraph–

“(c) retires on ill-health grounds but is ineligible under regulation G7(6) of the principal Regulations for a pension award payable on the ground of permanent disablement.”.

(5) In paragraph 3(2)(b) of the Schedule, after the words “65 years” insert “and”.

(6) After paragraph 3(2)(b) of the Schedule insert the following paragraph–

(a) S.I. 1987/2215, as amended by S.I. 1990/805.

“(c) a person who under regulation G7(6) of the principal Regulations is ineligible for a pension award payable on the ground of permanent disablement.”

Home Office
7th September 2004

Scotland of Asthal, Q.C.
Minister of State

We consent to the making of these Regulations

8th September 2004

Joan Ryan
Nick Ainger
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions Regulations 1987 and the Police Pensions (Purchase of Increased Benefits) Regulations 1987 as they apply in England and Wales.

Regulation 2 amends the Police Pensions Regulations 1987. Regulation 2(2) to (4) applies in relation to an applicant to a police force who is assessed as being likely to be disproportionately expensive to the Police Pension Scheme by reason of a medical condition which will lead to his retirement. Such a person will be ineligible for early payment of an ordinary pension, for payment of an ill-health pension on compulsory retirement, and for early payment of deferred pension because of permanent disablement.

Regulation 2(5) provides that such a person will pay a correspondingly reduced rate of pension contributions.

Regulation 2(6) provides that the restrictions on eligibility for pension awards may also apply to a person who, having previously elected not to pay pension contributions, decides to cancel that election.

Regulation 2(7) provides for the process whereby a person may be assessed as presenting a high risk of retirement on the grounds that he is permanently disabled such that the cost of providing benefits would be disproportionately high. Provision is made for appeals against such a medical assessment.

Regulation 3 makes consequential amendments to the Police Pensions (Purchase of Increased Benefits) Regulations 1987. A person who has been assessed as presenting a disproportionately high risk of retirement will be ineligible for receiving additional benefits if he retires on ill-health grounds, and the amount of the payments he makes for any increased benefits will be determined by the Government Actuary.

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