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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 113**

**The Police Pensions Regulations (Northern Ireland) 2015**

**PART 1**

**Preliminary**

**Citation, commencement and effect**

- 1.—(1) These Regulations—
- (a) may be cited as the Police Pensions Regulations (Northern Ireland) 2015; and
  - (b) apply to members of the police service in Northern Ireland.
- (2) Subject to paragraph 3, these Regulations come into operation on 1st April 2015.
- (3) Schedule 5 has effect from 1st July 2014.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—
- “the Act” means the Public Service Pensions Act (Northern Ireland) 2014;
  - “the 1971 Act ” means the Pensions (Increase) Act (Northern Ireland) 1971(1);
  - “the 1972 Order” means the Superannuation (Northern Ireland) Order 1972(2);
  - “the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993(3);
  - “the 1995 Order” means the Pensions (Northern Ireland) Order 1995(4);
  - “the 1998 Act” means the Police (Northern Ireland) Act 1998(5);
  - “the 1999 Order ” means the Welfare Reform and Pensions (Northern Ireland) Order 1999(6);
  - “the 2000 Act” means the Police (Northern Ireland) Act 2000(7);
  - “the 2001 Regulations” means the Police Trainee Regulations (Northern Ireland) 2001(8);
  - “the 2004 Act” means the Finance Act 2004(9);
  - “the 2004 Regulations” means the Police Service of Northern Ireland Reserve (Part-Time) Regulations 2004(10);

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(1) 1971 c.35.  
(2) S.I.1972/1073(N.I.10)  
(3) 1993 c.49  
(4) S.I.1995/3213 (N.I. 22);  
(5) 1998 c.32.  
(6) S.I 1999/ 3147(N.I.11) ;  
(7) 2000 c.32.  
(8) S.R.2001 No 369  
(9) 2004 c.12;  
(10) S.R.2004 No.3

“the 2004 Reserve Trainee Regulations” means the Police Reserve Trainee Regulations (Northern Ireland)2004**(11)** ;

“the 2005 Regulations” means the Police Service of Northern Ireland Regulations 2005**(12)**;

“the 2006 Regulations” means the Police Service of Northern Ireland and the Police Service of Northern Ireland Reserve (Injury Benefits) Regulations 2006**(13)**;

“the 1987 Great Britain police pension scheme” means the scheme constituted by the Police Pension Regulations 1987**(14)**;

“the 1988 scheme” means the pension scheme constituted by the Royal Ulster Constabulary Pensions Regulations 1988**(15)**;

“1988 transition member” has the meaning given in Schedule 4;

“the 2006 England and Wales police pension scheme” means the scheme constituted by the Police Pension Regulations 2006**(16)**;

“the 2006 Scotland police pension scheme” means the scheme constituted by the Police Pensions (Scotland) Regulations 2007; (which have effect from 6<sup>th</sup> April 2006 apart from regulations 13(3)(b) and 78(7) which have effect from 30<sup>th</sup> March 2007);

“the 2006 scheme” means the pension scheme constituted by the Police Pension (Northern Ireland) Regulations 2009**(17)**; (which have effect from 6<sup>th</sup> April 2006, except for regulations 10(2)(c) and 74(9) which have effect from 31<sup>st</sup> December 2007);

“2006 transition member” has the meaning given in Schedule 4.

“the 2015 England and Wales police pension scheme” means a scheme established under the Public Service Pensions Act 2013**(18)** for payment of retirement pensions to or in respect of members of a police force in England and Wales which comes into force on 1 April 2015;

“the 2015 Scotland police pension scheme” means a scheme established under the Public Service Pensions Act 2013 for payment of retirement pensions to or in respect of members of a police service in Scotland, which comes into force on 1 April 2015;

“accrued added pension” means—

- (a) accrued added (self only) pension (if any); and
- (b) accrued added (all beneficiaries) pension (if any);

“accrued added (all beneficiaries) pension”, for the purpose of calculating the amount of retirement added pension or the provisional amount of deferred added (all beneficiaries) pension, has the meaning given in regulation 42(6);

“accrued added (self only) pension”, for the purpose of calculating the amount of retirement added pension or the provisional amount of deferred added (self only) pension, has the meaning given in regulation 42(5);

“accrued club transfer earned pension” for the purpose of calculating the amount of retirement earned pension or the provisional amount of any description of deferred club transfer earned pension, has the meaning given in regulation 42(4).

“accrued earned pension” means—

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**(11)** S.R.2004 No.2.  
**(12)** S.R.2005 No. 547;  
**(13)** S.R.2006 No. 268  
**(14)** S.I 1987 /257  
**(15)** S.R 1988 No. 374  
**(16)** S.I.2006/3415  
**(17)** S.R 2009 No 79  
**(18)** 2013 c.25

- (a) in relation to this scheme—
  - (i) accrued standard earned pension (if any);
  - (ii) (accrued club transfer earned pension (if any);
- (b) in relation to another pension scheme or the existing police pension scheme, accrued rights to benefits under that scheme derived from—
  - (i) pension which is earned under that scheme; or
  - (ii) pension which is attributable to a transfer payment received by that scheme;

“accrued pension” means—

- (a) accrued earned pension; and
- (b) accrued added pension (if any);

“accrued rights”, in relation to benefits under this scheme, does not include a right to benefits attributable (directly or indirectly) to a pension credit;

“accrued standard earned pension”—

- (a) for the purpose of calculating the amount of retirement earned pension or the provisional amount of any description of deferred standard earned pension, has the meaning given in regulation 42(3);

“active member”, in relation to this scheme, means a person who is in pensionable service<sup>(19)</sup> under this scheme;

“active member’s account”, has the meaning given in regulation 52(2);

“actuarial guidance” means guidance given by the Department after consultation with the scheme actuary;

“actuarial reduction” has the meaning given in regulation 47(4)(actuarial reduction on early payment of pension(early payment reduction));

“actuarial tables” means tables determined by the Department after consultation with the scheme actuary.

“added pension” means—

- (a) added (self only) pension (if any); and
- (b) added (all beneficiaries) pension (if any);

“added (all beneficiaries) pension” means added pension payable in respect of a member after the member has died;

“added (self only) pension” means added pension payable to a pensioner member;

“adoption leave” means, for a person in service as a member of the police service who falls within regulation 4(1)(a), leave taken in accordance with a determination under regulation 32(8)(c) of the 2005 Regulations<sup>(20)</sup>;

“adoption support leave” means, for a person in service as a member of the police service who falls within regulation 4(1)(a), leave taken in accordance with a determination under regulation 32(8)(b) of the 2005 Regulations;

“age addition” has the meaning given in 45(3);

“amount of added pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 55(7);

“amount of credited pension” has the meaning given in regulation 68(5);

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<sup>(19)</sup> See section 34 of the Act for the meaning of “pensionable service

<sup>(20)</sup> S.R 2005 No.547

“amount of standard earned pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 55(4)(amount of pension for a scheme year);

“annualised final pay” has the meaning given in Chapter 7 of Part 9 (death benefits);

“annual allowance” has the meaning given in section 228 (annual allowance) of the 2004 Act **(21)**;

“annual allowance charge” has the meaning given in section 227 (annual allowance charge) of the 2004 Act**(22)**;

“annual rate”—

(a) for each description of pension, has the meaning given in Part 7(retirement benefits); and

(b) in relation to pensionable earnings, means the amount of pensionable earnings payable for a scheme year;

“appeal tribunal” has the meaning given in Schedule 1 (medical decisions: appeals and reconsideration);

“assumed age addition” has the meaning given in regulation 46(3);

“assumed pay” except as otherwise provided in Part 10 (contributions), means the amount of pensionable earnings an active member of this scheme is taken to receive under regulation 31(assumed pay) in respect of a period of assumed pay;

“the beginning date”, in relation to a pension not attributable (directly or indirectly) to a pension credit, means the date on which the pension is deemed to begin for the purpose of section 8(2) of the 1971 Act**(23)**;

“the Board” means the Northern Ireland Policing Board as established by section 2 of the 2000 Act;

“beneficiary”, in relation to a deceased member, means the surviving adult or eligible child of the member;

“career break” in relation to a member of this scheme who falls within regulation 4(1)(a)

(“the member”), means a period of unpaid leave whether or not it exceeds 5 years which is agreed by the Chief Constable in accordance with a determination under regulation 32(13) of the 2005 Regulations;

“child’s added pension” means a pension payable to an eligible child under regulation 144(4) (d);

“child’s earned pension” means a pension payable to an eligible child under regulation 144(4) (a);

“child’s enhanced upper tier ill-health pension” means a pension payable to an eligible child under regulation 144(4)(c);

“child’s lower tier ill-health pension” means a pension payable to an eligible child under regulation 144(4)(b);

“closing date” in relation to a transition member, has the meaning given in paragraph 1 of Schedule 4 (transitional provisions);

“club scheme” has the meaning given in Part 11 (transfers);

(21) Section 228 was substituted by the Finance Act 2011, Schedule 17 paragraph 4 and was amended by the Finance Act 2013 section 49

(22) Section 227 was amended by the Finance Act 2009(c.10) Schedule 2, paragraphs 10 and 15 and the Finance Act 2011, Schedule 17 paragraph 3.

(23) See Section 8(2) was amended by The Pensions (Miscellaneous Provisions) (NI) Order 1990 (S.I. 1990/1509 (N.I. 13)) Article 3(5) and The Welfare Reform and Pensions (NI) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 36(1) and (3). Section 8(2) of the 1971 Act may be applied subject to such modifications, adaptations and exceptions as may be specified in regulations under section 5(3) of that Act.

- “club transfer” has the meaning given in Part 11;
- “club transfer arrangements” has the meaning given in Part 11;
- “club transfer earned pension” means pension attributable to receipt of a club transfer value payment;
- “club transfer value” has the meaning given in Part 11;
- “club transfer value payment” has the meaning given in Part 11;
- “the commutation amount” means the amount of pension exchanged for a lump sum as a result of the exercise of the option to exchange part of a pension for a lump sum—
- (a) exercisable under regulation 122 (option to commute part of pension) in relation to a retirement pension; or
  - (b) exercisable under regulation 129 (option for pension credit member to commute part of pension) in relation to a pension credit member’s pension;
- “connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme;
- “continuity of service”,—
- (a) in relation to service in the 1988 scheme and this scheme, has the meaning given in paragraph 4 of Schedule 4;
  - (b) in relation to service in the 2006 scheme and this scheme, has the meaning given in paragraph 5 of that Schedule;
- “continuous period of pensionable service”, in relation to this scheme, means a period of pensionable service under this scheme disregarding any gap in service not exceeding 5 years;
- “contracted out employment” has the meaning given in section 4(1) of the 1993 Act;
- “contributions equivalent premium” means a premium under section 51(2) of the 1993 Act;
- “death benefits” means benefits payable under Part 9 (death benefits).
- “death gratuity” means a gratuity paid under Chapter 8 of Part 9 (death benefits);
- “deferred member” in relation to this scheme, has the meaning given in regulation 40;
- “deferred member’s account” has the meaning given in regulation 61(2);
- “the Department” means the Department of Justice;
- “the Department of Finance and Personnel directions” means directions made by the Department of Finance and Personnel under section 11 of the Act;
- “description of accrued pension” means accrued pension of a description mentioned in Chapter 1 of Part 5 (pension accounts);
- “description of deferred added pension” means—
- (a) deferred added (self only) pension; or
  - (b) deferred added (all beneficiaries) pension;
- “description of deferred earned pension” means—
- (a) deferred standard earned pension;
  - (b) deferred club transfer earned pension;
- “description of deferred pension” means—
- (a) deferred standard earned pension;
  - (b) deferred club transfer earned pension;
  - (c) deferred added (all beneficiaries) pension; or

(d) deferred added (self only) pension;

“description of pension” means—

(a) standard earned pension;

(b) transferred pension;

(c) club transfer earned pension;

(d) added (all beneficiaries) pension; or

(e) added (self only) pension;

“dual capacity member” has the meaning given in regulation 198;

“duly qualified medical practitioner” means a registered medical practitioner who holds—

(a) the minimum qualification of Associate of the Faculty of Occupational Medicine or the equivalent EEA qualification; or

(b) any other equivalent qualification acceptable to the scheme manager.

“early payment reduction” has the meaning given in regulation 47 (actuarial reduction on early payment of pension);

“eligible child” has the meaning given in regulation 143;

“eligible child’s pension” has the meaning given in regulation 142;

“eligible service” has the meaning given in regulation 18;

“employment” includes an office or appointment and related expressions are to be read accordingly;

“employer” in relation to a member of the police service, means the police pension authority for that member acting in exercise of its function as employer;

“enhanced upper tier ill-health pension” means a pension payable to a member who meets the upper tier threshold;

“the existing police pension scheme” means—

(a) the 1988 scheme; or

(b) the 2006 scheme.

“final pay” has the meaning given in Chapter 5 of Part 9 (death benefits);

“first day in eligible service” has the meaning given in Part 4, Chapter 2 (automatic enrolment);

“full retirement pension” means the following pensions payable under Part 7, Chapter 2 (full retirement benefits) —

(a) a retirement earned pension; and

(b) a retirement added pension (if any);

“full retirement pension which comes into payment early on the grounds of permanent medical unfitness” has the meaning given Part 7, Chapter 3.

“gap in service”, in relation to service in this scheme, means any period after a member’s first day of eligible service —

(a) in which the member is not in eligible service; or

(b) in respect of which the member is opted out of this scheme under Chapter 2 of Part 4;

“guaranteed minimum” means the guaranteed minimum as defined in sections 10 and 13 of “the 1993 Act” (minimum pensions for earners, widows and widowers)—

(a) as increased in accordance with the requirements of section 105 of that Act (annual increase of minimum pensions); and

(b) if a reduction has been made under section 11A of that Act (reduction of guaranteed minimum in consequence of pension debit), as reduced in accordance with that section;

“guaranteed minimum pension” has the meaning given in section 4(2) of the 1993 Act;

“ill-health benefits” means—

(a) an ill-health pension; or

(b) a full retirement pension which comes into payment early on grounds of permanent medical unfitness;

“ill-health pension” means—

(a) for a transition member with continuity of service, a transition member’s ill-health pension payable under paragraph 23 of Schedule 4; or

(b) otherwise a lower tier ill-health pension; and an enhanced upper tier ill-health pension (if applicable) payable under Part 7 (retirement benefits);

“ill-health pension under this scheme” means a lower tier ill-health pension and if applicable an enhanced upper tier ill-health pension payable under Part 7 (retirement benefits);

“index adjustment” means—

(a) in relation to the opening balance of earned pension other than club transfer earned pension for any scheme year the change in prices in that scheme year<sup>(24)</sup>; plus 1.25% and

(b) in relation to the opening balance of club transfer earned pension for any scheme year, the in-service revaluation index that the sending scheme would have applied to that amount of earned pension for that scheme year, had the earned pension not been transferred;

“Injury Benefits Regulations; scheme regulations providing for payment of injury benefits to members of the police service in Northern Ireland” means—

(a) the 2006 Regulations<sup>(25)</sup>;

(b) scheme regulations providing for payment of injury benefits to members of the police service in Northern Ireland;

“injury received in the execution of duty” has the meaning given in regulation 5 of the 2006 Regulations and “the result of an injury” is construed in accordance with regulation 7 of those regulations.

“in-service revaluation index”, in relation to a pension scheme, means the percentage increase or decrease by which the pensionable earnings of a person, or a proportion of those earnings accrued as a pension, are revalued whilst the person is in pensionable service in that pension scheme;

“last active scheme year” means the scheme year in which an active member of this scheme ceases to be in pensionable service under this scheme;

“last day of pensionable service” means the last day of a continuous period of pensionable service under this scheme;

“the leaving year” means the scheme year in which the last day of pensionable service falls;

“lower tier ill-health pension” means a pension payable under Part 7 to a member who meets the lower tier threshold .

“lower tier threshold”, in relation to entitlement to payment of an ill-health pension, has the meaning given in regulation 99 (payment thresholds);

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(24) Under section 9 of the Act the change in process to be applied in a period is the percentage increase or decrease as a Department of Finance and Personnel Order under that section may specify in relation to the period.

(25) [S.R 2006 No.268](#)

“lump sum death grant ” means a lump sum paid under Chapter 6 of Part 9 (death benefits) on the death of a member;

“maternity leave” means—

- (a) for a person in service as a member of the police service who falls within regulation 4(1)(a), leave taken in accordance with a determination under regulation 32(7) of the 2005 Regulations; or
- (b) for a person in service as a member of the police service who falls within regulation 4(1)(c), leave taken in accordance with Regulation 14 of the 2001 Regulations;(26)

“maternity support leave” for a person in service as a member of the police service who falls within regulation 4(1)(a), leave taken in accordance with a determination under regulation 32(8)(a) of the 2005 Regulations;(27)

“member”, in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member of this scheme;

“members’ contributions” has the meaning given in Part 10 (contributions);

“member of the police service” has the meaning given in Part 2 (establishment of scheme).

“normal minimum pension age” has the same meaning as in section 279(1) of the 2004 Act;

“occupational pension scheme” has the meaning given in section 1 of the 1993 Act ;

“opening balance”, in relation to a description of pension for a scheme year, has the meaning given in regulation 56(3);

“parental leave” means for a person in service as a member of the police service who falls within regulation 4(1)(a), leave taken in accordance with a determination under regulation 32(8)(d) of the 2005 Regulations;

“part-time service” means service by a person appointed under regulation 5 of the 2005 Regulations;

“paternity leave” means for a person in service as a member of the police service who falls within regulation 4(1)(c), leave taken in accordance with regulation 15 of the 2001 Regulations.

“pay period” means the period in respect of which a payment of pensionable earnings is made;

“payments for added pension” means payments resulting from the exercise of the added pension option under Schedule 3;

“pension credit” has the meaning given in Article 121(1) of the 1995 Order(28);

“pension credit member”, in relation to this scheme, means a person who has rights under this scheme which are attributable (directly or indirectly) to a pension credit under a pension sharing order following divorce, nullity of marriage or dissolution of civil partnership;

“pension credit member’s account” has the meaning given in regulation 68;

“pension credit member’s pension” means a pension payable under regulation 124;

“pension debit” means a debit under article 26(1)(a) of the 1999 Order;

“pension debit member”, in relation to this scheme, means a person who is a member of this scheme whose benefits or future benefits under this scheme have been reduced under article 28 of the 1999 Order (reduction of benefit);

“another pension scheme” means—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme; or

(26) SR 2001 No 369.

(27) SR 2005 No 547.

(28) S.I. 1995/3213 (N.I.22)



- (b) a personal pension scheme;
- “pension sharing order” means any provision or order specified in article 25 of the 1999 Order;
- “pension supervising authority” has the meaning given in Part 2.
- “pensionable earnings”, in relation to any period—
- (a) for the purpose of calculating member contributions, has the meaning given in Part 10 (contributions); and
- (b) otherwise, has the meaning given in regulation 30 (pensionable earnings);
- “pensioner member”, in relation to this scheme, means a person who is entitled to the immediate payment for life of a retirement pension under this scheme;
- “period of assumed pay” has the meaning given in regulation 31(2)
- “period of permanent service” means a period in which 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(29);
- “permanently medically unfit”, in relation to a member of the police service has the meaning given in regulation 74(decision of selected medical practitioner);
- “personal pension scheme” means a personal pension scheme as defined in section 1 of the 1993 Act that is a registered pension scheme;
- “PIA index adjustment”, in relation to the opening balance of added pension for any scheme year, means the amount by which the annual rate of a pension of an amount equal to the opening balance would have been increased in that year under the 1971 Act if—
- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the first day of the previous scheme year;
- “police force in relation to England and Wales” has the meaning given in section 101 of the Police Act 1996(30);
- “police force in Great Britain” means—
- (a) in relation to England and Wales, a police force within the meaning of section 101 of the Police Act 1996; or
- (b) the Police Service of Scotland within the meaning of section 6 of the Police and Fire Reform (Scotland) Act 2012(31);
- “police pension authority” has the meaning given in regulation 5.
- “a police pension scheme” means—
- (a) this scheme
- (b) the 2015 England and Wales police pension scheme; or
- (c) the 2015 Scotland police pension scheme;
- “police service”, in relation to Northern Ireland, means a service comprising persons who fall within any of the categories in regulation 4(1).
- “the Police Service of Scotland” has the meaning given in section 6 of the Police and Fire Reform (Scotland) Act 2012;
- “protected member”, in relation to the existing police pension scheme, has the meaning given in Schedule 4 (transitional provisions);

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(29) 1996 c.14

(30) 1996 c.16.

(31) 2012 asp 8

“provisional amount”, in relation to any description of deferred pension, has the meaning given in regulation 62(4);

“qualifying service” for the purpose of this scheme has the meaning given in regulation 86;

“registered”, in relation to a pension scheme, means registered under Chapter 2 of Part 4 of the 2004 Act;

“regular employment” means—

- (a) for a member of the police service who falls within regulation 4(1)(a) or (c), employment for an annual average of at least 30 hours per week;
- (b) for a member of the police service who falls within regulation 4(1)(b) or (d), employment for 144 hours per financial year;

“retirement account” has the meaning given in regulations 65(4)

“retirement added pension” means—

- (a) retirement added (self only) pension (if any); and
- (b) retirement added (all beneficiaries) pension (if any);

“retirement benefits” means benefits payable under Part 7 (retirement benefits);

“retirement earned pension” means, in relation to this scheme—

- (a) retirement standard earned pension (if any);
- (b) retirement club transfer earned pension (if any);

“retirement index adjustment”, in relation to an amount of accrued earned pension, has the meaning given in regulation 43;

“retirement pension” means a full retirement pension or ill-health pension;

“retirement PIA index adjustment”, in relation to an amount of accrued added pension, has the meaning given in regulation 44;

“this scheme” means the scheme established by these Regulations;

“scheme actuary” means the individual appointed by the Department under Part 12 (actuarial valuations and employer cost cap);

“scheme closing date” means 31st March 2015;

“scheme manager” has the meaning given in regulation 6 (scheme manager);

“scheme year” means a period of one year beginning with 1st April and ending with 31st March;

“selected medical practitioner” has the meaning given in Schedule 1 (medical decisions: appeals and reconsideration);

“sending scheme” has the meaning given in Part 11 (transfers);

“sick leave” means—

- (a) for a person in service as a member of the police service who falls within regulation 4(1) (a), leave taken in accordance with a determination under regulation 32(5) of the 2005 Regulations; or
- (b) for a person in service as a member of the police service who falls within regulation 4(1) (c), leave taken in accordance with regulation 12 of the 2001 Regulations;

“standard earned pension” means pension which is earned under this scheme and which is payable without actuarial reduction—

- (a) to an active member who becomes a pensioner member of this scheme on reaching normal pension age under this scheme<sup>(32)</sup>; or
- (b) to a deferred pension member who becomes a pensioner member of this scheme on reaching the members state pension age.

“statutory pay” means statutory adoption pay, statutory maternity pay, ordinary statutory paternity pay or additional statutory paternity pay within the meaning of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(33)</sup>;

“surviving adult”, in relation to a deceased member of this scheme, has the meaning given in regulation 133;

“surviving adult partner” has the meaning given in regulation 134;

“surviving adult’s added pension” means a pension payable under regulation 136(2)(d);

“surviving adult’s earned pension” means a pension payable under regulation 136(2)(a);

“surviving adult’s enhanced upper tier ill-health pension” means a pension payable under regulation 136(2)(c);

“surviving adult’s lower tier ill-health pension” means a pension payable under regulation 136(2)(b);

“surviving adult’s pension” has the meaning given in regulation 135;

“surviving civil partner” has the meaning given in regulation 133;

“surviving spouse” has the meaning given in regulation 133;

“tax year” means the period of one year which is the period of assessment for income tax purposes;

“transfer payment” has the meaning given in Part 11 (transfers);

“transfer value” has the meaning given in Part 11;

“transfer value payment” has the meaning given in Part 11;

“transferred pension” means pension attributable to receipt of a transfer value payment;

“transition date” has the meaning given in Part 1 of Schedule 4 (transitional provisions);

“transition member” means—

- (a) a 1988 transition member; or
- (b) a 2006 member;

“upper tier threshold ” in relation to entitlement to a payment of an ill-health pension, has the meaning given in regulation 99 (payment thresholds);

“weekly rate”, in relation to a guaranteed minimum pension, has the same meaning as in regulation 55(1) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>(34)</sup>;

“whole of the member’s accrued pensions” means—

- (a) all the member’s accrued earned pension; and
- (b) all the member’s accrued added pension (if any).

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<sup>(32)</sup> See section 10(3) of the Act for the meaning of normal pension age under this scheme

<sup>(33)</sup> 1992 c.7.

<sup>(34)</sup> S.R. 1996 No.493.

## PART 2

### Establishment of scheme for members of the police service

#### Establishment of scheme

3. These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of members of the police service in Northern Ireland.

#### Members of the police service

4.—(1) For the purpose of these Regulations a member of the police service is—

- (a) a constable of the Police Service of Northern Ireland as defined in section 1(2) of the 2000 Act; or
- (b) a constable of the Police Service of Northern Ireland Reserve as defined in section 1(4) of the 2000 Act; or
- (c) a police trainee within the meaning of section 36(3) of the 2000 Act; or
- (d) a police reserve trainee within the meaning of section 37(3) of the 2000 Act; or
- (e) a police service cadet within the meaning of section 42 of the 2000 Act.

(2) For the purpose of these Regulations a member of the police service who falls within paragraph (1)(a) or (c) remains in service as a member of the police 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<sup>(35)</sup>.

## PART 3

### Governance

#### Police pension authority

5. In these Regulations “police pension authority” means—

- (a) for a member of the police service who falls within Regulation 4(1); the Board.
- (b) for a member of the police service engaged on relevant service under section 27 of the 1998 Act; the Board.

#### Scheme manager

6.—(1) The police pension authority for a member of the police service is responsible for managing and administering this scheme and any statutory pension scheme that is connected with it<sup>(36)</sup> in relation to that member.

(2) Pensions and other benefits payable under this scheme are payable by the scheme manager.

<sup>(35)</sup> See regulation 19 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues.

<sup>(36)</sup> see section 4(6) of the Act which sets out when statutory pension schemes are “connected”;

(3) A statutory pension scheme that is a defined contributions scheme<sup>(37)</sup> is not connected with this scheme.

(4) In these Regulations “scheme manager” in relation to a member of the police service means the police pension authority for that member acting in exercise of its functions under paragraph (1).

### **Scheme manager approval**

7. In this Part, “scheme manager approval” means for a Police Pensions Board established to assist the scheme manager, the approval of that scheme manager.

### **Delegation**

8.—(1) The Department may delegate any functions under these Regulations, including this power to delegate.

(2) The scheme manager may delegate any functions under these Regulations, including this power to delegate.

### **Scheme manager’s obligation to pass on member’s records**

9.—(1) Paragraph (2) applies if a member of the police service in Northern Ireland who falls within regulation 4(1) (“the NI police service”) becomes a member of a police force in England and Wales (“the England and Wales police force”).

(2) The scheme manager for the NI police service must give the scheme manager for the England and Wales police force within 3 months of the member becoming a member of the England and Wales police force any information or documents required by the scheme manager for that police force for the purpose of—

- (a) the scheme manager’s functions under the 2015 England and Wales police pension scheme; or
- (b) records required to be kept by the scheme manager under regulations made under section 16 of the Public Service Pensions Act 2013<sup>(38)</sup>.

(3) Paragraph (4) applies if a member of the police service in Northern Ireland who falls within regulation 4(1) (“the NI police service”) becomes a member of the Police Service of Scotland.

(4) The scheme manager for the NI police service must give the scheme manager for the Police Service of Scotland any information or documents required by the scheme manager for the Police Service of Scotland for the purpose of—

- (a) the scheme manager’s functions under the 2015 Scotland police pension scheme; or
- (b) records required to be kept by the scheme manager under regulations made under section 16 of the Public Service Pensions Act 2013.

### **Police Pension Board: establishment**

10.—(1) The scheme manager must ensure that a pension board<sup>(39)</sup> (“the Police Pension Board”) is established to assist the scheme manager—

- (a) to secure compliance with—
  - (i) these Regulations;

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<sup>(37)</sup> See section 34 of the Act for the meaning of “defined contributions scheme”;

<sup>(38)</sup> 2013 c.25

<sup>(39)</sup> See section 5(8) of the Act for the meaning of “pension board”;

- (ii) any other legislation relating to the governance and administration of this scheme and any statutory pension scheme that is connected with it; and
  - (iii) any requirements imposed by the Pensions Regulator in relation to this scheme or any statutory pension scheme that is connected with it; and
- (b) in the performance of the scheme manager’s functions under these Regulations.

### **Police Pension Board: membership**

**11.**—(1) Subject to regulation 13 (police pension board: conflicts of interest) the Police Pension Board is to consist of the following members who are to be entitled to vote in its proceedings (“voting members”)

- (a) an independent chair appointed by the scheme manager with departmental approval;
- (b) at least 4 and no more than 12 persons to be appointed by the chair with scheme manager approval.

(2) The chair must not be an employer representative nor a member representative<sup>(40)</sup>.

(3) Equal numbers of employer representatives and member representatives must be appointed to the Police Pension Board under paragraph (1)(b), including a departmental finance director, who is to be treated as an employer representative.

(4) The chair with scheme manager approval, may appoint to the Police Pension Board up to 2 independent members, who are not entitled to vote in its proceedings (“non-voting members”).

(5) A member of the Police Pension Board is to hold and vacate office in accordance with the terms of that member’s appointment.

(6) In this regulation, “independent” means neither an employer representative nor a member representative.

(7) In this Regulation “departmental finance director” means —

- (a) an accounting officer appointed by the Department under section 5 of the Government and Resources Accounts Act; or
- (b) a civil servant who has responsibility for the financial management of a government department.

### **Police Pension Board: procedure**

**12.**—(1) The Police Pension Board may determine its own procedures, subject to scheme manager approval.

(2) If there is a tied vote on any issue, the chair has a casting vote.

### **Police Pension Board: conflicts of interest**

**13.**—(1) Before appointing, or approving the appointment of, any person under regulation 11, (police pension board: membership) the scheme manager must be satisfied that that person does not have a conflict of interest<sup>(41)</sup>.

(2) The scheme manager must be satisfied from time to time that none of the members of the Police Pension Board has a conflict of interest.

(3) If the scheme manager determines that a member of the Police Pension Board has a conflict of interest, the scheme manager must terminate the appointment of the member.

<sup>(40)</sup> See section 5(7) of the Act for meaning of “employer representatives” and “member representatives”.

<sup>(41)</sup> See section 7(5) of the Act for the meaning of “conflict of interest”

(4) A member of the Police Pension Board, or a person proposed to be appointed as such a member, must provide the scheme manager with any information the scheme manager may reasonably require for the purpose of paragraph (1) or (2).

#### **Payment of fees and expenses**

**14.** The scheme manager may—

- (a) pay fees to or in respect of members of the Police Pension Board of such amounts as the scheme manager may determine; and
- (b) reimburse members of the Police Pension Board in respect of any reasonable expenses incurred by them in performance of their duties in relation to this scheme.

#### **Scheme advisory board: establishment**

**15.—**(1) A scheme advisory board is established~~(42)~~.

(2) The scheme advisory board is responsible for providing advice to the Department, at the Department's request, on the desirability of making changes to this scheme.

(3) The scheme advisory board may provide advice (on request or otherwise) to the scheme manager or to the Police Pension Board in relation to the effective and efficient administration and management of this scheme and any statutory pension scheme that is connected with it.

(4) The scheme advisory board may determine its own procedures, subject to the approval of the Department.

#### **Scheme advisory board: membership**

**16.—**(1) Subject to regulation 17 (scheme advisory board: conflicts of interest), the scheme advisory board is to consist of the following members—

- (a) a chair appointed by the Department; and
- (b) at least 4, and no more than 12, members appointed by the chair with the approval of the Department.

(2) A member of the scheme advisory board is to hold and vacate office in accordance with the terms of that member's appointment.

#### **Scheme advisory board: conflicts of interest**

**17.—**(1) Before appointing a person as a member of the scheme advisory board, the Department must be satisfied that that person does not have a conflict of interest~~(43)~~.

(2) The Department must be satisfied from time to time that none of the members of the scheme advisory board has a conflict of interest.

(3) If the Department determines that a member of the scheme advisory board has a conflict of interest, the Department must terminate the appointment of the member.

(4) A member of the scheme advisory board, or a person proposed to be appointed as such a member, must provide the Department with any information the Department may reasonably require for the purpose of paragraph (1) or (2).

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**(42)** See section 7(6) of the Act for the meaning of "scheme advisory board".

**(43)** See section 7(5) of the Act for the meaning of "conflicts of interest"

## PART 4

### Scheme membership

#### Chapter 1

#### Active membership

#### Eligible Service

- 18.**—(1) A member of the police service—
- (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 service 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<sup>(44)</sup>
- (4) For the purpose of these Regulations, a member of a police force remains in eligible service during a period of permanent service unless during that period of permanent service P is in pensionable service in—
- (a) an existing scheme<sup>(45)</sup> 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

- 19.**—(1) For the purpose of determining entitlement to payment of benefits to or in respect of a member of this scheme who falls within regulation 4(1)(a), 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—
    - (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 171(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;

<sup>(44)</sup> See regulation 19 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues

<sup>(45)</sup> See section 18(2) of the Act for the meaning of “existing scheme”



- (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**

**20.** 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**

**21.** This Chapter applies in relation to a continuous period of eligible service.

#### **Interpretation of Chapter**

**22.—(1)** In this Chapter—

“automatic re-enrolment date”, in relation to a person in service in a scheme employment, means a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010<sup>(46)</sup>;

“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<sup>(47)</sup>.

“first day of eligible service” means the first day of the continuous period of eligible service.

#### **Automatic enrolment**

**23.—(1)** A person (P) begins pensionable service under this scheme on P’s first day of eligible service unless—

- (a) Regulation 28 (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
- (b) as at 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 the Police Service of Scotland who becomes a member of the police service in Northern Ireland.

(4) A person in pensionable service under the 2015 England and Wales police pension scheme or the 2015 Scotland police pension scheme, begins pensionable service under this scheme when P becomes a member of the police service in Northern Ireland.

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<sup>(46)</sup> [S.R.2010 No.122](#) Regulation 12 was amended by regulation 2(7) of the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 ([S.R. 2012 No. 232](#))

<sup>(47)</sup> See Chapter 1 of this Part. For the purposes of these Regulations, a member of the police service on a period of unpaid leave from the police service remains in eligible service.

### Opting into this scheme

**24.**—(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<sup>(48)</sup>.

(4) If P opts out of this scheme within a period of 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

**25.** If P opts into 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, any other time the scheme manager considers appropriate.

### Automatic re-enrolment

**26.**—(1) This regulation applies if, on the automatic re-enrolment date, a person 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 (No. 2) Act (Northern Ireland) 2008<sup>(49)</sup> to make arrangements for P to be an active member of a pension scheme.

(3) For the purpose of paragraph (2), the scheme manager 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.

### Opting out of this scheme

**27.**—(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 in a form required by 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.

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<sup>(48)</sup> See regulation 25 for when an opt-in has effect.

<sup>(49)</sup> 2008 c.13. Section 5 was amended by the Pensions Act (Northern Ireland) 2012 (c.3 (N.I.) sections 5(2) to (4), 6(3) and (4) and 7(3) and regulation 2(1) of the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2014 (S.R. 2014 No. 81).

### **Opting out before the end of the initial period of eligible service**

**28.**—(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 one month 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**

**29.**—(1) This regulation applies if—

- (a) regulation 28 (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) one month 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**

**30.**—(1) This regulation applies for the purpose of these Regulations, other than for the purpose of Part 10 (contributions).

(2) A member’s pensionable earnings for any period—

- (a) for a member who falls within regulation 4(1)(a) or (c), in full time service means pay at the rate to which the member is entitled in that period, account being taken of any retrospective increase in that rate.
- (b) for a member who falls within regulation 4(1)(a) 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.

- (c) for a member who falls within regulation 4(1)(b) or (d), means pay at the rate to which the member is entitled in that period, under the member's terms and conditions of employment, account being taken of any retrospective increase in that rate.

### **Pensionable earnings during a period of assumed pay**

**31.**—(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 at 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 paternity 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<sup>(50)</sup>; 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<sup>(51)</sup> that relates to the armed forces or another scheme under section 1 of the Public Service Pensions Act 2013<sup>(52)</sup> that relates to the armed forces; or  
 (b) any other occupational pension scheme.

(4) This regulation does not apply to a member who falls within regulation 4(1)(b) or (d).

## **CHAPTER 4**

Eligibility for payment of ill-health benefits.

### **Interpretation**

**32.**—(1) For the purposes of this Chapter “final medical report” has the meaning given in

- (a) regulation 36(1) (selected medical practitioner's report);  
 (b) regulation 37(3) (appeal against selected medical practitioner's report); or  
 (c) regulation 38(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.

<sup>(50)</sup> 1996 c.14.

<sup>(51)</sup> See section 18(2) of the Act for the meaning of “existing scheme”

<sup>(52)</sup> 2013 c.25.

### **Determination of eligibility for payment of ill-health benefits**

- 33.**—(1) This regulation applies in relation to the following persons—
- (a) every new member of the police service;
  - (b) every member of the police service who opts under Chapter 2 (automatic enrolment) 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 service—
- (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 the 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 under this scheme for payment for ill-health benefits under this scheme 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 ill-health benefits 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**

- 34.**—(1) This regulation applies in relation to a person (P) who is ineligible under this scheme for payment of ill health benefits under this scheme.
- (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 for 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 presented 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.
- (4) If the scheme manager determines, under this regulation that the risk is such that the likely cost of providing P with ill-health benefits is not disproportionately high, P is eligible for ill health benefits 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**

**35.**—(1) A reduced member contributions rate applies to an active member of this scheme who is ineligible for ill-health benefits under this scheme for payment of ill-health benefits.

(2) If the scheme manager determines under regulation 34 (re-determination of eligibility for 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**

**36.**—(1) A selected medical practitioner who examines a person (P) under this Chapter must send a report and certificate (“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 service.

(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 service, must consider—

- (a) the likelihood of P becoming unable to perform those duties; and
- (b) the likelihood of that inability continuing until the member reaches normal pension age under this scheme.

(3) A copy of the selected medical practitioner’s report and certificate must be given to P.

(4) Subject to an appeal under regulation 37 (appeal against selected medical practitioner’s report) for the purpose of this Chapter the selected medical practitioner’s report and certificate is final.

**Appeal against selected medical practitioner’s report**

**37.**—(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 ill-health benefits 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 of 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 service.

(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 service (“the selected medical practitioner’s revised report”).
- (4) The selected medical practitioner must send a revised report and certificate to the scheme manager and to P.
- (5) Subject to regulation 38 (revised report by third medical practitioner) for the purpose of this Chapter that revised report is the final medical report.

### **Revised report by third registered medical practitioner**

**38.**—(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 service.
- (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 and certificate 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**

**39.**—(1) This regulation applies in relation to a member of the police service 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”**

**40.**—(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 (3) 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 **(53)** ceases to be an active member if the period of leave exceeds 5 years.
- (4) Paragraph (2) does not apply to a deferred member who falls within regulation 4(1)(b) or (d).
- (5) A person becomes a deferred member of this scheme in relation to an amount of accrued added pension if—
- (a) the circumstances in regulation 103(1) (deferment of added pension attributable to recent payments) apply; or
  - (b) the person exercises the option under regulation 121 (option to defer payment of retirement added pension).

## PART 5

### Pension accounts

#### CHAPTER 1

#### Accrued pension

#### **Descriptions of accrued pension**

- 41.** For the purpose of these Regulations, the descriptions of accrued pension are—
- (a) accrued standard earned pension;
  - (b) accrued club transfer earned pension;
  - (c) accrued added (all beneficiaries) pension; and
  - (d) accrued added (self only) pension.

#### **Calculation of amount of accrued pension for purpose of deferment or retirement**

**42.—(1)** For the purpose of calculating an amount of retirement earned pension or retirement added pension or the provisional amount of a description of deferred pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued club transfer earned pension is to be calculated separately in relation to each sending scheme.

(3) The amount of accrued standard earned pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—

- (a) the sum of the opening balance of standard earned pension for the last active scheme year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the last active scheme year;
- (c) the sum of the opening balance of transferred pension for the last active scheme year and the index adjustment for that opening balance; and
- (d) the amount of transferred pension for the last active scheme year.

(4) The amount of accrued club transfer earned pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—

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**(53)** See regulation 19 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues



- (a) the sum of the opening balance of club transfer earned pension for the last active scheme year and the index adjustment for that opening balance; and
  - (b) the amount of club transfer earned pension for the last active scheme year.
- (5) The amount of accrued added (self only) pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—
- (a) the sum of the opening balance of accrued added (self only) pension for the last active scheme year and the PIA index adjustment for that opening balance; and
  - (b) the amount of accrued added (self only) pension of that description for the last active scheme year.
- (6) The amount of accrued added (all beneficiaries) pension is the total of the following amounts specified in the active member's account at the end of the last day of pensionable service—
- (a) the sum of the opening balance of accrued added (all beneficiaries) pension for the last active scheme year and the PIA index adjustment for that opening balance; and
  - (b) the amount of accrued added (all beneficiaries) pension for the last active scheme year.

## CHAPTER 2

### Calculation of adjustments

#### Calculation of “retirement index adjustment”

**43.**—(1) The retirement index adjustment for an amount of accrued earned pension is—

*amount of accrued earned pension x retirement index percentage*

where—

“amount of accrued earned pension” means an amount of any description of accrued pension; and

“retirement index percentage” means the retirement index percentage calculated under paragraph (2) for that description of accrued earned pension.

(2) The retirement index percentage is—

$$A \times \frac{B}{12}$$

where—

*A* means—

- (i) for accrued club transfer earned pension, the in-service revaluation index that applies in relation to the sending scheme for the leaving year; and
- (ii) for accrued standard earned pension, the in-service revaluation index that applies in relation to this scheme for the leaving year;

*B* is the number of complete months in the period between the beginning of the leaving year and the end of the last day of pensionable service; and

“complete month” includes an incomplete month that consists of at least 16 days.

#### Calculation of “retirement PIA index adjustment”

**44.**—(1) The retirement PIA index adjustment for an amount of accrued added pension is calculated in accordance with paragraph (2).

(2) The retirement PIA index adjustment is the amount by which the annual rate of a pension of an amount equal to the amount of accrued added pension would have been increased in the leaving year under the 1971 Act if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the day after the last day of pensionable service.

#### **Determination of “the age addition”**

**45.**—(1) This regulation applies in relation to each scheme year in which an active member’s account is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme, other than—

- (a) the scheme year in which the account is required to be established under this Part; and
- (b) the scheme year immediately following that.

(2) At the beginning of the scheme year, for each description of pension, the scheme manager in accordance with actuarial guidance must determine the age addition to be awarded for that scheme year by reference to the opening balance of that description of pension for the previous scheme year.

(3) In these Regulations, “the age addition” means an additional amount of pension determined by reference to the proportion of the previous scheme year for which a member had reached normal pension age under this scheme.

#### **Determination of “the assumed age addition”**

**46.**—(1) This regulation applies if —

- (a) a deferred member’s account is established under this Part for a member who reached the member’s state pension age in the last year of pensionable service at least one month before the last day of pensionable service; or
- (b) a retirement account is established under this Part for a member who reached normal pension age under this scheme in the last year of pensionable service at least one month before the last day of pensionable service.

(2) For each description of accrued pension specified in the account, the scheme manager in accordance with actuarial guidance must determine the assumed age addition to be awarded.

(3) In these Regulations “the assumed age addition” means—

- (a) for an amount of accrued standard earned pension not attributable to a transferred pension, the age addition that would have been awarded for standard earned pension had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (b) for an amount of accrued standard earned pension attributable to a transferred pension, the age addition that would have been awarded for transferred pension had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (c) for an amount of accrued club transfer earned pension, the age addition that would have been awarded for club transfer earned pension had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;

- (d) for an amount of accrued added (self only) pension, the age addition that would have been awarded for added pension of that description had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (e) for an amount of accrued added (all beneficiaries) pension, the age addition that would have been awarded for added pension of that description had the member not left pensionable service in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme.

### **Actuarial reduction on early payment of pension (early payment reduction)**

**47.**—(1) An actuarial reduction (early payment reduction) is applied when calculating the annual rate of pension payable to—

- (a) an active member who becomes a pensioner member of this scheme before reaching normal pension age under this scheme;
  - (b) a deferred member who becomes a pensioner member of this scheme before reaching the member’s state pension age; or
  - (c) a person who becomes a pension credit member of this scheme before reaching the member’s state pension age.
- (2) An early payment reduction is not applied when calculating—
- (a) the annual rate of ill-health pension under this scheme; or
  - (b) the annual rate of full retirement pension which came into payment early on grounds of permanent medical unfitness<sup>(54)</sup>.
- (3) An early payment reduction is calculated by reference to the following—
- (a) for an active member who claims payment of a full retirement pension before reaching normal pension age, normal pension age under this scheme;
  - (b) for a deferred member of this scheme who claims payment of a full retirement pension before reaching the member’s state pension age, the member’s state pension age.
- (4) In these Regulations—
- “actuarial reduction” means a reduction determined by the scheme manager, in accordance with actuarial guidance or actuarial tables; and
- “early payment reduction” means an actuarial reduction that is applied under paragraph (1).

### **Late payment supplement**

**48.** In this Part, “late payment supplement”, in relation to the provisional amount of a description of deferred pension, means an additional amount of pension determined by the scheme manager (in accordance with actuarial guidance or actuarial tables) to be appropriate if a deferred member of this scheme is over the member’s state pension age when the member becomes entitled to the payment of a full retirement pension under Part 7, Chapter 2 (full retirement benefits).

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<sup>(54)</sup> See regulation 92(3) (early payment of full retirement pension) when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

## CHAPTER 3

## Pension accounts: general

**Establishment of pension accounts: general**

**49.**—(1) The scheme manager must establish and maintain one or more pension accounts for each member of this scheme in accordance with this Part.

(2) A pension account—

- (a) may be kept in any form the scheme manager considers appropriate; and
- (b) must specify the details required by these Regulations.

(3) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

**Closure and adjustment of pension accounts on transfer out**

**50.**—(1) Except as otherwise provided in this regulation, the scheme manager must close all pension accounts relating to a member of this scheme if—

- (a) a transfer payment is made in respect of all of the member's accrued rights under this scheme; or
- (b) all member contributions and payments for added pension made by the member are refunded to the member under Part 10 (contributions).

(2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer payment does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme<sup>(55)</sup>

(4) Paragraph (1)(a) does not require the scheme manager to close a pension credit member's account if the transfer payment is made in respect of the accrued rights of a member who is both—

- (a) a pension credit member of this scheme; and
- (b) an active member, deferred member or pensioner member of this scheme.

## CHAPTER 4

## Active member's account

**Application of Chapter**

**51.**—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

**Establishment of active member's account**

**52.**—(1) The scheme manager must establish a pension account for a member who is in pensionable service under this scheme from the day on which the member begins that pensionable service.

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<sup>(55)</sup> Regulation 176 provides for the extinguishment of rights following the refund of all members' contributions and payments for extra pension made by the member. Regulation 185 provides for the extinguishment of rights following the making of a transfer value payment.

(2) For the purpose of these Regulations, an account established under paragraph (1) is called an active member's account.

#### **Receipt of a transfer value payment**

**53.**—(1) This regulation applies if a transfer value payment is received from another pension scheme (other than a connected scheme) in relation to an active member of this scheme.

(2) On receiving the transfer value payment, the scheme manager must credit the active member's account with the amount of transferred pension calculated under regulation 190 (amount of transferred pension).

#### **Receipt of a club transfer value payment**

**54.**—(1) This regulation applies if a club transfer value payment is received from another club scheme in relation to an active member of this scheme.

(2) On receiving the club transfer value payment, the scheme manager must credit the active member's account, in relation to the sending scheme, with an amount of club transfer earned pension the member is entitled to count under regulation 192 (amount of club transfer earned pension).

#### **Amount of pension for a scheme year**

**55.**—(1) This regulation applies in relation to each scheme year in which an active member's account is open.

(2) The active member's account must specify, in relation to each description of pension, the amount of that description of pension for the scheme year.

(3) The amount of club transfer earned pension for a scheme year must be specified separately in relation to each sending scheme.

(4) The amount of standard earned pension for a scheme year is  $\frac{1}{55.3}$  of the member's pensionable earnings for that year~~(56)~~.

(5) The amount of transferred pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 190 (amount of transferred pension) for that year.

(6) The amount of club transfer earned pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 192 (amount of club transfer earned pension) for that year.

(7) The amount of added pension of any description for a scheme year is the amount (if any) credited to the active member's account in that scheme year under Chapter 2 or 3 of Schedule 3 (payments for added pension).

(8) For the purpose of paragraph (4), in respect of a period of assumed pay under this scheme "pensionable earnings" means the member's assumed pay.

#### **Opening balance, index adjustment, PIA Index adjustment and age addition**

**56.**—(1) This regulation applies in relation to each scheme year in which an active member's account is open other than the scheme year in which that account is established.

(2) The active member's account must specify the following—

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(56) See Part 4, Chapter 3 for the amount of pensionable earnings a member is taken to receive during a period of assumed pay.

- (a) the opening balance of standard earned pension, club transfer earned pension (if any) and transferred pension (if any) for the scheme year and the index adjustment for each opening balance;
  - (b) the opening balance of added (self only) pension (if any) and added (all beneficiaries) pension for the scheme year and the PIA index adjustment for each opening balance;
  - (c) if applicable, the age addition awarded at the beginning of the scheme year for each description of pension.
- (3) In these Regulations, “opening balance” in relation standard earned pension, club transfer earned pension or transferred pension —
- (a) for the scheme year immediately following the scheme year in which the active member’s account is established, means the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
  - (b) for any subsequent scheme year, means the sum of the following amounts—
    - (i) the opening balance of that pension for the previous scheme year and the index adjustment for that opening balance;
    - (ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
    - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year.
- (4) In these Regulations, “opening balance” in relation to added pension—
- (a) for the scheme year immediately following the scheme year in which the active member’s account is established, means the amount of that pension for the previous scheme year at the end of the previous scheme year; and
  - (b) for any subsequent scheme year, means the sum of the following amounts—
    - (i) the opening balance of that pension for the previous scheme year and the PIA index adjustment for that opening balance;
    - (ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
    - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

#### **Closure and re-establishment of active member’s account**

**57.**—(1) The scheme manager must close an active member’s account in relation to a continuous period of pensionable service under this scheme when the scheme manager establishes in relation to that period of service—

- (a) a deferred member’s account under Chapter 5; or
- (b) a retirement account under Chapter 6; or

(2) If a deferred member or pensioner member re-enters pensionable service under this scheme, the scheme manager must re-establish an active member’s account under this Chapter when the scheme manager closes—

- (a) the member’s deferred member’s account under Chapter 5; or
- (b) the member’s retirement account under Chapter 6.

#### **Active member’s account to remain open during periods of unpaid leave**

**58.**—(1) This regulation applies to the following periods of unpaid leave—

- (a) a career break; or

- (b) any other period of unpaid leave—
  - (i) that does not exceed 5 years; and
  - (ii) during which the employment relationship continues<sup>(57)</sup>.
- (2) During a period of unpaid leave mentioned in paragraph (1)(a) or (b), the scheme manager must make entries in the active members account as if, during that period, the member—
  - (a) was in pensionable service under this scheme; but
  - (b) received no pensionable earnings.
- (3) The active member's account must be closed and a deferred member's account opened if a period of unpaid leave, other than a career break exceeds 5 years.

#### **Adjustment of active member's account after period of unpaid family leave or unpaid sick leave**

- 59.**—(1) This regulation applies in respect of an active member of this scheme who opts to pay member contributions under regulation 171(option to pay member contributions for period of unpaid leave) on the return from a period of unpaid leave mentioned in that regulation.
- (2) On payment of the full amount of contributions for the period of unpaid leave, the active member's account is to be adjusted so that for the period of unpaid leave the member is taken to receive pensionable earnings at the rate that applied at the beginning of the period of unpaid leave.
- (3) If the member does not pay the full amount by the end of the payment period under regulation 172(1) (payment of member contributions for unpaid leave), the active member's account is to be adjusted so that, for the period determined by the scheme manager under regulation 172(4), the member is taken to receive pensionable earnings at the rate that applied at the beginning of the period of unpaid leave.
- (4) This regulation does not apply to an active member who falls within regulation 4(1)(b) or(d).

### CHAPTER 5

#### Deferred member's account

#### **Application of Chapter**

- 60.**—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.
- (2) For a person who is a deferred member of this scheme in relation to 2 or more continuous periods of pensionable service, this Chapter applies separately in relation to each of those periods of service.

#### **Establishment of deferred member's account**

- 61.**—(1) This regulation applies when an active member of this scheme becomes a deferred member of this scheme in relation to a continuous period of pensionable service.
- (2) The scheme manager must—
  - (a) close the active member's account for that period of service; and
  - (b) establish a pension account for the deferred member for that period of service.
- (3) For the purpose of these Regulations, an account established under paragraph (2)(b) is called a deferred member's account.

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(57) See regulation 19 (periods of unpaid leave) for periods of unpaid leave during which the employment relationship continues.

**Provisional amount of deferred pension**

**62.**—(1) The deferred member’s account must specify the provisional amount of each description of deferred pension.

- (2) The provisional amount of each description of deferred earned pension is the sum of—
- (a) the amount of the relevant accrued earned pension calculated under regulation 43 (“accrued amount”);
  - (b) the retirement index adjustment for the accrued amount; and
  - (c) the assumed age addition (if any) for the accrued amount.

(3) The retirement index adjustment is not applied in relation to an amount of accrued earned pension if a transfer payment was made before the end of the last active scheme year in respect of the member’s rights to that accrued pension.

- (4) The provisional amount of each description of deferred added pension is the sum of—
- (a) the amount of the relevant accrued added pension calculated under regulation 43 (“accrued amount”);
  - (b) the retirement PIA index adjustment for the accrued amount; and
  - (c) the assumed age addition (if any) for the accrued amount.

(5) In this regulation—

“relevant accrued earned pension” means—

- (a) for a deferred standard earned pension, accrued standard earned pension;
- (b) for a deferred club transfer earned pension, accrued club transfer earned pension;

“relevant accrued added pension” means—

- (a) for a deferred added (self only) pension, accrued added (self only) pension; and
- (b) for a deferred added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

**Adjustment of provisional amount**

**63.**—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service becomes entitled to the payment for life of a full retirement pension for that period of service.

(2) For the provisional amount of each description of deferred pension, the deferred member’s account must specify—

- (a) the late payment supplement (if any);
- (b) the early payment reduction (if any); and
- (c) the commutation amount (if any).

**Closure of deferred member’s account after gap in service not exceeding 5 years**

**64.**—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service re-enters pensionable service under this scheme after a gap in service not exceeding 5 years.

(2) The scheme manager must—

- (a) close the deferred member’s account in relation to that period of service and treat the deferred member’s account as if it were never established;
- (b) re-establish the active member’s account under Chapter 5 in relation to that period of service; and



- (c) make entries in the active member's account as if, during the gap in service, the member—
  - (i) was in pensionable service under this scheme; but
  - (ii) received no pensionable earnings.

## CHAPTER 6

### Retirement account

#### **Establishment of retirement account**

**65.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is a pensioner member of this scheme in relation to 2 or more continuous periods of pensionable service, this chapter applies separately in relation to each of those periods of service.

(3) When an active member of this scheme becomes entitled to the payment for life of a retirement pension in relation to that period of service, the scheme manager must—

- (a) close the active member's account for that period of service; and
- (b) establish an account for the pensioner member for that period of service.

(4) For the purpose of these Regulations, an account established for a pensioner member under paragraph (3)(b) is called a retirement account.

#### **Amount of retirement earned pension and retirement added pension**

**66.**—(1) The retirement account must specify the amount of retirement earned pension and retirement added pension.

(2) The amount of retirement earned pension is the sum of—

- (a) the amount of the accrued earned pension calculated under regulation 42 (“accrued amount”);
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) The amount of a description of retirement added pension (if any) is the sum of—

- (a) the amount of the relevant accrued added pension calculated under regulation 43 (“accrued amount”);
- (b) the retirement PIA index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(4) For each amount of retirement earned pension and retirement added pension, the retirement account must specify—

- (a) the early payment reduction (if any); and
- (b) the commutation amount (if any).

(5) In this regulation, “relevant accrued added pension” means—

- (a) for a retirement added (self only) pension, accrued added (self only) pension; and
- (b) for a retirement added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

**Closure of retirement account**

67. The scheme manager must close a retirement account if —
- (a) a retirement earned pension ceases to be payable under Part 7; or
  - (b) an ill-health pension under this scheme ceases to be payable under Part 7.

**CHAPTER 7****Pension accounts for pension credit members****Establishment of pension credit member's account**

68.—(1) The scheme manager must establish a pension account for each pension credit member of this scheme (“the pension credit member’s account”).

(2) If a pension credit is derived from 2 or more pension debit members, the scheme manager must establish a pension credit member’s account in relation to each pension debit member.

(3) On the establishment of a pension credit member’s account, the pension credit member’s account must specify the amount of credited pension, and for that amount—

- (a) the early payment reduction (if any); and
- (b) the commutation amount (if any).

(4) On the establishment of the pension credit member’s account, the accounts established under this Part for the pension debit member must be reduced by the relevant amount.

(5) In this regulation—

“amount of credited pension” means an amount equal to the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 to the 1999 Order<sup>(58)</sup>; and

“relevant amount” is the amount determined by the scheme manager in accordance with actuarial guidance having regard to—

- (a) the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit; transfer values) of the 1993 Act<sup>(59)</sup> in respect of the pension credit member’s right to benefits under this scheme attributable (directly or indirectly) to the pension credit; and
- (b) articles 26 (creation of pension credits and debits) and 28 (reduction of benefit) of the 1999 Order.

**Other pension accounts**

69. If a pension credit member of this scheme is also an active member, deferred member or pensioner member of this scheme, the scheme manager must establish a pension credit member’s account in addition to any other account established for the member under this Part.

(58) S.I.1999/3147(N.I.11).

(59) 1993 c.49. Part 4A of this Act was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(S.I.1999/3147(N.I.11)).

## PART 6

### Retirement on grounds of permanent medical unfitness

#### CHAPTER 1

##### General

#### **Application of Part**

70. This Part does not apply to a member who falls within regulation 4(1)(d).

#### **Police pension authority**

71. In this Part, “police pension authority” means the police pension authority acting in exercise of its functions as employer or scheme manager.

#### **Medical unfitness**

72.—(1) 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 service or a former member of the police service, means inability occasioned by infirmity of mind or body—

- (a) to perform the ordinary duties of a member of the police service; or
- (b) to engage in any regular employment.

(2) For the purpose of this Part, “ordinary duties of a member of the police service”, in relation to a former member of the police service, means the ordinary duties of a member of the police service.

#### **Permanent medical unfitness**

73.—(1) In these Regulations, a reference to a member of the police service who falls within regulation 4(1)(a),(b) or (c) (“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 police pension authority acting in exercise of its functions as scheme manager decides is reasonable for the member to refuse.

(4) In respect of a member who falls within regulation 4(1)(b) “appropriate medical treatment” does not include medical treatment that the Chief Constable decides is reasonable for the member to refuse.

(5) The member may appeal under regulation 206 (appeals to the Department) against a decision of the police pension authority as to whether a refusal to accept medical treatment is reasonable.

**Decision of selected medical practitioner**

- 74.**—(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 service if of the opinion that—
- (a) the member is unable to perform the ordinary duties of a member of the police service; and
  - (b) that inability is likely to continue until the member dies or reaches 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 selected medical practitioner is of the opinion that—
- (a) the member is unable to perform the ordinary duties of a member of the police service;
  - (b) that inability is likely to continue until the member dies or reaches normal pension age under this scheme;
  - (c) the member is unable to engage in regular employment otherwise than as a member of a police service; and
  - (d) that inability is likely to continue until the member dies or reaches normal pension age under this scheme.

**Refusal to be medically examined or attend interviews**

- 75.**—(1) The police pension authority may make a determination under this Part on such evidence and medical advice as the police pension authority thinks necessary if—
- (a) a question as to whether a member of the police service 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) Where regulation 79(3) applies the Chief Constable, may make a determination under this Part on such evidence and medical advice as the Chief Constable thinks necessary if—
- (a) a question as to whether a member of the police service 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.

**A report under this Part**

- 76.** For the purpose of these Regulations—
- (a) a reference to a report and certificate under Part 6 is a reference to—
    - (i) a report under regulation 79, 81 or 84 (“the report under this Part”); or was required to continue to serve is a reference to—
    - (ii) a report given under Schedule 1 on an appeal or reconsideration if that report and certificate has replaced the report and certificate under this Part; and
  - (b) a reference to a report under regulation 79, 81 or 84 is a reference to—
    - (i) the report and certificate under that regulation; or
    - (ii) a report and certificate given under Schedule 1 on an appeal or reconsideration if that report and certificate has replaced the report under this Part.

## CHAPTER 2

### Compulsory ill-health retirement

#### Application of Chapter

77. This Chapter applies in relation to a member of the police service (“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<sup>(60)</sup>.
  - (c) This Part does not apply to a member who falls within regulation 4(1)(d).

#### Member of the police service engaged on relevant service

78. For the purpose of this Part—
- (a) a member of the police service who falls within regulation 4(1)(a) engaged on relevant service under section 27 of the 1998 Act is taken to be a member of the police service; and
  - (b) in relation to a member, “the employer” means the police pension authority for the police service.

#### Referral of medical questions for purpose of regulation 80

79.—(1) Before considering whether a person in service as a member of the police service who falls within regulation 4(1)(a) (“the member”) should be compulsorily retired under this Part, the police pension authority 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 service;
  - (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 police pension authority and the member a report and certificate containing a decision on those questions.

(3) Before considering whether a person in service as a member of the police service who falls within regulation 4(1)(b) or (c) (“the member”) should be compulsorily retired under this Part, the Chief Constable 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 service;
- (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.

(4) The selected medical practitioner must—

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<sup>(60)</sup> See Chapter 1 Part 4 (active membership) for where a member of the police service is taken to be an active member of the scheme.

- (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 Chief Constable and the member a report and certificate containing a decision on those questions.

### **Compulsory retirement on grounds of permanent medical unfitness**

**80.**—(1) This regulation applies if —

- (a) in respect of a member—
  - (i) who falls within regulation 4(1)(a), the police pension authority refers questions relating to the member’s permanent medical unfitness to a selected medical practitioner under regulation 79(1) (referral of medical questions for purpose of regulation 80); or
  - (ii) who falls within regulation 4(1)(b) or (c), the Chief Constable refers questions relating to the member’s permanent medical unfitness of a selected medical practitioner under regulation 79(3) (referral of medical questions for purpose of regulation 80);
- (b) the selected medical practitioner gives—
  - (i) in respect of a member who falls within regulation 4(1)(a), the police pension authority and the member, a report and certificate under that regulation; or
  - (ii) in respect of a member who falls within regulation 4(1)(b) or (c), the Chief Constable and the member, a report and certificate under that regulation; and
- (c) the report and certificate contains the decision that the member is permanently medically unfit for performing the ordinary duties of a member of the police service.

(2) That report and certificate is final, subject to—

- (a) a review under Chapter 4 of Part 7;
- (b) an appeal under Schedule 1 against the decision of the selected medical practitioner; or
- (c) the referral under Schedule 1 of the decision of the selected medical practitioner for reconsideration.

(3) In respect of a member who falls within regulation 4(1)(a), the police pension authority after considering all the relevant circumstances and all the advice and information available to the police pension authority (including input from the member)—

- (a) may require the member to retire on the date the police pension authority considers the member ought to retire on the grounds that the member is permanently medically unfit for performing the ordinary duties of a member of the police service; or
- (b) may require the member to continue to serve as a member of the police service.

(4) In respect of a member who falls within regulation 4(1)(b) or (c), the Chief Constable after considering all the relevant circumstances and all the advice and information available to the Chief Constable (including input from the member) —

- (a) may require the member to retire on the date the Chief Constable considers the member ought to retire on the grounds that the member is permanently medically unfit for performing the ordinary duties of a member of the police service; or
- (b) may require the member to continue to serve as a member of the police service.

### **Compulsory retirement of member who was required to continue to serve**

**81.**—(1) This regulation applies if, under regulation 80 (compulsory retirement on grounds of permanent medical unfitness), where the police pension authority in respect of a member who falls within regulation 4(1)(a) requires the member to continue to serve as a member of a police service.

(2) The police pension authority 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 police pension authority 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 service; 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 to be medically unfit for performing the ordinary duties of a member of the police service, 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 police pension authority and the member a report and a certificate 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 police pension authority 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 service if, after considering all the relevant circumstances and all the advice and information available to the police pension authority, the police pension authority determines that the member ought to retire.

### **Compulsory retirement void if appeal is successful**

**82.** The compulsory retirement of a member under this Part is void if—

- (a) the selected medical practitioner decides that a member is permanently medically unfit for performing the ordinary duties of a member of the police service;
- (b) the member appeals under Schedule 1 against the decision of the selected medical practitioner; and
- (c) the Independent Medical Referee decides that the member is not permanently medically unfit for performing the ordinary duties of a member of the police service.

## **CHAPTER 3**

### **Early payment of full retirement pension on grounds of permanent medical unfitness**

#### **Application of Chapter**

**83.**—(1) This Chapter applies in relation to a member of a police service(“the member”) who is a deferred member of this scheme.

(2) For the purpose of this Chapter, a former member of the police service is taken to be a member of the police service.

### **Referral of medical questions for purpose of early payment of full retirement pension on grounds of permanent medical unfitness**

**84.**—(1) Before considering whether a deferred member of this scheme is entitled to payment of a full retirement pension before reaching state pension age, the police pension authority 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 service;
  - (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 police pension authority and the member a report and certificate containing a decision on those questions.

## **PART 7**

### **Retirement benefits**

#### **CHAPTER 1**

##### **General**

#### **Application of Part**

**85.**—(1) This Part applies in relation to retirement benefits payable in respect of continuous period of pensionable service under this scheme (“period of service”).

- (2) In this Part, “active member”, in relation to this scheme, means a person—
- (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<sup>(61)</sup>.

#### **Qualifying service**

- 86.**—(1) In these Regulations, “qualifying service” means the total of—
- (a) any continuous period of pensionable service under this scheme not counting—
    - (i) any gap in service;
    - (ii) any career break;
    - (iii) any other period of unpaid leave;
  - (b) if a transfer payment has been received by this scheme in respect of a member’s accrued rights under another occupational pension scheme, the member’s period of pensionable service under that scheme;

<sup>(61)</sup> See Chapter 1 of Part 4 (active membership) for when a member of the police service is taken to be an active member of this scheme.



- (c) for a 2006 transition member with continuity of service, the member's period of pensionable service under the 2006 scheme before the transition date<sup>(62)</sup>; and
- (d) for a 1988 transition member with continuity of service, the period of pensionable service the member is entitled to reckon under the 1988 scheme before the member's transition date<sup>(63)</sup>.

(2) In calculating the member's qualifying service for a member who falls within regulation 4(1) (a) or (c), a period of part-time service under this scheme or existing police pension scheme counts as if it were a period of full-time service.

(3) In calculating a member's qualifying service for a member who falls within regulation 4(1) (b) or (d), a period of service under this scheme or existing police pension scheme counts as if it were a period of full-time service.

(4) None of the following is counted as qualifying service—

- (a) any pensionable service under this scheme in respect of which a person's rights under this scheme are extinguished<sup>(64)</sup>;
- (b) any pensionable service under the existing police pension scheme in respect of which a person's rights under that scheme are extinguished;
- (c) any service transferred into the 1988 scheme after the member's closing date;
- (d) any unauthorised absence from eligible service.

### **Descriptions of full retirement pension**

**87.** For the purpose of this Part, the descriptions of full retirement pension are—

- (a) retirement standard earned pension;
- (b) retirement club transfer earned pension;
- (c) retirement added (self only) pension; and
- (d) retirement added (all beneficiaries) pension.

## CHAPTER 2

### Full retirement benefits

### **Entitlement to full retirement pension (active members)**

**88.—**(1) An active member of this scheme who has reached normal minimum pension age is entitled to an payment for life for life of a retirement earned pension if—

- (a) the member has ceased to be in pensionable service under this scheme;
- (b) the member 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 the member;
- (c) the member has left eligible service; and
- (d) the member claims payment of a full retirement pension under regulation 88 (entitlement to full retirement pension (active members)).

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<sup>(62)</sup> This includes any service transferred into the 2006 scheme before the member's transition date

<sup>(63)</sup> This includes any service transferred into the 1988 scheme before the member's transition date

<sup>(64)</sup> Regulation 176 provides for extinguishment of rights following the refund of all members' contributions and payments for added pension made by the member. Regulation 185 provides for extinguishment of rights following the making of a transfer value payment.

(2) On becoming entitled to the immediate payment for life of a retirement earned pension, P is entitled to the immediate payment for life of a retirement added pension of any description if the retirement account specifies an amount of retirement added pension of that description.

**Entitlement to full retirement pension (deferred members)**

**89.**—(1) A deferred member of this scheme is entitled to the immediate payment for life of a retirement earned pension if paragraph (2) or (3) applies.

(2) This paragraph applies if—

- (a) the member has reached state pension age;
- (b) the member 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 the member;
- (c) the member has left eligible service; and
- (d) the member claims payment of a full retirement pension under regulation 92 (claim – deferred members).

(3) This paragraph applies if—

- (a) the member has not reached state pension age;
- (b) the member has left eligible service;
- (c) the selected medical practitioner gives a report under regulation 84 (early payment on grounds of permanent medical unfitness) that the member is permanently medically unfit for engaging in any regular employment;
- (d) the member is eligible under this scheme for ill-health benefits<sup>(65)</sup>, and
- (e) the member claims payment of a full retirement pension under this Chapter.

(4) This paragraph applies if—

- (a) the member has reached normal minimum pension age but has not reached the member's state pension age;
- (b) the member 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 the member;
- (c) the member has left eligible service; and
- (d) the member claims payment of a full retirement pension under regulation 94 (claim for early payment otherwise than on grounds of permanent medical unfitness (deferred members)).

(5) On becoming entitled to payment for life of a retirement earned pension, P is entitled to payment for life of a retirement added pension of any description if the deferred member's account specifies a provisional amount of the relevant deferred added pension.

(6) In this regulation, “relevant deferred added pension” means—

- (a) for a retirement added (self only) pension, a deferred added (self only) pension;
- (b) for a retirement added (all beneficiaries) pension, a deferred added (all beneficiaries) pension.

**Claim for payment of full retirement pension (active members)**

**90.**—(1) This regulation applies in relation to an active member of this scheme.

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<sup>(65)</sup> See Chapter 4 of Part 4 for when a member is eligible under this scheme for payment of ill-health benefits.

- (2) A claim for payment of a full retirement pension—
  - (a) may only be made by written notice to the scheme manager; and
  - (b) must comply with the notice period specified in regulation 91 (notice period for active members).
- (3) If the member claims payment of the pension before reaching normal pension age under this scheme, the notice must state if the member has opted to buy out the early payment reduction.

#### **Notice period for active members**

**91.**—(1) Unless this regulation provides otherwise, a member of the police service must give notice of intent to claim the pension in accordance with the member's terms and conditions of employment.

(2) A member of the police service holding the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable must give at least 3 months' notice of intent to claim the pension.

(3) A member of the police service holding a rank not mentioned in paragraph (2) must give at least one month's notice of intent to claim the pension.

(4) For the purpose of this regulation, a person engaged on relevant service under section 27 of the 1998 Act is deemed to hold the rank to which the member is entitled to revert at the end of the period of relevant service.

(5) The scheme manager may accept a shorter notice period determined by the scheme manager.

#### **Full retirement pension payable at member's state pension age (deferred members)**

**92.**—(1) This regulation applies in relation to a deferred member of this scheme who becomes entitled under regulation 89(2) to payment of a full retirement pension on reaching the member's state pension age.

(2) For the purpose of an appeal to the Department under regulation 206, the member is taken to claim payment of the full retirement pension when the member reaches the member's state pension age.

(3) A full retirement pension calculated under regulation 97 (deferred members) is payable to the member in respect of each month as from the day on which the member reaches the member's state pension age.

#### **Full retirement pension payable early on grounds of permanent medical unfitness (deferred members)**

**93.**—(1) This regulation applies in relation to a deferred member of this scheme who becomes entitled under regulation 89(3) to payment of a full retirement pension on grounds of permanent medical unfitness.

(2) For the purpose of an appeal to the Department under regulation 206, the deferred member is taken to claim payment of the full retirement pension on the earlier of—

- (a) the date on which the deferred member asked the police pension authority to refer the questions to the selected medical practitioner under regulation 84; or
- (b) the date on which the police pension authority referred those questions on its own initiative.

(3) A full retirement pension calculated under regulation 97 (deferred members) is payable to the member in respect of each month as from the date on which the member is taken to claim payment of the pension under paragraph (2).

**Claim for early payment of full retirement pension otherwise than on grounds of permanent medical unfitness (deferred members)**

**94.**—(1) A deferred member of this scheme who claims early payment of a full retirement pension otherwise than on grounds of permanent medical unfitness must give at least one month's notice of intent to claim payment of the pension.

(2) The claim for payment of the pension may only be made by written notice to the scheme manager.

(3) The notice—

- (a) must state if the member has opted to buy out the early payment reduction; and
- (b) must specify the date from which payment of the pension is claimed.

(4) A full retirement pension calculated under regulation 97 (deferred members) is payable to the member in respect of each month as from the date specified in the notice.

**Members who have been dismissed or required to resign**

**95.**—(1) This regulation applies to a member of the police service—

- (a) who is dismissed or is required to resign; and
- (b) who has reached normal minimum pension age.

(2) If the member 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 the member.

(3) If paragraph (2) does not apply, the member is entitled to a refund of all member contributions and payments for added pension under Part 10 (contributions).

(4) If paragraph (2) applies, unless the member chooses to defer payment of the pension—

- (a) for the purpose of an appeal to the Department under regulation 206, the member is taken to claim payment of a full retirement pension on the date of dismissal; and
- (b) the member is entitled to payment for life of a full retirement pension calculated under regulation 96 (active members) in respect of each month as from the date of dismissal.

(5) If paragraph (2) applies and the member chooses to defer payment of the pension, the member becomes entitled to payment for life of a full retirement pension—

- (a) under regulation 89(2) when the member reaches the member's state pension age; or
- (b) under regulation 89(4), if the member claims early payment of the pension under regulation 94 (claim for early payment otherwise than on grounds of permanent medical unfitness (deferred members)).

**Annual rate of full retirement pension (active members)**

**96.**—(1) This regulation applies when an active member of this scheme becomes entitled to the payment for life of a full retirement pension.

(2) The annual rate of each description of full retirement pension payable to the member is calculated by—

- (a) taking the amount of that description of full retirement pension specified in the retirement account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

#### **Annual rate of full retirement pension (deferred members)**

**97.**—(1) This regulation applies when a deferred member of this scheme becomes entitled to the payment for life of a full retirement pension.

(2) The annual rate of any description of full retirement pension payable to the member is calculated by—

- (a) taking the provisional amount of the relevant description of deferred pension specified in the deferred member’s account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if—

- (a) the member buys out the early payment reduction in relation to that description of full retirement pension; or
- (b) the full retirement pension comes into payment early on grounds of permanent medical unfitness<sup>(66)</sup>.

(4) In this regulation, “the relevant description of deferred pension” means—

- (a) for a retirement standard earned pension, deferred standard earned pension;
- (b) for a retirement club transfer earned pension, deferred club transfer earned pension;
- (c) for a retirement added (self only) pension, deferred added (self only) pension; and
- (d) for a retirement added (all beneficiaries) pension, deferred added (all beneficiaries) pension.

#### **Full retirement pension ceasing to be payable**

**98.**—(1) A full retirement pension ceases to be payable to a member who re-enters pensionable service under this scheme within 28 days after the last day of the service in relation to which the pension was payable.

(2) If paragraph (1) applies in relation to a member—

- (a) the scheme manager must—
  - (i) cease to pay the pension; and
  - (ii) recover any payment of pension or lump sum made;
- (b) the retirement account must be closed; and
- (c) the active member’s account must be re-established under Part 5 (pensions accounts) and treated as if it had never been closed.

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<sup>(66)</sup> See regulation 89(4) for when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

## CHAPTER 3

### Ill-health pension

#### Payment thresholds

**99.**—(1) An active member of this scheme who meets the lower tier threshold for payment of an ill-health pension (“lower tier threshold”) if the selected medical practitioner gives a report and certificate under Part 6 containing the decision that —

- (a) the member is permanently medically unfit for performing the ordinary duties of a member of the police service; but
- (b) the member is not permanently medically unfit for engaging in any regular employment.

(2) A member of this scheme meets the upper tier threshold for payment of an ill-health pension (“upper tier threshold”) if the selected medical practitioner gives a report under Part 6 containing the decision that the member is permanently medically unfit for engaging in any regular employment.

#### Entitlement to payment of ill-health pension

**100.**—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to the payment for life of an ill-health pension under this Chapter if the conditions in paragraph (2) are met.

(2) The conditions are—

- (a) the police pension authority acting in exercise of its functions as employer requires the member to retire on a date determined by the police pension authority (or the Chief Constable as the case may be) under Part 6 (compulsory ill-health retirement);
- (b) the member has at least 2 years’ qualifying service or is permanently medically unfit as the result of an injury received without the member’s default in the execution of duty; and
- (c) the member is eligible under this scheme for payment of ill-health benefits.

(3) An ill-health pension under this Chapter is payable as follows—

- (a) if the member meets the lower tier threshold, a lower tier ill-health pension is payable;
- (b) if the member meets the upper tier threshold—
  - (i) a lower tier ill-health pension is payable; and
  - (ii) an enhanced upper tier ill-health pension is payable.

(4) A retirement added pension of any description is payable with a lower tier ill-health pension if the retirement account specifies an amount of retirement added pension of that description.

(5) For a transition member with continuity of service, a transition member’s ill-health pension is payable under paragraph 23 of Schedule 4.

(6) For a pensioner member who becomes entitled to an enhanced upper tier ill-health pension under regulation 110 or 111, an ill-health pension is payable in accordance with that regulation.

#### Payment of ill-health pension

**101.**—(1) For the purpose of an appeal to the Department under regulation 206, an active member of this scheme is taken to claim payment of an ill-health pension under this Chapter on the date on which the member is required to retire under Part 6.

(2) An ill-health pension under this Chapter is payable to the member in respect of each month as from the date on which the member was required to retire under Part 6.

**Annual rate of ill-health pension under this scheme**

**102.**—(1) The annual rate of ill-health pension under this scheme(67) is calculated as follows(68).

(2) The annual rate of a lower tier ill-health pension is calculated in the same way as the annual rate of retirement earned pension(69) is calculated under regulation 96 (annual rate of full retirement pension (active members)), but without subtracting the early payment reduction.

(3) The annual rate of any retirement added pension payable with a lower tier ill-health pension is calculated in the same way as it is calculated under regulation 96 (annual rate of full retirement pension (active members)), but without subtracting the early payment reduction.

(4) The annual rate of an enhanced upper tier ill-health pension payable to a member whose aggregate period of service is less than 5 years is the lesser of—

(a)  $\text{total accrued earned pension} \times 3$ ; and

(b)  $\frac{\text{final pay} \times \text{assumed period of pensionable service}}{55.3 \times 2}$

where —

“total accrued earned pension” means —

- (a) for a 2006 transition member with continuity of service, the total amount of accrued earned pension under both this scheme and 2006 scheme; or
- (b) for any other member, the amount of accrued earned pension under this scheme.

“assumed period of pensionable service” means the period (expressed in years) —

- (a) beginning with the day after the member’s period of service ceased; and
- (b) ending with the day before the day on which the member will reach normal pension age under this scheme (assuming that the member lives until that age); and

“final pay” has the meaning given in regulation 158.

(5) In the case of a member who falls within regulation 4(1)(b) at the date of his retirement, the assumed period of pensionable service for the purpose of paragraph (4)(b) or (5), as the case may be, shall be calculated by the application of the following fraction

$$\frac{(A \times 365)}{(B \times C)}$$

where—

A is the total contracted annual hours for a member who falls within regulation 4(1)(b) (and a proportion of those hours for each partial year);

B is the number of hours per week if service was on a full-time basis for a member who falls within regulation 4(1)(a) or (c); and

C is the number of week’s service in a full year for an officer who falls within regulation 4(1) (a) or (c).

for the period beginning with the date of member’s retirement and ending on the day immediately before that on which he would reach normal retirement age.

(67) For the annual rate of a transition member’s ill-health pension, see Schedule 4, Part 6.

(68) An ill-health pension is payable from the day after the date on which the police pension authority requires the member to retire under Part 6.

(69) Regulation 42 provides for the calculation of an amount of accrued earned pension. This amount forms the basis for determining the amount of retirement earned pension under regulation 66. The annual rate of retirement earned pension in relation to active members is calculated under regulation 96.

(6) The annual rate of an enhanced upper tier ill-health pension payable to a member whose aggregate period of service is 5 years or more is—

$$\frac{\text{final pay}}{55.3} \times \frac{\text{assumed period of pensionable pay}}{2}$$

where—

“assumed period of pensionable service” has the same meaning as in paragraph (4);

“final pay” has the meaning given in regulation 158;

(7) In this regulation, “aggregate period of service” means—

(a) for a 2006 transition member with continuity of service—

(i) the member’s continuous period of pensionable service under this scheme; and

(ii) the member’s pensionable service under the 2006 scheme before the member’s transition date; or

(b) for any other member, the member’s continuous period of pensionable service under this scheme.

(8) In calculating the aggregate period of service under this regulation for a member who falls within regulation 4(1)(b), a period of service counts as if it were a period of full-time service, but this paragraph does not apply so as to affect any references to assumed period of pensionable service under this regulation.

(9) For a member whom the scheme manager determines under regulation 34 (re-determination of eligibility for ill-health benefits) is eligible under this scheme for payment of ill-health benefits, the member’s continuous period of pensionable service under this scheme is taken to begin on the date of that determination.

(10) In calculating a member’s aggregate period of service, a period of part-time service for a member who falls within regulation 4(1)(a) or (c) under this scheme or under the 2006 scheme counts as if it were a period of full-time service.

(11) In calculating a member’s assumed period of pensionable service (“the assumed period”), the member is taken to be in part-time service during the assumed period for the same proportion of time as the member was in part-time service during the member’s aggregate period of service.

### **Deferment of added pension attributable to recent payments**

**103.**—(1) This regulation applies in relation to a member of this scheme—

(a) who is entitled to payment for life of an ill-health pension under this scheme; and

(b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued added pension that is attributable in whole or in part to a lump sum payment for added pension made under Schedule 3 within the 12 months before the relevant day.

(2) The member becomes a deferred member of this scheme in respect of that amount of accrued added pension and accordingly—

(a) a deferred member’s account must be established under Part 5 (pension accounts);

(b) that amount of accrued added pension must be specified in the deferred member’s account as the provisional amount of the relevant description of deferred added pension; and

(c) that amount of accrued added pension is not included in the calculation of the annual rate of retirement added pension payable with the lower tier ill-health pension.

(3) In paragraph (1), “the relevant day” means —



- (a) the day on which the police pension first referred the questions under regulation 79 (referral of medical questions for purpose of Regulation 80) to the selected medical practitioner for a decision by virtue of which the member is entitled to payment of the ill-health pension; or
- (b) if the member was on sick leave on that day and did not return to service from that leave, the day on which that leave began.

## CHAPTER 4

### Reduction of ill-health benefits

#### **Referral of medical question for purpose of reduction of benefits**

**104.**—(1) This regulation applies if the scheme manager is considering the exercise of powers under regulation 105 (reduction of pension in case of default);

(2) The scheme manager must refer 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 a selected medical practitioner on a question referred under this regulation must take the form of a report and a certificate.

(4) A copy of the report and the certificate must be given to the scheme manager 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.

#### **Reduction of pension in case of default**

**105.**—(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 89(3) to the payment of a full retirement pension before reaching the member's state pension age<sup>(70)</sup>.
- (b) an active member of this scheme who becomes entitled under Chapter 3 to the payment of an ill-health pension under this scheme; or
- (c) a pensioner member of this scheme who becomes entitled under this Chapter to the of an enhanced upper tier ill-health pension.

(2) The scheme manager 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 104(referral of medical questions for the purpose of reduction of benefits) containing the decision that the member has become medically unfit by the member's own default.

(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

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<sup>(70)</sup> See regulation 89(3) for when a full retirement pension comes into payment early on grounds of permanent medical unfitness.

(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 on reaching that age had the member become entitled to a full retirement pension under regulation 89(2) when the member left eligible service, the scheme manager must increase the pension to that amount.

(6) The member may appeal under regulation 206 (appeals to the Department) against the decision of the scheme manager to reduce a pension under this regulation.

### **Refusal to be medically examined**

**106.** The scheme manager may make a decision under this Chapter on such evidence and medical advice as the scheme manager thinks necessary if—

- (a) a question as to the medically unfitness of a member of the police service 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 scheme manager void if appeal against decision of selected medical practitioner is successful**

**107.—**(1) A decision of the scheme manager under this Chapter is void if—

- (a) the selected medical practitioner decides that —
  - (i) the member is permanently medically unfit for performing the ordinary duties of a member of the police service;
  - (ii) the member is permanently medically unfit for engaging in any regular employment; or
  - (iii) 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 Independent Medical Referee decides that
  - (i) the member is not so permanently medically unfit; or
  - (ii) the member did not bring about or substantially contribute to the medical unfitness by the member's own default.

## **CHAPTER 5**

### **Review of ill-health benefits**

#### **Review of lower tier ill-health pension**

**108.—**(1) This regulation applies in relation to a person (P) who—

- (a) is receiving payment of a lower tier ill-health pension but not an enhanced upper tier ill-health pension; and
- (b) has not reached normal pension age under this scheme.

(2) The scheme manager may periodically review whether P's medical unfitness has ceased or significantly worsened.

(3) A periodic review under paragraph (2) may be carried out at any time the scheme manager chooses.

(4) The scheme manager must carry out a review as to whether P's medical unfitness has ceased or significantly worsened if the scheme manager is notified that P's medical unfitness has worsened.

(5) In carrying out a review under paragraph (2) or (4) the scheme manager must refer the questions in regulation 115(2) (referral of medical questions for purpose of a review) to a selected medical practitioner for decision.

(6) In this regulation, medical unfitness means inability occasioned by infirmity of mind or body to perform the ordinary duties of a member of the police service.

### **Cancellation of lower tier ill-health pension if medical unfitness ceases**

**109.**—(1) This regulation applies if—

- (a) The scheme manager carries out a review under regulation 108 (review of lower tier ill-health pension); and
- (b) the selected medical practitioner gives a report and certificate on the questions referred under regulation 115(2) containing the decision that P's medical unfitness has ceased, the scheme manager may give P notice that P has ceased to be medically unfit for performing the ordinary duties of a member of the police service.

(2) The scheme manager may give P notice that P may rejoin the police service—

- (a) within the period of 3 months beginning with the date on which P is given the notice; and
- (b) at a rank not lower than the rank which P held immediately before the ill-health pension became payable.

(3) The lower tier ill-health pension ceases to be payable to P on the earlier of—

- (a) the last day of the 3 month period; or
- (b) the day on which P rejoins the police service.

(4) Paragraph (5) applies if—

- (a) a lower tier ill-health pension ceases to be payable under paragraph (3)(a); but
- (b) P is not entitled to receive payment of a full retirement pension under Chapter 2 (full retirement benefits) because P has less than 2 years qualifying service.

(5) The scheme manager must pay the difference to P if the aggregate of the following is less than P's aggregate pension contributions in respect of the relevant period of service—

- (a) the sums paid in respect of the pension; and
- (b) the actuarial value, determined by the scheme manager in accordance with actuarial tables, of any pension to which P is entitled under regulation 204 (guaranteed minimum pensions under section 10 of 1993 Act).

### **Entitlement to enhanced upper tier ill-health pension following claim for payment**

**110.**—(1) This regulation applies if—

- (a) the scheme manager carries out a review under regulation 108(4) (review of lower tier ill-health pension); and
- (b) the selected medical practitioner gives a report on the questions referred under regulation 115(2) containing the decision that P is permanently medically unfit for engaging in any regular employment.

(2) P is entitled to payment of an enhanced upper tier ill-health pension from the claim date, calculated in accordance with regulation 102(annual rate of ill-health pension) and payable in accordance with this regulation in addition to the lower tier ill-health pension.

(3) The enhanced upper tier ill-health pension is payable in respect of each month as from the claim date.

(4) P is not taken to claim payment of an enhanced upper tier ill-health pension if the claim date is more than 5 years after the date on which P became entitled to receive payment for life of the lower tier ill-health pension.

(5) The time limit in paragraph (4) does not apply if P's medical unfitness is attributable to a progressive medical condition which, of its nature, could have been expected, as at the time of P's retirement, to affect P with increasing severity.

(6) In this regulation—

“claim date” means the date on which the scheme manager is notified that P's medical unfitness has worsened; and

“progressive medical condition” means—

- (a) a medical condition specified in Schedule 2 (progressive medical conditions); or
- (b) a medical condition specified on a list published by the Department for the purpose of this regulation.

### **Entitlement to enhanced upper tier ill-health pension following periodic review**

**111.**—(1) This regulation applies if—

- (a) the scheme manager carries out a periodic review under regulation 108(2) (review of lower tier ill-health pension); and
- (b) the selected medical practitioner gives a report on the questions referred under regulation 115(2) containing the decision that P is permanently medically unfit for engaging in any regular employment.

(2) P is entitled to payment of an enhanced upper tier ill-health pension from the claim date, calculated in accordance with regulation 102 (annual rate of ill-health pension) and payable in accordance with this regulation in addition to the lower tier ill-health pension.

(3) P is not entitled to payment of an enhanced upper tier ill-health pension under this regulation if the claim date is more than 5 years after the date on which P became entitled to receive payment for life of the lower tier ill-health pension.

(4) The time limit in paragraph (3) does not apply if P's medical unfitness is attributable to a progressive medical condition which, of its nature, could have been expected, as at the time of P's retirement, to affect P with increasing severity.

(5) The enhanced upper tier ill-health pension is payable in respect of each month as from the claim date.

(6) In this regulation, “claim date” means the date on which the scheme manager refers the questions in regulation 115(2) (referral of medical questions for purpose of review – lower tier ill-health pension) to a selected medical practitioner for decision.

### **Review and cancellation of enhanced upper tier ill-health pension**

**112.**—(1) This regulation applies to a person (P) who—

- (a) is receiving payment of both a lower tier ill-health pension and an enhanced upper tier ill-health pension; and

- (b) has not reached P's state pension age.
- (2) The scheme manager may periodically review whether the person's medical unfitness has ceased or significantly improved.
- (3) A review may be carried out at least every 5 years as determined by the scheme manager.
- (4) The scheme manager must refer the questions in regulation 115(3) (referral of medical questions – enhanced upper tier ill-health pension) to a selected medical practitioner for decision.
- (5) If the selected medical practitioner gives a report and certificate on the questions referred under regulation 115, containing the decision that P has ceased to be medically unfit for engaging in any regular employment, P ceases to be entitled to payment of the enhanced upper tier ill-health pension.
- (6) P ceases to be entitled to payment of an enhanced ill-health pension—
  - (a) at the end of the period of 3 months beginning with the date of the report and certificate which contains the decision of the selected medical practitioner that P has ceased to be medically unfit for engaging in any regular employment; or
  - (b) if earlier, the day on which P returns to eligible service.
- (7) In its application to a member who falls within regulation 4(1)(b), any review by the scheme manager under paragraph (2) shall be of whether the medical unfitness of P has significantly improved to such an extent that P has ceased to be entitled to payment of the enhanced upper tier ill-health pension or lower tier ill-health pension.
- (8) P remains entitled to the payment for life of the lower tier ill-health pension unless—
  - (a) the scheme manager, on a review under another regulation in this Chapter, refers the questions under regulation 115(2) (referral of medical questions - lower tier ill-health pension) to the selected medical practitioner for decision; and
  - (b) the selected medical practitioner gives a report on those questions containing the decision that P has ceased to be medically unfit for performing the ordinary duties of a member of the police service.
- (9) In paragraph (2), “medical unfitness” means inability occasioned by infirmity of mind or body to engage in any regular employment.

### **Cancellation of ill-health pension: failure to receive appropriate medical treatment**

- 113.**—(1) This regulation applies if—
- (a) the scheme manager carries out a review under regulation 108 (review of lower tier ill-health pension) or 112 (review and cancellation of enhanced upper tier ill-health pension);
  - (b) the selected medical practitioner gives P a written notice and certificate stating the opinion that—
    - (i) P's medical unfitness would be expected to have ceased if P had received normal appropriate medical treatment; and
    - (ii) P is not receiving, or has not received, appropriate medical treatment; and
  - (c) the scheme manager gives P a written notice stating the opinion that P's failure to receive appropriate medical treatment is attributable to P's wilfulness or negligence and giving notice of the scheme manager's powers under paragraph (2).
- (2) The scheme manager may cease payment of the ill-health pension if the scheme manager decides that—
- (a) P's failure to receive appropriate medical treatment is attributable to P's wilfulness or negligence; and

- (b) P has persisted in that failure after receiving both—
  - (i) a written notice from the selected medical practitioner under paragraph (1)(b); and
  - (ii) a written notice from the scheme manager under paragraph (1)(c).
- (3) In this regulation—
  - “appropriate medical treatment” does not include medical treatment that the scheme manager decides is reasonable for P to refuse<sup>(71)</sup>; and
  - “medical unfitness” means inability occasioned by infirmity of mind or body to perform the ordinary duties of a member of the police service.

### **Review and cancellation of full retirement pension which came into payment early on the grounds of permanent medical unfitness**

- 114.**—(1) This regulation applies in relation to a person (P) who—
- (a) is receiving payment of a full retirement pension which came into payment early on grounds of permanent medical unfitness<sup>(72)</sup>; and
  - (b) has not reached P’s state pension age.
- (2) The scheme manager may periodically review whether P’s medical unfitness has ceased.
- (3) A review may be carried out at least every 5 years as determined by the scheme manager.
- (4) The scheme manager must refer the questions in regulation 115(4) (referral of medical questions for purpose of a review-full retirement pension) to a selected medical practitioner for decision.
- (5) If the selected medical practitioner gives a report and certificate on the questions referred under regulation 115(4) containing the decision that the member has ceased to be medically unfit for engaging in any regular employment, the scheme manager must cease to make payments of the full retirement pension from the beginning of the next pay period.
- (6) In this regulation “medical unfitness” means the inability occasioned by infirmity of mind or body to engage in any regular employment.

### **Referral of medical questions for purpose of a review**

- 115.**—(1) This regulation applies in relation to the following reviews.
- (2) Where the scheme manager is considering whether the medical unfitness of a person receiving payment of a lower tier ill-health pension but not an enhanced upper tier ill-health pension has ceased or significantly worsened, the scheme manager must refer the following questions to a selected medical practitioner for decision—
- (a) whether the person continues to be medically unfit for performing the ordinary duties of a member of the police service; and
  - (b) if so, whether—
    - (i) the person is also medically unfit for engaging in any regular employment; and
    - (ii) that medical unfitness is likely to be permanent.
- (3) Where the scheme manager is considering whether the medical unfitness of a person receiving payment of both a lower tier ill-health pension and an enhanced upper tier ill-health pension or full retirement pension has ceased or significantly improved, the scheme manager must refer the following questions to a selected medical practitioner for decision—

<sup>(71)</sup> See provisions on appeals

<sup>(72)</sup> See regulation 89(3) (early payment of full retirement pension) for when a full retirement pension comes into payment early on the grounds of permanent medical unfitness.

- (a) whether the person continues to be medically unfit for engaging in any regular employment; and
- (b) if not, whether the person continues to be medically unfit for the performance of the ordinary duties of a member of the police service.

(4) Where the scheme manager is considering whether the medical unfitness of a person receiving payment of a full retirement pension which came into payment early on grounds of permanent medical unfitness has ceased, the scheme manager must refer the question whether the person continues to be medically unfit for engaging in any regular employment to a selected medical practitioner for decision.

(5) If the selected medical practitioner decides that the question mentioned in paragraph (2)(a) or a question mentioned in paragraph (3) or (4) is answered in the affirmative, the selected medical practitioner does not need to consider the question as to the likelihood of that medical unfitness continuing permanently.

(6) The decision of a selected medical practitioner on a question referred under this regulation must take the form of a report and a certificate.

(7) A copy of the report and the certificate must be given to the scheme manager and to the member.

(8) 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.

### **Refusal to be medically examined**

**116.** The scheme manager may make a decision under this Chapter on such evidence and medical advice as the scheme manager thinks necessary if—

- (a) a question as to the medical unfitness of a member of the police service 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 scheme manager void if appeal against decision of selected medical practitioner is successful**

**117.** A decision of the scheme manager under this Chapter is void if—

- (a) the selected medical practitioner decides that —
  - (i) the member is permanently medically unfit for performing the ordinary duties of a member of the police service;
  - (ii) the member is permanently medically unfit for engaging in any regular employment; or
  - (iii) 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 Independent Medical Referee decides that
  - (i) the member is not so permanently medically unfit; or

- (ii) the member did not bring about or substantially contribute to the medical unfitness by the member's own default.

## CHAPTER 6

### Payment options

#### Options under this Chapter

**118.** The options under this Chapter are—

- (a) the option under regulation 120 to buy out the early payment reduction;
- (b) the option under regulation 121 to defer payment of a retirement added pension;
- (c) the option under regulation 122 (option to commute part of pension) to exchange part of a full retirement pension or ill-health pension for a lump sum;
- (d) the option under regulation 130 to exchange the whole of the members' accrued pensions for a lump sum.

#### Exercising an option under this Chapter

**119.—**(1) A member may exercise an option under this Chapter by written notice to the scheme manager in any form the scheme manager requires.

(2) In this Chapter, "option notice" means a notice by which a member exercises an option under this Chapter.

#### Option to buy out early payment reduction

**120.—**(1) This regulation applies if a member of this scheme claims payment of a full retirement pension under Chapter 2 (full retirement benefits) and—

- (a) if the member is an active member, the member has not reached normal pension age under this scheme; or
- (b) if the member is a deferred member, the member has not reached the member's state pension age.

(2) The member may opt under this regulation to buy out the early payment reduction that would otherwise apply to the calculation of the annual rate of full retirement pension.

(3) The cost must be met by way of a special payment to this scheme made by the member.

(4) The cost of buying out the early payment reduction is an amount determined by the scheme manager in accordance with actuarial guidance.

(5) Any special payment made by a member must be made in accordance with the requirements of the scheme manager.

#### Option to defer payment of retirement added pension

**121.—**(1) This regulation applies in relation to a member of this scheme who, on or after reaching normal pension age under this scheme, becomes entitled to the payment for life of a retirement added pension of any description.

(2) The member may opt under this regulation to defer payment of the retirement added pension of that description.

(3) A member who exercises the option under this regulation becomes a deferred member of this scheme in respect of the retirement added pension of that description and accordingly—



- (a) a deferred member's account must be established under Part 5 (pension accounts); and
  - (b) the amount of retirement added pension of that description must be specified in the deferred member's account as the provisional amount of deferred added pension of that description.
- (4) The member is entitled to payment for life of the retirement added pension of that description when the member claims payment of that pension.
- (5) A member may only claim payment of a pension under this regulation by giving at least one month's written notice to the scheme manager.
- (6) The notice must specify the date from which payment of the pension is claimed.
- (7) The annual rate of retirement added pension is calculated in accordance with regulation 66.

### **Option to commute part of pension**

**122.**—(1) A member who becomes entitled to the payment for life of a full retirement pension or ill-health pension under this scheme may opt under this regulation to exchange part of the pension for a lump sum.

(2) An option under this regulation may only be exercised before the first payment of the pension is made.

(3) If a member exercises the option, for every £1 by which the amount of the member's annual rate of full retirement pension or ill-health pension is reduced, the member must be paid a lump sum of £12.

(4) The lump sum may not be more than 25% of the amount advised by the scheme actuary as representing the cash value of the pension.

(5) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of the 2004 Act (see section 241 of that Act)(73).

(6) If paragraph (7) applies, the member may opt to exchange only so much of the pension that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in actuarial tables.

(7) This paragraph applies if the member has a guaranteed minimum under section 10 of the 1993 Act(74) in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

## **PART 8**

### **Benefits for pension credit members**

#### **Interpretation**

**123.** In this Part, "claim date" has the meaning given in regulation 125 (claim for payment of pension credit member's pension).

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(73) Section 241 was amended by the Finance Act 2006 (c.25) Schedule 21 paragraphs 2 and 9, the Finance Act 2007 (c.11) Schedule 19 paragraphs 1 and 15 and the Finance Act 2011 (c.11) Schedule 16 paragraphs 62 and 74.

(74) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Arts.147, 168, Sch.3 para 20, Sch 5 Pt III, the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I.1996/671) Art.3(1) para 41 and the Proceeds of Crime Act 2002 (2002 c.29) para 23(3).

**Entitlement to pension credit member's pension**

**124.** A pension credit member (P) of this scheme who has reached normal minimum pension age is entitled to the payment for life of a pension credit member's pension under this scheme if—

- (a) the pension sharing order under which P is entitled to the pension credit has taken effect;
- (b) P has claimed payment of the pension under this Part; and
- (c) the scheme manager is satisfied that on the claim date the requirements of regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(75)</sup> are met.

**Claim for payment of pension credit member's pension**

**125.**—(1) The claim for payment of a pension credit member's pension may only be made by written notice to the scheme manager.

- (2) The notice must specify the date from which payment of the pension is claimed ("claim date").
- (3) The notice must be given at least one month before the claim date.

**Payment of pension credit member's pension**

**126.** A pension credit member's pension —

- (a) is payable for life; and
- (b) is payable in respect of each month as from the claim date.

**Annual rate of pension credit member's pension**

**127.**—(1) The annual rate of a pension credit member's pension is calculated by—

- (a) taking the amount of credited pension specified in the pension credit member's account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

**Pension credit member's rights**

**128.**—(1) If regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 (early retirement or deferred retirement) applies, the scheme manager must be reasonably satisfied that the requirements of that regulation have been met.

(2) Benefits that are attributable (directly or indirectly) to a pension credit may not be aggregated with any other benefit to which a pension credit member is entitled under this scheme.

(3) If a pension credit member is a dual capacity member, benefits are payable to or in respect of the member in each of the member's capacities.

**Option for pension credit member to commute part of pension**

**129.**—(1) A pension credit member who becomes entitled to payment of a pension credit member's pension under this scheme may opt to exchange part of the pension for a lump sum.

- (2) The option under this regulation may only be exercised—
  - (a) by written notice to the scheme manager; and

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(75) [S.R.2000 No146](#).regulation 7 was amended [S.R.2009 No 115](#).

(b) before the first payment of the pension is made.

(3) If a pension credit member exercises the option under this regulation, for every £1 by which the amount of the member's annual rate of pension credit member's pension is reduced, the member must be paid a lump sum of £12.

(4) A pension credit member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of the 2004 Act (see section 241 of that Act).

(5) This regulation does not apply if the pension debit member from whose rights the pension is derived received a lump sum under Part 7 (retirement benefits) before the date on which the pension sharing order takes effect.

### **Option for pension credit member to commute whole pension (serious ill-health)**

**130.**—(1) This regulation applies in relation to a pension credit member whom a selected medical practitioner certifies has a life-expectancy of less than 12 months.

(2) The pension credit member may opt to exchange the whole of the pension credit member's pension under this scheme for a lump sum.

(3) The option under this regulation ("this option") may only be exercised—

- (a) by written notice to the scheme manager; and
- (b) before the first payment of the pension is made.

(4) The lump sum—

- (a) is an amount equal to the total annual amount of the pension credit member's pension, multiplied by 5; and
- (b) must be paid to the pension credit member as soon as is reasonably practicable after this option is exercised.

(5) In this regulation, "total annual amount" in relation to a pension credit member's pension means the total of—

- (a) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date this option is exercised, but without subtracting the early payment reduction (if any); and
- (b) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date.

(6) the payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.

### **Application of Part to pension adjustment orders**

**131.**—(1) Where a pension adjustment order is made in respect of benefits under this scheme, this Part applies with any modifications the scheme manager considers necessary to give effect to that order.

(2) In this regulation, a "pension adjustment order" means an order made under section 12 of the Irish Family Law Act 1995(76).

## PART 9

### Death benefits

#### CHAPTER 1

##### Application of Part

##### **Application of Part**

**132.**—(1) This Part applies in relation to death benefits payable in respect of a continuous period of pensionable service under this scheme (“period of service”).

(2) In this Part, “active member”, in relation to this scheme, means a person—

- (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<sup>(77)</sup>.

#### Chapter 2

##### Pensions for surviving adults

##### **Surviving adults**

**133.** In these Regulations—

“surviving adult”, in relation to a deceased member of this scheme, means the member’s surviving spouse, surviving civil partner or surviving adult partner;

“surviving civil partner”, in relation to a deceased member of this scheme, means a person who was in a civil partnership<sup>(78)</sup> with the member as at the date of the member’s death; and

“surviving spouse”, in relation to a deceased member of this scheme, means a person who was married to the member as at the date of the member’s death.

##### **Meaning of “surviving adult partner”**

**134.**—(1) A person (P) is a surviving adult partner of a deceased member of this scheme if—

- (a) the member has sent to the scheme manager a written declaration form required by the scheme manager signed by the member and P that—
  - (i) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;
  - (ii) either P was financially dependent on the member or P and the member were financially interdependent;
  - (iii) the member was able to marry or form a civil partnership with P; and
  - (iv) the member acknowledged an obligation to give the scheme manager a signed notice of revocation should the relationship terminate; and
- (b) the member has not revoked the declaration before the member’s death; and
- (c) P has satisfied the scheme manager that—
  - (i) the circumstances in sub-paragraphs (i) to (iii) of paragraph (a) continued to subsist at the time of the member’s death; and

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<sup>(77)</sup> See Chapter 1 of Part 4 (active membership) for when a member of the police service is taken to be an active member of this scheme.

<sup>(78)</sup> See section 1 of the Civil Partnership Act 2004 (c. 33) for the meaning of “civil partnership”.

(ii) the period of cohabitation had been of at least 2 years' duration at the time of the member's death.

(2) The scheme manager may in its discretion accept a shorter period of cohabitation if satisfied in the particular circumstances of the case that the member and P would have cohabited as partners for at least 2 years had the member not died.

(3) The member or P may revoke a declaration at any time by giving a signed notice to the scheme manager in any form the scheme manager requires.

(4) On receipt of a declaration or notice under this regulation, the scheme manager must send the member a written notification of its receipt.

### **Meaning of “surviving adult’s pension”**

**135.** In these Regulations, “surviving adult’s pension” means any of the following pensions payable to a surviving adult under this Chapter—

- (a) a surviving adult’s earned pension;
- (b) a surviving adult’s lower tier ill-health pension;
- (c) a surviving adult’s enhanced upper tier ill-health pension;
- (d) a surviving adult’s added pension.

### **Entitlement to surviving adult’s pension**

**136.—**(1) This regulation applies in relation to a member who was at the date of death—

- (a) an active member of this scheme with at least 2 years qualifying service;
- (b) a deferred member of this scheme; or
- (c) a pensioner member of this scheme.

(2) The surviving adult of the member is entitled to payment for life of a surviving adult’s pension as follows—

- (a) if the member was entitled to the immediate payment of a retirement earned pension at the date of the member’s death, or would have become entitled to such a pension had the member not died, a surviving adult’s earned pension;
- (b) if the member was entitled to the payment for life of a lower tier ill-health pension at the date of the member’s death, a surviving adult’s lower tier ill-health pension;
- (c) if the member was entitled to the payment for life of both a lower tier ill-health pension and an enhanced upper tier ill-health pension at the date of the member’s death, a surviving adult’s lower tier ill-health pension and a surviving adult’s enhanced upper tier ill-health pension;
- (d) if the member was entitled to the payment for life of a retirement added (all beneficiaries) pension as at the date of the member’s death or would have become entitled to such a pension had the member not died, a surviving adult’s added pension.

(3) The scheme manager may withhold a surviving adult’s pension that would otherwise be payable to the surviving spouse, if the member and the surviving spouse married less than 6 months before the member’s death;

(4) The scheme manager may withhold a surviving adult’s pension that would otherwise be payable to a surviving civil partner if the civil partnership was formed less than 6 months before the member’s death.

(5) Paragraphs (3) and (4) are subject to regulation 150 (guaranteed minimum pensions for surviving spouses and civil partners).

**Surviving adult's pension payable in respect of pension debit member**

**137.** The annual rate of surviving adult's pension payable in respect of a pension debit member is calculated by reference to the pension debit member's rights under these Regulations as reduced under Article 28 of the 1999 Order.

**Annual rate of surviving adult's pensions payable on death of pensioner member**

**138.—**(1) This regulation applies on the death of a pensioner member of this scheme (P).

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the annual rate of retirement earned pension calculated without subtracting the early payment reduction (if any).

(3) The annual rate of a surviving adult's lower tier ill-health pension is an amount equal to 50% of the annual rate of P's lower tier ill-health pension.

(4) The annual rate of a surviving adult's enhanced upper tier ill-health pension is an amount equal to 50% of the annual rate of P's enhanced upper tier ill-health pension.

(5) The annual rate of a surviving adult's added pension is an amount equal to 50% of the annual rate of retirement added (all beneficiaries) pension calculated without subtracting the early payment reduction (if any);

(6) In accordance with section 7(4) of the 1971 Act, for the purposes of this regulation there is to be disregarded any increase in the annual rate of a pension since the beginning date for that pension.

**Annual rate of surviving adult's pensions payable on death of deferred member**

**139.—**(1) This regulation applies on the death of a deferred member of this scheme.

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the sum of the provisional amount of deferred earned pension specified in the deferred member's account.

(3) The annual rate of a surviving adult's added pension is an amount equal to 50% of the provisional amount of deferred added (all beneficiaries) pension specified in the deferred member's account.

(4) In this regulation "deferred earned pension" means —

- (a) deferred standard earned pension; and
- (b) deferred club transfer earned pension (if any).

**Annual rate of surviving adult's pensions payable on death of active member**

**140.—**(1) This regulation applies on the death of an active member of this scheme who has at least 2 years qualifying service.

(2) The annual rate of a surviving adult's earned pension is an amount equal to 50% of the annual rate of ill-health pension under this scheme that would have been payable to the member on the date of the member's death had the member met the upper tier threshold.

(3) The annual rate of a surviving adult's added pension is an amount equal to 50% of the amount of retirement added (all beneficiaries) pension that would have been specified in the member's retirement account had the member become entitled to such a pension on the date of the member's death.

**Reduction in pensions in cases of wide age disparity**

**141.—**(1) This regulation applies if, on the death of a member of this scheme, a surviving adult's pension becomes payable to a surviving adult who is more than 12 years younger than the member.

(2) The annual rate of the surviving adult's pension is reduced by the lower of—

- (a) 50% of the amount of the annual rate of the pension calculated under regulation 138,139 or 140; and
- (b)  $2.5 \times (N - 12)\%$  of the amount of the annual rate of the pension so calculated, where N is the number of whole years by which the surviving adult is younger than the member.

## CHAPTER 3

### Pensions for eligible children

#### Meaning of “eligible child’s pension”

**142.** In these Regulations, “eligible child’s pension” means any of the following pensions payable to an eligible child under this Chapter—

- (a) a child’s earned pension;
- (b) a child’s lower tier ill-health pension;
- (c) a child’s enhanced upper tier ill-health pension;
- (d) a child’s added pension.

#### Meaning of “eligible child”

**143.—**(1) In these Regulations, “eligible child”, in relation to a deceased member of this scheme, means a person mentioned in paragraph (2) who meets one of the conditions in paragraph (3)—

- (2) The persons are—
  - (a) a natural child of a member born before the member’s death;
  - (b) a natural child of a member born after member’s death if the child’s mother was pregnant with the child at the date of the member’s death;
  - (c) an adopted child or step child of the member; or
  - (d) any other child or young person who, in the opinion of the scheme manager, at the date of the member’s death, was substantially dependent on the member financially or because of physical or mental impairment.
- (3) The conditions are—
  - (a) that the person is under 19 years;
  - (b) that the person is under 23 years and in full-time education or full time vocational training on a course of at least one year’s duration;
  - (c) that the person is under 23 and, in the opinion of the scheme manager unable to engage in any regular employment because of physical or mental impairment;
  - (d) that in the opinion of the scheme manager—
    - (i) the person is dependent on the member at the date of the member’s death because of physical or mental impairment;
    - (ii) the person is unable to engage in any regular employment because of that impairment; and
    - (iii) that impairment is likely to be permanent.

#### Eligible child’s pension

**144.—**(1) This regulation applies if a member of this scheme dies leaving an eligible child.

- (2) An eligible child's pension is only payable in respect of such periods or periods during which a child or young person is an eligible child.
- (3) An eligible child's pension is not payable in respect of any period before a child's birth.
- (4) An eligible child's pension is payable in respect of an eligible child as follows—
- (a) a child's earned pension is payable if the member was entitled to the payment for life of a retirement earned pension as at the date of the member's death or the member would have become entitled to such a pension had the member not died;
  - (b) a child's lower tier ill-health pension is payable if a lower tier earned pension was payable to the member as at the date of the member's death;
  - (c) a child's enhanced upper tier ill-health pension is payable if an enhanced upper tier ill-health pension was payable to the member as at the date of the member's death;
  - (d) a child's added pension is payable if the member was entitled to the payment for life of a retirement added (all beneficiaries) pension as at the date of the member's death or would have become entitled to such a pension had the member not died.
- (5) Part 6 of Schedule 4 (transitional provisions) provides for payment of an eligible child's pension in respect of a transition member with continuity of service—
- (a) who dies as an active member of this scheme; and
  - (b) who has at least 2 years' qualifying service.

#### **Annual rate of eligible child's pension**

**145.**—(1) The annual rate of an eligible child's pension is determined by reference to the annual rate of the corresponding surviving adult's pension (disregarding any reduction falling to be made under regulation 141 (wide age disparity)) whether or not a surviving adult's pension is payable on the death of the member.

- (2) For the purposes of this regulation, the corresponding surviving adult's pensions are—
- (a) for a child's earned pension, a surviving adult's earned pension;
  - (b) for a child's lower tier ill-health pension, a surviving adult's lower tier ill-health pension;
  - (c) for a child's enhanced upper tier ill-health pension, a surviving adult's enhanced upper tier top up ill-health pension; and
  - (d) for a child's added pension, a surviving adult's added pension.
- (3) If an eligible child's pension is payable in respect of one or 2 eligible children, the annual rate of an eligible child's pension is equal to 50% of the annual rate of the corresponding surviving adult's pension; and
- (4) If an eligible child's pension is payable in respect of 3 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of 50% of the annual rate of the corresponding surviving adult's pension.
- (5) In this regulation, "the appropriate fraction" means

$$\frac{2}{Y}$$

where—

- (a) *Y* is the number of eligible children in respect of whom the annual rate of an eligible child's pension is calculated.



- (b) In calculating the annual rate of eligible child's pension payable on the death of a pension debit member of this scheme, the reduction of the pension debit member's benefits under article 28 of the 1999 Order is disregarded.

## CHAPTER 4

### Payment of pensions for surviving adults and eligible children

#### **Payment of pensions under this Part**

**146.**—(1) A surviving adult's pension is payable in respect of each month as from the day after the day on which the member dies.

(2) An eligible child's pension is payable—

- (a) in respect of each month as from the day after the date of a member's death; or
- (b) for an eligible child born after the member's death, in respect of each month as from the day on which that child is born.

(3) An eligible child's pension payable in respect of an eligible child aged under age 18 must be paid—

- (a) if the child is in the care of the member's surviving adult, to the surviving adult (unless the scheme manager directs otherwise); and
- (b) in any other case, to a person determined by the scheme manager.

(4) A person who receives a sum under paragraph (3) must apply that sum for the benefit of the child.

#### **Suspension and recovery of pensions paid under this Part**

**147.**—(1) This regulation applies if—

- (a) on a member's death a pension is paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension was paid made a false declaration or deliberately suppressed a material fact in connection with the claim for payment.

(2) The scheme manager may—

- (a) cease paying the pension; and
- (b) recover any payment of the pension.

(3) Paragraph (2) does not affect any other right the scheme manager has to recover a payment or overpayment.

#### **Provisional payment of eligible child's pensions: later adjustments**

**148.**—(1) This regulation applies where—

- (a) an active member, deferred member or pensioner member of this scheme has died.
- (b) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children at the date of the member's death and that there were then no other eligible children; and
- (c) it later appears that—
  - (i) a person in respect of whom an eligible child's pension was paid was not an eligible child on the date of death;
  - (ii) on that date one or more other persons was an eligible child; or

(iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters in paragraph (1)(c).

(3) Paragraph (2) does not affect any right of the scheme manager has to recover a payment or an overpayment.

### **Adjustment of benefits to comply with the 2004 Act where members die over 75**

**149.**—(1) This regulation applies if—

- (a) a member of this scheme dies after reaching the age of 75; and
- (b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 of the 2004 Act (the pension death benefit rules) (see paragraphs 16 to 16C of Schedule 28 to that Act).

(2) The benefit payable to the person may be adjusted in any way as determined by the scheme manager so that it qualifies as a dependants' scheme pension for the purposes of section 167 of the 2004 Act.

### **Guaranteed minimum pensions for surviving spouses and civil partners**

**150.**—(1) This regulation applies in relation to a person (P) who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member has a guaranteed minimum under section 13(79) of the 1993 Act in relation to the member's benefits under this scheme.

(2) Nothing in these Regulations permits or requires anything that would cause requirements under the 1993 Act that relate to such a person or that relate to the rights of such a person not to be met in relation to P;

(3) Nothing in these Regulations prevents anything from being done which is necessary or expedient for the purpose of meeting such requirements in the case of P;

(4) The following paragraphs are without prejudice to the generality of paragraphs (2) and (3).

(5) If apart from this regulation a pension would be payable to P under this Part—

- (a) a pension the weekly rate of which is equal to the guaranteed minimum is payable to P for life; or
- (b) pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(6) If apart from this regulation the weekly rate of a pension payable to P under this Part would be less than the guaranteed minimum, the pensions payable are increased to the amount specified in paragraph (5).

(7) Paragraphs (5) and (6) do not apply to a pension that is—

- (a) forfeited as a result of a conviction for treason; or
- (b) forfeited under regulation 206 where the relevant offence within the meaning of that regulation is an offence under the Official Secrets Acts 1911 to 1989(80).

(79) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1), Sch.1 para.42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433) Sch.1 para.5, the Child Support, Pensions and Social Security Act (Northern Ireland) (2000 c.4) sections.52, 67, Sch. 5 Pt. 1 para.1 and Sch.3 Pt.3(4), the Pensions (Northern Ireland) Order 2005 (S.R. 2005 No. 255) Art.261(2) and the Pensions Act (Northern Ireland) 2008 (c.1. (N.I.))

(80) 1989 c.6: see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".

## CHAPTER 5

### Nominations for lump sum death grants

#### **Nominations for lump sum death grants**

**151.**—(1) A member of this scheme may nominate an individual to receive a lump sum death grant.

(2) A nomination may only be made by giving a signed notice to the scheme manager in a form the scheme manager requires.

(3) A member may revoke or alter a nomination by giving a further signed notice to the scheme manager in a form the scheme manager requires.

(4) On receipt of a notice under this regulation, the scheme manager must send the member a written notification of its receipt.

#### **Invalid nominations of individuals**

**152.**—(1) If the nomination of an individual is invalid, any lump sum death grant that would have been payable to the individual is payable to the member's legal personal representative.

(2) A nomination of an individual is invalid if—

(a) the individual predeceases the member; or

(b) the individual is convicted of the offence of murder of the member.

(3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of manslaughter of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

#### **Recovery of payment if nomination found to be invalid**

**153.**—(1) The scheme manager may recover a lump sum death grant paid to any person if the person's nomination is subsequently found to be invalid.

(2) Paragraph (1) does not affect any other right the scheme manager has to recover a payment or an overpayment.

## CHAPTER 6

### Payment of lump sum death grants

#### **Payment of lump sum death grants: general**

**154.**—(1) A lump sum death grant is payable in respect of—

(a) an active member of this scheme who dies; or

(b) a pension credit member of this scheme who dies before any benefits attributable (directly or indirectly) to a pension credit become payable.

(2) A lump sum death grant is payable whether or not a surviving adult's pension or death gratuity is payable in respect of the member.

(3) A lump sum death grant is not payable in respect of a member who dies after reaching 75 (see regulation 157 for payment of a pension instead of a lump sum who have reached 75).

**Persons who may be paid lump sum death grant**

**155.**—(1) The scheme manager must pay a lump sum death grant to any surviving spouse or surviving civil partner of the member, unless immediately before the member's death—

- (a) the member and the spouse or civil partner were separated by an order or decree of a competent court; and
- (b) the member was not required by the order to contribute, and was not in fact regularly contributing—
  - (i) to the support of the spouse or civil partner; or
  - (ii) to the support of a child of the spouse or civil partner.

(2) If a lump sum death grant is not paid under paragraph (1), the scheme manager may in its discretion pay a lump sum death grant to any surviving adult partner of the member, if the surviving adult partner—

- (a) claims payment of a surviving adult's pension; and
- (b) satisfies the scheme manager that at the time of the member's death—
  - (i) the circumstances stated in the declaration under regulation 134 (meaning of surviving adult partner) continued to subsist; and
  - (ii) the member and the surviving adult partner had cohabited for at least 2 years.

(3) The scheme manager may in its discretion accept a shorter period of cohabitation if satisfied in the particular circumstances of the case that the member and P would have cohabited as partners for at least 2 years had the member not died.

(4) If a lump sum death grant is not paid under paragraph (1) or (2), the scheme manager may in its discretion pay a lump sum death grant to a person nominated under regulation 151 (nominations for lump sum death grants) if the nomination has effect at the date of the member's death.

(5) If a lump sum death grant is not paid under paragraph (1), (2) or (4), the scheme manager may in its discretion pay a lump sum death grant to the member's legal personal representative.

**Pension protection lump sum death benefit**

**156.**—(1) A lump sum death grant is treated for the purposes of the 2004 Act as a pension protection lump sum death benefit if and to the extent that—

- (a) the member has given written notice to the scheme manager that the lump sum death grant is to be so treated; and
- (b) the lump sum death grant meets all the conditions required by the 2004 Act for it to be treated as a pension protection lump sum death benefit (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to the 2004 Act)(**81**).

(2) The scheme manager may deduct tax from the lump sum death grant if the scheme manager is liable for tax under section 206(**82**) (special lump sum death benefits charge) of the 2004 Act in respect of a pension protection lump sum death benefit.

**Payment of pension instead of lump sum death grant for members who have reached 75**

**157.**—(1) This regulation applies if an active member dies after reaching 75.

(2) The scheme manager must pay a pension under this regulation to any surviving spouse or surviving civil partner of the member.

(81) Paragraph 14 was amended by the Finance Act 2011(c.11) Schedule 16 paragraphs 32 and 34.

(82) Section 206 was amended by the Finance Act 2011 (c.11) Schedule 16 paragraph 41 and the Finance Act 2013 (c.29) Schedule 46 paragraphs 119 and 123

(3) If there is no surviving spouse or surviving civil partner, the scheme manager must pay a pension to —

- (a) a surviving adult partner of the member; or
- (b) a person nominated by the member under regulation 151; or
- (c) the member’s legal personal representative.

(4) The restrictions in regulation 154 (payment of lump sum death grant: general) relating to payment of a lump sum death grant also apply to payment of a pension under this regulation.

(5) A pension payable under this regulation is payable in respect of each month as from the date of the member’s death for the 5 year period beginning with the date of death.

(6) The amount of each payment must be equal to the sum of—

- (a) the amount of pension that would have been payable to the member had the member—
  - (i) became entitled to payment of the pension on the due date of death; and
  - (ii) lived until the end of the 5 year period beginning with the date of death; and
- (b) any increases in the annual rate of that pension under the 1971 Act during the 5 year period.

## CHAPTER 7

### Amount of lump sum death grant

#### Meaning of “final pay”

**158.**—(1) In these Regulations, “final pay” in relation to a continuous period of pensionable service under this scheme (“period of service”) means the greater of the following amounts—

- (a) the amount of a member’s pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;
- (b) the amount of a member’s pensionable earnings payable in respect of any scheme year in the 10 scheme years immediately before the last active scheme year (“the earnings year”).

(2) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater—

- (a) if the member’s period of service was less than 12 months, the amount in paragraph (1)(a) is an amount equal to the member’s annualised final pay; and
- (b) the amount in paragraph (1)(b) is adjusted for inflation in accordance with paragraph (3).

(3) The amount of pensionable earnings payable in respect of the earnings year is adjusted for inflation by increasing it by the same amount as that by which the annual rate of a pension of an amount equal to the amount of pensionable earnings would have been increased under the 1971 Act by the day following the last day of pensionable service if—

- (a) that pension was eligible to be so increased; and
- (b) the beginning date for that pension was the first day of the next scheme year after the earnings year.

(4) For the purpose of this regulation—

- (a) in respect of a period of assumed pay under this scheme, “pensionable earnings” means the member’s assumed pay; and
- (b) if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under the existing police pension scheme before the transition date for that member.

**Meaning of “annualised final pay”**

**159.**—(1) This regulation applies for the purpose of regulation 158(2)(a) (meaning of “final pay”).

(2) If the member’s period of service was less than 12 months, the member’s annualised final pay is—

$$FP \times \frac{365}{N}$$

where—

*FP* is the amount of the member’s pensionable earnings payable in respect of that period of service; and

*N* is the number of days in that period.

(3) But if the period of service includes the day 29th February, paragraph (1) has effect with the substitution for “366” of “365”.

(4) For the purpose of this regulation—

(a) in respect of a period of assumed pay under this scheme, “pensionable earnings” means the member’s assumed pay; and

(b) if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under the existing police pension scheme before the transition date for that member.

**Amount of lump sum death grant payable on death of active member**

**160.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme (“period of service”).

(2) If the member is a transition member with continuity of service, the period of service includes the member’s period of pensionable service under the existing police pension scheme before the transition date for that member.

(3) The amount of the lump sum death grant payable in respect of a person (P) who dies as an active member is—

(a) if P’s period of service was at least 12 months—

$$P's \text{ final pay} \times 3$$

(b) if P’s period of service was less than 12 months—

$$P's \text{ annualised final pay} \times 3$$

**Amount of lump sum death grant payable on death of pension credit member**

**161.**—(1) This regulation applies if a pension credit member of this scheme dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death grant is equal to—

$$\text{annual rate of pension} \times 3$$

where—

“annual rate of pension” means the annual rate of pension credit member’s pension to which the member would have been entitled if the member had reached the member’s state pension age on the date of the member’s death.

### **Amount payable under court order to former spouse or civil partner**

**162.**—(1) This regulation applies if on or after the death of a member of this scheme the scheme manager is required under a court order to pay any part of a lump sum death grant to the member's former spouse or civil partner.

(2) The amount of the lump sum death grant is first determined as if no such order had been made, and then this Part applies as if the amount of the lump sum death grant were reduced by the amount payable under the court order.

## **CHAPTER 8**

### **Death gratuities**

#### **Application of Chapter**

**163.** This Chapter applies in relation to the sum of all benefits paid or payable in respect of the member's continuous period of pensionable service under this scheme ("the period of service").

#### **Death gratuities - dependants**

**164.**—(1) This regulation applies in relation to a pensioner member or deferred member of this scheme who dies if—

- (a) the death results from an injury received in the execution of duty; or
- (b) the member dies within 2 years of becoming entitled to the member's retirement pension.

(2) The scheme manager may in its discretion grant a gratuity to any person who at the date of the member's death was in the opinion of the scheme manager—

- (a) wholly or partly financially dependent on the member; or
- (b) wholly or partly dependent on the member because of physical or mental impairment.

(3) The total amount of any gratuities granted under this regulation must not exceed the sum of all member contributions and payments for added pension made by the member under this scheme.

#### **Death gratuity – estate**

**165.**—(1) This regulation applies in relation to a pensioner member, deferred member or active member of this scheme who dies.

(2) If the sum of the amounts in paragraph (3) is less than the sum of all member contributions and payments for added pension made by the member under this scheme, the scheme manager must pay to the member's legal personal representative a gratuity equal to the difference.

(3) The amounts are—

- (a) any amount of pension or lump sum paid to the member in relation to the period of service, together with any increase under the 1971 Act;
- (b) the capitalised value (determined by the scheme manager, having regard to actuarial tables) of any surviving adult's pension or eligible child's pension granted in respect of the member's death;
- (c) if the member is also a pension credit member, the actuarial value of any pension credit; and
- (d) any gratuity granted under regulation 164 (dependants) in respect of the member's death.

(4) A claim for payment of a gratuity under this regulation is taken to be made on the date of the member's death.

## CHAPTER 9

### Prevention of duplication of benefits

#### **Payment of one benefit only in respect of deceased member**

**166.**—(1) This regulation applies for the purpose of determining benefits payable to a surviving adult or eligible children (P) in respect of a member's continuous period of pensionable service under this scheme.

- (2) P is not entitled to be paid in respect of the member's period of service both—
  - (a) a surviving adult's pension on or an eligible child's pension; and
  - (b) an award under the Injury Benefits Regulations; scheme regulations providing for payment of injury benefits to members of the police service in Northern Ireland.
- (3) P may choose which of the benefits in paragraph (2) the person wishes to receive.
- (4) If P chooses which benefit P wishes to be paid, the scheme manager must pay P that benefit.
- (5) If P does not choose which benefit P the person wishes to be paid the scheme manager must pay P—
  - (a) the benefit which is for the time being greater; or
  - (b) if the amount of both benefits is the same, that amount.

## PART 10

### Contributions

#### **Amount of pensionable earnings**

**167.**—(1) For the purpose of this Part, the amount of a member's pensionable earnings for any period is determined in accordance with this regulation.

(2) The amount of pensionable earnings for any pay period for a person who falls within regulation 4(1)(a) or (c) in full time service as a member of the police service means the rate of pay to which the member is entitled as such a member in that pay period, account being taken of any retrospective increase in that rate.

(3) The amount of pensionable earnings for any pay period for a person who falls within regulation 4(1)(a) or (c) in part-time service is the amount of pensionable earnings that would be payable to that member in that pay period if the member were in full-time service.

(4) For a member who falls within regulation 4(1)(b) the amount of pensionable earnings for any pay period is determined in accordance with regulation 30(1)(c).

(5) Unless paragraph (6), (7) or (8) applies, the amount of the member's pensionable earnings during any period of assumed pay is equal to the member's assumed pay.

(6) For any period of assumed pay under regulation 31(2)(a) (assumed pay-reduced pay), the amount of the member's pensionable earnings is equal to the member's reduced pay while on sick leave, paid adoption leave, paid maternity leave, paid paternity leave, paid parental leave, paid maternity support leave or paid adoption support leave.

(7) For any period of assumed pay under regulation 31(2)(b) or (c) (assumed pay-statutory pay), the amount of the member's pensionable earnings is the amount statutory pay actually paid to or for the member in respect of the period of adoption leave, maternity leave, parental leave, paternity leave, maternity support leave or adoption support leave.



(8) For any period of assumed pay under regulation 31(2)(d) (assumed pay - permanent service), if the service pay is less than the rate of pay (account being taken of any retrospective increase in that rate) to which the member was entitled at the beginning of the period of permanent service, the amount of the member's pensionable earnings is equivalent to that rate of pay.

(9) Paragraphs (5), (6) and (7) do not apply to a member who falls within regulation 4(1)(b) or (d).

### **Annualised rate of pensionable earnings**

**168.**—(1) For the purpose of this Part a member's annualised rate of pensionable earnings is calculated in accordance with this regulation.

(2) Where a member's pensionable earnings for a scheme year are payable to the member in 12 instalments, the member's annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$12P$$

where P is the amount of a payment of the member's pensionable earnings.

(3) Where a member's pensionable earnings for a scheme year are payable to the member otherwise than in 12 instalments, the member's annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$P \times \frac{365}{N}$$

where—

*P* is the amount of a payment of the member's pensionable earnings; and

*N* is the number of days in the relevant pay period.

(4) For the purpose of paragraph (3) the relevant pay period is—

- (a) for the first payment of pensionable earnings, the period beginning on the member's first day of pensionable service and ending on the day before the day that this payment of pensionable earnings is made; or
- (b) otherwise the period beginning on the day the previous payment of pensionable earnings was made and ending on the day before the day that this payment of pensionable earnings is made.

(5) If the scheme year in which the payment of pensionable earnings is made includes 29th February, paragraph (3) has effect with "366" substituted in place of "365".

### **Rate of member's contributions**

**169.**—(1) An active member of this scheme must pay contributions to this scheme ("member contributions") on the member's pensionable earnings for each pay period at a rate determined under this regulation ("member contributions rate").

(2) The member contributions rate during a scheme year mentioned in the table is the percentage set out in column 2 or 3 of the table which applies to a member's annualised rate of pensionable earnings calculated in relation to each payment of the member's pensionable earnings.

(3) Column 2 sets out the member contributions rate which applies if the scheme manager determines under Chapter 4 of Part 4 that the member is eligible under this scheme for payment of ill-health benefits under this scheme<sup>(83)</sup> ("full member contributions rate").

(83) See Chapter 2 of Part 4 (determination of eligibility for ill-health benefits under this scheme).

(4) Column 3 sets out the member contributions rate which applies if the scheme manager determines under regulation 33 (determination of eligibility) that the member is ineligible for ill-health benefits under this scheme (“reduced member contributions rate”).

(5) A reduced member contributions rate ceases to apply to a member from the date the scheme manager determines under regulation 34 (re-determination of eligibility) that the member is eligible under this scheme for payment of ill-health benefits.

(6) The member contributions rate which applies to a member’s pensionable earnings is the rate which applies when the payment of pensionable earnings is made.

(7) For the purpose of paragraph (6), for any pay period in respect of which the member is taken to receive assumed pay, the assumed pay is taken to be paid the payment of the member’s pensionable earnings for that pay period would have been made had the circumstances in regulation 31(2) (assumed pay) which apply to the member not applied.

**For each scheme year falling in period beginning 1st April 2015 and ending 31st March 2019**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Annualised rate of pensionable earnings</i>	<i>Full Member Contributions rate</i>	<i>Reduced Member Contributions rate</i>
£27,000 or less	12.44%	9.94%
More than £27,000 but less than £60,000	13.44%	10.94%
£60,000 or more	13.78%	11.28%

**Payment of member contributions**

170.—(1) Member contributions for each period are to be deducted by the member’s employer in respect of the member’s pensionable earnings for that pay period.

(2) A member’s employer may make contributions on the member’s behalf in circumstances determined by the scheme manager.

**Option to pay member contributions for period of unpaid leave**

171.—(1) This regulation applies in respect of an active member of this scheme who returns from a period of—

- (a) unpaid adoption leave;
- (b) unpaid maternity leave;
- (c) unpaid parental leave;
- (d) unpaid maternity support leave;
- (e) unpaid adoption support leave; or
- (f) unpaid sick leave.

(2) For the purpose of paragraph (1), unpaid leave does not include any leave in respect of which statutory pay is payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(3) The member may by written notice to the scheme manager opt to pay the amount of contributions that would have been payable for the period of unpaid leave.

- (4) A member may exercise this option in relation to one or more periods of unpaid sick leave if—
  - (a) each period of unpaid sick leave does not exceed 6 months; and
  - (b) the total period of unpaid sick does not exceed 12 months.
- (5) The option must be exercised by the earlier of —
  - (a) the end of the 3 month period beginning with the day on which the member returns to work; and
  - (b) the member’s last day of pensionable service under this scheme.
- (6) On receipt of a notice under paragraph (3) the scheme manager must calculate the amount of contributions payable and give the member a notice stating that amount.
- (7) For the purpose of calculating the amount of contributions payable, the annual rate of the member’s pensionable earnings is taken to be the rate that applied at the beginning of the period of unpaid leave.

### **Payment of member contributions for unpaid leave**

- 172.**—(1) Within 6 months after receiving the notice under regulation 171(6) (“payment period”), the member must pay to the scheme manager the full amount stated in the notice.
- (2) If the member leaves eligible service before the full amount is paid, the member must pay the balance within 2 months of leaving eligible service, as long as this falls within the payment period.
- (3) The amount may be paid by—
  - (a) a lump sum payment made by the member; or
  - (b) instalments deducted by the member’s employer from the member’s pay.
- (4) If the full amount is not paid by the end of the payment period, the scheme manager taking into account the unpaid amount must determine the period of unpaid leave in respect of which the member is taken to receive pensionable earnings.
- (5) The member is taken to have paid the full amount if—
  - (a) the member dies within the payment period; or
  - (b) the member dies before the end of the 3 month period beginning with the day on which the member returns to work.

### **Employer contributions**

- 173.**—(1) The employer of an active member of this scheme (“the employer”) must pay contributions to this scheme in respect of the member at the rate of 25.1% of the member’s annualised rate of pensionable earnings (“employer contributions”).
- (2) Employer contributions must be paid at the intervals the scheme manager, in accordance with actuarial guidance, may for the time being determine.
- (3) In addition, the employer must pay the following charges to this scheme at the rate and at the intervals the scheme manager may for the time being determine—
  - (a) annual administration charges;
  - (b) any other administrative charges.

### **Deduction of payments for added pension under Schedule 3**

- 174.** Schedule 3 has effect for the purpose of enabling deductions of payments for added pension.

**Refund of all member contributions and payments for added pension made by the member**

**175.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme (“period of service”).

(2) If paragraph (3) applies, the scheme manager must refund all member contributions and payments for added pension made by the member in relation to the period of service.

(3) This paragraph applies if—

- (a) the member opted out under regulation 28 (opting out before the end of 3 months); or
- (b) the member’s pensionable service ceases and—
  - (i) the member has less than 2 years’ qualifying service; and
  - (ii) if a transfer payment has been received by this scheme in relation to the member, it was from another occupational pension scheme.

(4) Member contributions and payments for added pension made by the member are not refundable if—

- (a) a transfer payment has been made in respect of the member’s accrued rights to benefits under this scheme; or
- (b) a retirement pension has become payable to the member in respect of the period of service.

(5) If paragraph (3)(b) applies, the member is entitled to be paid an amount equal to the sum of all member contributions and payments for added pension made by the member, less an amount equal to the income tax payable under section 205 (short service refund lump sum charge) of the 2004 Act **(84)** as a result of a refund of those contributions and payments.

(6) If all member contributions and payments for added pension made by the member are refunded under this regulation, the member’s rights under this scheme in relation to the period of service are extinguished.

**Member repays refund of contributions on rejoining this scheme**

**176.**—(1) This regulation applies to a member who—

- (a) was in pensionable service under this scheme (“earlier period of service”);
- (b) received a refund under regulation 175 (refund of all member contributions and payments for added pension made by the member) in relation to that earlier period of service; and
- (c) after a gap in service not exceeding 5 years, rejoins this scheme.

(2) If within 6 months after re-joining this scheme (or any longer time the scheme manager determines) the member repays to the scheme manager the amount of the refund received under regulation 172 the active member’s account must be adjusted to specify the amount of accrued earned pension as at the last day of pensionable service for the earlier period of service.

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**(84)** Section 205 was amended by the Finance Act 2013(c.29) Schedule 46 paragraphs 119 and 121 and S.I.2010/536.

**PART 11**  
Transfers  
**CHAPTER 1**  
Preliminary

**Application of Part**

**177.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of the 1993 Act (transfer values) and is without prejudice to that Chapter; and
- (b) supplements the rights conferred by or under Chapter 5 of that Part (early leavers: cash transfer sums and contribution refunds<sup>(85)</sup>) and is without prejudice to that Chapter.

**Interpretation of Part**

**178.** In this Part—

“cash equivalent” in relation to benefits under this scheme other than accrued earned pension, means an amount calculated in accordance with regulations made under

section 93 (calculation of cash equivalents) of the 1993 Act <sup>(86)</sup>;

“club scheme” means a registered occupational pension scheme (other than a connected scheme) that has agreed to make and receive club transfer value payments under the club transfer arrangements;

“club transfer” means a transfer to or from this scheme under the club transfer arrangements;

“club transfer arrangements” means arrangements approved by the scheme manager as providing reciprocal arrangements between this scheme and other registered occupational pension schemes for making and receiving club transfer value payments;

“club transfer value”, in relation to accrued earned pension under this scheme or under another club scheme, means an amount calculated by the scheme manager—

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

“club transfer value payment ” means payment of a club transfer value;

“guarantee date” has the meaning given in regulation 181 (statement of entitlement);

“guaranteed cash equivalent”, in relation to benefits under this scheme other than accrued earned pension, means the cash equivalent of those benefits as at the guarantee date, as specified in a statement of entitlement;

“sending scheme” means a club scheme which pays a club transfer value;

“statement of entitlement”, in relation to the accrued rights to benefits under this scheme of a “deferred member”, means a statement by the scheme manager at the guarantee date setting out —

- (a) the cash equivalent of benefits under this scheme other than accrued earned pension; and

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<sup>(85)</sup> Chapter 5 of Part 4 of the Pensions Schemes (Northern Ireland) Act 1993 was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I.2005/255).

<sup>(86)</sup> Section 93 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Art.165 Sch.4 para.6 and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4) section 52 and Sch.5 para.5(1).

- (b) the club transfer value of accrued earned pension under this scheme.
- “transfer payment ” means a transfer value payment or a club transfer value payment;
- “transfer value” means—
- (a) for accrued rights to benefits under this scheme (other than rights to accrued earned pension), an amount equal to—
- (i) the guaranteed cash equivalent of those benefits; or
- (ii) the guaranteed cash equivalent together with any increase payable under regulation 183 (calculating amount of transfer value or club transfer value); and
- (b) for accrued rights to benefits under another pension scheme (other than rights to accrued club transfer earned pension), an amount —
- (i) determined by the scheme actuary of that scheme; and
- (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme; and
- “transfer value payment” means a payment of a transfer value.

## CHAPTER 2

### Transfers out

#### Transfer payments made to other schemes or pension arrangements

**179.**—(1) Subject to regulation 184 (request for transfer out after member repays to scheme manager a refund received under regulation 183), a transfer payment may only be made in respect of the accrued rights to benefits of a deferred member of this scheme.

(2) A transfer payment may only be made to—

- (a) a registered pension scheme that is not a connected scheme; or
- (b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 of the 2004 Act (see section 169(2)(**87**) of that Act).

(3) A transfer payment may not be made in respect of rights that are attributable (directly or indirectly) to a pension credit.

(4) A member may only require the scheme manager to use a transfer payment in a way specified in section 91(2)(**88**) of the 1993 Act.

(5) A member may only require the scheme manager to make a club transfer value payment in the period of 12 months beginning with the day on which the member becomes eligible to be an active member of the club scheme to which the payment is to be made.

(6) If section 92(2) of the 1993 Act(**89**) applies, benefits attributable to the following may be excluded from the transfer payment—

- (a) the member’s accrued rights to a guaranteed minimum pension; or
- (b) the member’s accrued rights attributable to service in contracted-out employment (within the meaning of Part 3 of that Act) on or after 6 April 1997.

(**87**) Section 169(2) was amended by the Finance Act 2013 (c. 29) section 53(2) and (3).

(**88**) section 91(2)(c) was substituted by S.I. 2001/ 3649, Arts133.

(**89**) Section 92(2) was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Art.147 and Sch.3 para.53(a), the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) Arts.17,76, Sch.2 para.2(2)(b) and Sch.10 Pt 1, the Pensions Act (Northern Ireland) 2008 (2008 c.1) sections 13,19 ,Sch.4 para.29 and Sch.6 Pt.6 and the Pensions (2008 No.2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012 No. 124) Art.4(14)(a).

### **Application for a statement of entitlement**

**180.**—(1) This regulation applies in relation to a deferred member of this scheme (P) who requires a transfer payment to be made in respect of P’s accrued rights to benefits under this scheme.

(2) Before requesting the transfer payment, P must apply for a statement of entitlement by written notice to the scheme manager.

(3) P may withdraw the application by written notice to the scheme manager at any time before the statement is provided.

(4) P may make a second application by written notice to the scheme manager in the period of 12 months beginning with the date of the first application<sup>(90)</sup>.

### **Statement of entitlement**

**181.**—(1) The scheme manager must specify in the statement of entitlement the date by reference to which the cash equivalent or club transfer value is calculated (“guarantee date”).

(2) Unless paragraph (4) applies, the guarantee date must fall within both the following periods—

(a) the 3 months beginning with the date of the member’s application for the statement of entitlement (“the 3 month period”); and

(b) the 10 days ending with the date on which the member is provided with that statement (“the 10 day period”).

(3) In counting the 10 day period, Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the 6 months beginning with the date of the member’s application for the statement of entitlement if, for reasons beyond the control of the scheme manager, the information needed to calculate the amount of the cash equivalent or club transfer value cannot be obtained before the end of the 3 month period.

### **Request for transfer payment to be made**

**182.**—(1) A deferred member of this scheme who is provided with a statement of entitlement may request a transfer payment to be made in respect of the member’s accrued rights to benefits under this scheme.

(2) The request for the transfer payment must—

(a) be made by written notice to the scheme manager;

(b) specify the pension scheme or other pension arrangement to which the transfer payment is to be made; and

(c) meet any other conditions the scheme manager requires.

(3) The member by written notice to the scheme manager may withdraw the request at any time before the transfer payment is made.

(4) The member may not withdraw the request if an agreement for the use of the whole or part of the transfer payment has already been entered into with a third party.

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<sup>(90)</sup> This provision overrides regulation 6(3) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(SR 1996 No. 619) which provides that a member may not make a second application within this period unless the rules of the scheme provide otherwise.

**Calculating the amount of a transfer value or club transfer value**

**183.**—(1) If a transfer value is paid later than 6 months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 93 of the 1993 Act.

(2) If a club transfer value is paid later than 6 months after the guarantee date, the amount of the club transfer value as specified in the statement of entitlement must be increased if necessary so that it is equal to the amount it would have been if the guarantee date had been the date on which the payment is made.

(3) If the transfer value or club transfer value is less than the minimum transfer value, the amount of the transfer value or club transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(4) In this regulation, “minimum transfer value” means the total of—

- (a) the sum of all member contributions and payments for added pension made by the member; and
- (b) the sum of all transfer payments received by this scheme in relation to the member.

**Request for transfer out after member repays to scheme manager a refund received under regulation 183**

**184.**—(1) This regulation applies to a member who—

- (a) receives a refund under regulation 175 (refund of all member contributions and payments for added pension made by the member); and
- (b) enters new pension arrangements with a new employer.

(2) The member may request a transfer payment to be made under this Chapter to the new pension arrangements in respect of the member’s accrued rights to benefits under this scheme if the member repays to the scheme manager the amount refunded under regulation 175 and any interest payable under paragraph (3)—

- (a) within 12 months of entering a new club scheme (or any longer period the scheme manager determines); or
- (b) within 6 months of entering any other pension arrangements (or any longer period the scheme manager determines).

(3) Interest is payable on the amount refunded under regulation 175 if the member repays that amount more than a year after the member receives the refund.

(4) For the purpose of paragraph (3), interest is calculated at the rate of 5% year, compounded with yearly rests.

**Effect of transfers-out**

**185.** If a transfer payment is made under this Chapter in respect of a member’s accrued rights to benefits under this scheme, those rights are extinguished.

**CHAPTER 3****Transfers in****Application of Chapter**

**186.** This Chapter applies in relation to an active member of this scheme (P) who has accrued rights under another pension scheme.



## Interpretation of Chapter

187. In this Chapter—

“club transfer statement” means a statement under regulation 192 of the amount of club transfer earned pension;

“transfer date” means the earlier of—

- (a) if the scheme manager has provided a transfer statement or a club transfer value statement, the last day of the period of 2 months beginning with the date of the statement; and
- (b) the day on which the transfer payment is received by the scheme manager;

“transfer payment request” means a request to the scheme manager under this Chapter that a transfer payment be accepted from another pension scheme;

“transfer statement” means a statement under regulation 189(2).

## Request for acceptance of a transfer payment

188.—(1) P may by written notice to the scheme manager request that a transfer payment be accepted in respect of some or all of P’s accrued rights to benefits under another pension scheme.

(2) A transfer payment request—

- (a) must specify—
  - (i) the pension scheme from which the transfer payment is to be made; and
  - (ii) the anticipated amount of the transfer payment;
- (b) must meet any other conditions the scheme manager requires; and
- (c) subject to paragraph (3), must be made during the period of 12 months beginning with P’s first day of eligible service.

(3) The scheme manager may treat a transfer payment request as having been made earlier than it was if the scheme manager considers it reasonable to do so in the circumstances.

(4) Subject to paragraph (5), on receiving a transfer payment request, the scheme manager may accept the transfer payment if the conditions(if any) that the scheme manager required are met.

(5) The scheme manager may not accept a transfer payment if—

- (a) it would be applied in whole or in part in respect of—
  - (i) the member’s entitlement to a guaranteed minimum pension; or
  - (ii) the entitlement of the member’s spouse or civil partner to a guaranteed minimum pension; and
- (b) it is less than the amount required for that purpose, as calculated by the scheme manager in accordance with actuarial guidance and actuarial tables prepared for the purposes of this paragraph.

## Transfer statement

189.—(1) This regulation applies in relation to a request for a transfer value payment to be accepted from another pension scheme.

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager to provide a statement of the amount of transferred pension that P will be entitled to count under regulation 190 (amount of transferred pension) if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount specified in the transfer statement must be an amount calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to—

- (a) factors relating to P's circumstances as at the end of that 2-month period; and
- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

#### **Amount of transferred pension**

**190.**—(1) This regulation applies in relation to any transfer value payment received in relation to P from another pension scheme.

(2) For the scheme year in which the transfer date falls, the amount of transferred pension P is entitled to count in respect of the transfer payment is—

- (a) the amount specified in the transfer statement; or
- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

(3) The amount of transferred pension P is entitled to count in a scheme year must not be more than 50% of P's annual rate of pensionable earnings as at the day P becomes an active member of this scheme.

#### **Club transfer statement**

**191.**—(1) This regulation applies in relation to a request by P for a club transfer value payment to be accepted from another club scheme.

(2) The scheme manager may require that, before making the transfer payment request, P must ask the scheme manager to provide a statement of the amount of club transfer earned pension that P will be entitled to count under regulation 192 (amount of club transfer earned pension) if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount of club transfer earned pension specified in the statement must be calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to—

- (a) factors relating to P's circumstances as at the end of that 2-month period; and
- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

(4) The statement must specify the basis on which an amount of accrued earned pension is revalued under the sending scheme while a member is in pensionable service under that scheme.

#### **Amount of club transfer earned pension**

**192.**—(1) This regulation applies in relation to a club transfer value payment received from another club scheme in relation to P.

(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension P is entitled to count in respect of a club transfer value payment is—

- (a) the amount specified in the club transfer value statement; or
- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and actuarial tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

## CHAPTER 4

### England and Wales and Scotland transfers

#### **Interpretation**

**193.** In this Chapter, “another police pension scheme” means a police pension scheme other than this scheme.

#### **Transfers out**

**194.**—(1) This regulation applies if a person—

- (a) ceases to be an active member of this scheme; and
- (b) begins pensionable service under another police pension scheme.

(2) This regulation does not apply if—

- (a) the person begins pensionable service under another police pension scheme after a gap in service exceeding 5 years;
- (b) all member contributions and payments for added pension made by the member under this scheme have been refunded under regulation 175; or
- (c) a retirement pension has become payable under this scheme.

(3) On the first day of pensionable service in another police pension scheme, the member’s accrued rights to benefits under this scheme become the member’s accrued rights to benefits under the other police pension scheme.

#### **Transfers in**

**195.**—(1) This regulation applies if a person—

- (a) ceases to be an active member of another police pension scheme; and
- (b) begins pensionable service under this scheme.

(2) This regulation does not apply if—

- (a) the person begins pensionable service under this scheme after a gap in service exceeding 5 years;
- (b) a repayment of contributions has been made to the person under the other police pension scheme; or
- (c) a retirement pension has become payable to the person under the other police pension scheme.

(3) On the first day of pensionable service in this scheme, the member’s accrued rights to benefits under the other police pension scheme become the member’s accrued rights to benefits under this scheme.

## PART 12

### Actuarial valuations and employer cost cap

#### **Appointment of scheme actuary and actuarial valuations**

**196.**—(1) The Department must appoint an individual (the “scheme actuary”) to provide a consulting service on actuarial matters in relation to this scheme and any connected scheme.

(2) The scheme actuary is responsible for—

- (a) carrying out valuations of this scheme and any connected scheme; and
- (b) preparing reports on the valuations.

(3) Before appointing an individual as scheme actuary the Department must be satisfied that the individual is appropriately qualified to carry out valuations of this scheme and any connected scheme in accordance with the Department of Finance and Personnel directions.

(4) The scheme administrator is responsible for providing the scheme actuary with any data that the scheme actuary requires in order to carry out a valuation and preparing a report on the valuation.

(5) A valuation of this scheme and any connected scheme and the preparation of a report on the valuation must be carried out in accordance with the Department of Finance and Personnel directions.

(6) Valuations of this scheme must be carried out within a time-frame which enables requirements in the Department of Finance and Personnel directions regarding dates applicable to the valuation to be met.

### **Employer cost cap**

**197.**—(1) The employer cost cap for this scheme is 13.1% of pensionable earnings of members of this scheme.

(2) In the circumstances specified in paragraph (4), the Department must consult such persons (or those appearing to the Department to represent such persons) as appear to the Department likely to be affected by any steps that will be taken, with a view to reaching agreement on the steps required to achieve the target cost for this scheme.

(3) If, following such consultation, agreement is not reached the fraction of the member's pensionable earnings specified in regulation 55 (amount of pension for a scheme year) as the amount of standard earned pension for a scheme year must be adjusted for pensionable earnings after the date of the adjustment, so that the target cost for this scheme is achieved.

(4) The circumstances are that the cost of this scheme goes beyond the margin either side of the employer cost cap for this scheme specified in regulations under section 12(5)(a) of the Act.

(5) In this regulation—

“cost of this scheme” means the cost of this scheme calculated following a valuation in accordance with regulation 196 and

“target cost for this scheme” means the target cost for this scheme specified in regulations under section 12(5)(b) of the Act.

## **PART 13**

### **Supplementary**

#### **CHAPTER 1**

##### **Dual capacity members**

### **Meaning of “dual capacity member”**

**198.**—(1) A person (P) is a dual capacity member of this scheme if—

- (a) P is a member of this scheme in 2 or more of the following capacities—
  - (i) an active member;
  - (ii) a deferred member;

- (iii) a pensioner member;
  - (b) P is both a pension credit member of this scheme and a member of this scheme in one or more of the following capacities—
    - (i) an active member;
    - (ii) a deferred member;
    - (iii) a pensioner member;
  - (c) P is a member of this scheme in relation to 2 or more continuous periods of pensionable service; or
  - (d) P is a pension credit member of this scheme entitled to 2 or more pension credits.
- (2) For the purpose of paragraph (1)(a) and (b)—
- (a) in determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person's rights in that capacity are to be disregarded; and
  - (b) in determining whether a person who is an active member or pensioner member is also a deferred member, the fact that the person is an active member or pensioner member and the person's rights in that capacity are to be disregarded.

#### **Payment of benefits to or in respect of a dual capacity member**

- 199.**—(1) If a person is a dual capacity member of this scheme—
- (a) the benefits that are payable to or in respect of the member in respect of each of the member's capacities are treated separately for the purposes of these Regulations; and
  - (b) the amounts payable to or in respect of the member in each of the member's capacities are determined accordingly.

(2) In relation to payment of death benefits, paragraph (1) does not prevent the calculation under regulation 160 (amount of lump sum death grant payable on death of active member) of a lump sum death grant payable on the death of an active member of this scheme being made by reference to amounts that are relevant to the member in another capacity.

## CHAPTER 2

### Payment of benefits: general

#### **Reduction in pension debit member's benefits**

**200.**—(1) The benefits to which a pension debit member is entitled under Part 7 are subject to the reduction to be made under article 28 of the 1999 Order.

(2) Member contributions and payments for added pension refunded under Part 10 to a pension debit member are subject to the reduction to be made under article 28 of the 1999 Order.

#### **Late payment of retirement index adjustment or retirement PIA index adjustment**

**201.** Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment or retirement PIA index adjustment to be paid before the end of the last active scheme year.

#### **Commutation of small pensions**

- 202.**—(1) This regulation applies if—

- (a) the pension entitlement of a single capacity member or the pension entitlement of a single capacity member's beneficiary does not exceed the small pensions commutation maximum; or
- (b) the total pension entitlement of a dual capacity member or the total pension entitlement of a dual capacity member's beneficiary does not exceed the small pensions commutation maximum.
- (2) Unless the member has reached the member's state pension age, this regulation does not apply if—
- (a) the pension entitlement of the member or the member's beneficiary under paragraph (1) (a) is equal to or exceeds the member's guaranteed minimum; or
- (b) the total pension entitlement of the member or the member's beneficiary under paragraph (1)(b) is equal to or exceeds the member's guaranteed minimum.
- (3) The scheme manager may pay the member or the member's beneficiary a lump sum of an amount advised by the scheme actuary as representing the cash value of the pension if—
- (a) the member or the member's beneficiary consents to receipt of a lump sum in place of the pension; and
- (b) the requirements of the commutation provisions that apply in the circumstances are met.
- (4) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.
- (5) In this regulation—
- “the commutation provisions” means the provisions permitting the commutation of pensions set out in—
- (a) regulations 19, 20 or 60 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>(91)</sup>
- (b) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997<sup>(92)</sup>;
- (c) paragraph 7 of Schedule 29 (authorised lump sums – supplementary) to the 2004 Act (which defines trivial commutation lump sums for the purposes of Part 4 of that Act<sup>(93)</sup>) and, in relation to a pension payable under Part 9 (death benefits), paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)<sup>(94)</sup>; and
- (d) regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(95)</sup>
- “single capacity member” means a member of this scheme who is not a dual capacity member; and
- “the small pensions commutation maximum” means the amount that is permitted to be commuted having regard to the commutation provisions that apply in the circumstances.

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(91) 1996 No. 493

(92) S.R. 1997 No.153; regulation 2 amended by S.R. 2002 No.109, S.R. 2005 No. 171 and No 536, S.R. 2006 No. 141, S.I. 2006/744 and S.R.2009 No.365

(93) Paragraph 7 was amended by Finance Act 2011 (c.11 ) Schedule 16 paragraphs 23 and 29 and Schedule 18 paragraphs 1, 3 and 4 and S.I. 2006/572

(94) Paragraph 20 was amended by Finance Act 2011 (c.11) Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6.

(95) S.R 2000 No.146; regulation 3 substituted by S.R.2009 No.365.

## CHAPTER 3

### Guaranteed minimum pensions

#### Interpretation and application

**203.**—(1) This Chapter does not apply to—

- (a) a pension that is forfeited—
  - (i) as a result of a conviction for treason; or
  - (ii) under regulation 209 (forfeiture: offences committed by members), in a case where the relevant offence within the meaning of that regulation is an offence under the Official Secrets Acts 1911 to 1989<sup>(96)</sup>
- (b) a pension that is commuted under regulation 130 (option for pension credit member to commute whole pension: serious ill-health); or
- (c) a pension that is commuted under regulation 202 (commutation of small pensions) where the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>(97)</sup> (payment of a guaranteed minimum pension as a lump sum) are met,

(2) But if any other provision of this scheme is inconsistent with this Chapter, this Chapter prevails.

(3) In this Chapter—

- (a) “GMP age”—
  - (i) for a man, means 65; and
  - (ii) for a woman, means 60; and
- (b) references to the amount of a pension are to its amount after the subtraction of the commutation amount (if any).

#### Guaranteed minimum under section 10 of the 1993 Act

**204.**—(1) This regulation applies in relation to a member of this scheme (P) who has a guaranteed minimum under section 10 of the 1993 Act<sup>(98)</sup> (earner’s guaranteed minimum) in relation to benefits under this scheme—

(2) Nothing in these Regulations permits or requires anything that would cause requirements under that Act in relation to such a member and such a member’s rights under a scheme not to be met in relation to P;

(3) Nothing in these Regulations prevents anything from being done which is necessary or expedient for the purpose of meeting such requirements in relation to P.

(4) The following provisions are without prejudice to the generality of paragraphs(2) and (3).

(5) Paragraph (6) applies if apart from this regulation—

- (a) a pension would not be payable to P under this scheme; or
- (b) the weekly rate of the pensions payable would be less than the guaranteed minimum.

(6) A pension at a weekly rate equal to the guaranteed minimum is payable to P for life from—

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<sup>(96)</sup> 1989 c.6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

<sup>(97)</sup> S.R.1996 No 493.Regulation 60 was substituted by S.I. 2006/744 and amended by S.R. 2006 No. 223, S.R. 2009 No. 365 and S.R. 2010 No. 108

<sup>(98)</sup> Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213) (N.I.22) arts.147, 168, Sch.3 para. 20, Sch.5 Pt. 111, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I.2002/671) Art.3(1) and Sch.1 para.41, the Proceeds of Crime Act 2002 ( 2002.c29.) Section 456, Schedule.2 para 23.

- (a) the date on which P reaches GMP age; or
  - (b) the date on which pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.
- (7) A pension is not payable under paragraph (6) until P leaves eligible service if, after reaching GMP age, P continues in eligible service.
- (8) A pension is not payable under paragraph (6) until P leaves employment if—
- (a) after reaching GMP age, P continues in employment that is not eligible service; and
  - (b) P consents to a postponement of P's entitlement under paragraph (6).
- (9) If P continues in employment for 5 years after reaching GMP age and does not then leave employment, P is entitled from the end of that period to so much of P's pension under Parts 7 and 8 as equals P's guaranteed minimum (or, as the case may be, to so much of P's pensions under Parts 7 and 8 as together have a weekly rate equal to P's guaranteed minimum), unless P consents to a further postponement of P's entitlement under paragraph (6).
- (10) In the circumstances provided for in paragraph (7), (8) or (9), the amount of the guaranteed minimum to which P is entitled under paragraph (6) is increased in accordance with section 11 of the 1993 Order (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed).
- (11) Paragraph (12) applies if P has a guaranteed minimum under section 10 of the 1993 Act in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.
- (12) If P becomes entitled to the payment for life of a pension under Parts 7 and 8 before reaching GMP age, the weekly rate of the pension, so far as attributable to the transfer payment, must not be less than the guaranteed minimum, multiplied by such factor as is indicated in actuarial tables for a person of P's age and sex at the date on which the pension becomes payable.

### **Contracting-out rights**

- 205.**—(1) This regulation applies if —
- (a) P has ceased to be in employment that is contracted-out employment, within the meaning of Part 3 of the 1993 Act (certification of pension schemes and effects on members' state scheme rights and duties), by reference to this scheme; and
  - (b) paragraph (2) applies
- (2) This paragraph applies if either—
- (a) a transfer payment in respect of all P's rights to benefits under this scheme, except P's rights in respect of P's guaranteed minimum or rights under section 5(2B) of the 1993 Act **(99)** (requirements for certification of schemes: general) ("the person's contracting-out rights") has been made; or
  - (b) P has no rights to benefits under this scheme apart from the person's contracting-out rights.
- (3) If this regulation applies—
- (a) from the date on which Preaches GMP age, P is entitled to a pension payable for life at a weekly rate equal to the person's guaranteed minimum, if any; and
  - (b) from the date on which Preaches normal pension age under this scheme P is entitled to a lump sum and pension in respect of P's rights under section 5(2B) of the 1993 Act.

(99) Subsection (2B) was inserted by the Pensions (Northern Ireland) Order 1995, No. 3213 (N.I.22) article 133(3) and amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, No. 671, Sch.1 paragraph 38.



(4) Despite paragraph (3) P is not to be regarded as a pensioner member of this scheme for the purpose of Part 9 (death benefits).

## CHAPTER 4

### Appeals in relation to the payment of benefits

#### Appeals to the Department

**206.**—(1) This regulation applies to a member of the police service who falls within regulation 4(1).

(2) The member or a person claiming payment of a benefit in respect of the member may, subject to regulation 207 (limitation on appeals), appeal to the Department if the member or person claiming payment in respect of the member is aggrieved by any of the following decisions—

- (a) the refusal of the scheme manager to pay a benefit which the member has claimed payment of or is taken to have claimed payment of under these Regulations;
- (b) the refusal of the scheme manager to pay a benefit which the person has claimed payment of or is taken to have claimed payment of under these Regulations;
- (c) the refusal of the scheme manager to pay a benefit the entitlement to which arises on the fulfilment of conditions under these Regulations which do not include a claim for payment;
- (d) a decision by the scheme manager to refuse to accept a claim for payment of a benefit larger than the benefit granted to or in respect of the member;
- (e) a decision by the police pension authority acting in exercise of its functions as scheme manager under regulation 73 (permanent medical unfitness) as to whether a refusal to accept medical treatment is reasonable;
- (f) a decision by the scheme manager under regulation 113 (cancellation of ill-health pension: failure to receive appropriate medical treatment) as to whether a refusal to accept medical treatment is reasonable;
- (g) a decision by the scheme manager under regulation 105 (reduction of pension in case of default) to reduce the amount of pension payable to the member.

(3) Regulation 222 (procedure on appeals to the Department) sets out the procedure for appeals under this regulation to the Department.

#### Limitation on appeals against decision of scheme manager

**207.**—(1) A person may not appeal under regulation 206 (appeals to the Department) against anything done by the scheme manager or the police pension authority acting in exercise of its functions as scheme manager under a power conferred by these Regulations which is expressly stated to be a power in respect of which the scheme manager or the police pension authority acting in exercise of its functions as scheme manager may exercise in their discretion.

(2) Subject to an appeal tribunal or court referring a medical decision for reconsideration under Schedule 1, in any proceedings under regulation 206 (appeals to the Department) the appeal tribunal is bound by a final decision of a medical authority under Schedule 1.

## CHAPTER 5

### Forfeiture and set-off

#### Pension supervising authority

**208.**—(1) For the purpose of this Chapter, the table in this regulation specifies the pension supervising authority for a member of the police service in Northern Ireland.

(2) The pension supervising authority may require the scheme manager to withhold benefits payable to a member under this Chapter.

<i>Member of the police service</i>	<i>Pension supervising authority</i>
a member of the police service who falls within Regulation 4(1);	the Board <sup>(100)</sup>
a member of the police service engaged on relevant service under section 27 of the 1998 Act.	the Board

### **Forfeiture: offences committed by members**

**209.**—(1) If a member is convicted of a relevant offence, the pension supervising authority may to the extent the pension supervising authority considers appropriate require the scheme manager to withhold benefits payable under this scheme to or in respect of the member.

(2) Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of “relevant offence”.

(3) The scheme manager may only withhold that part of a person’s pension that exceeds any guaranteed minimum to which the person is entitled under—

- (a) section 10 of the 1993 Act (earner’s guaranteed minimum); or
- (b) section 13<sup>(101)</sup> of that Act (minimum pension for surviving spouses and civil partners).

(4) In this regulation—

“forfeiture certificate” means a certificate given by the Department stating that the Department considers that the offence—

- (a) has been gravely injurious to the interests of the State; or
- (b) is liable to lead to serious loss of confidence in the public service; and

“relevant offence” means—

- (c) one or more offences under the Official Secrets Acts 1911 to 1989<sup>(102)</sup> for which the member has been sentenced on the same occasion to—
  - (i) a term of imprisonment of at least 10 years; or
  - (ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years;
- (d) an offence committed in connection with service as a member of the police service and in respect of which the Department has issued a forfeiture certificate.

### **Forfeiture: offences committed by a member’s beneficiary**

**210.**—(1) If the beneficiary of a deceased member of this scheme is convicted of a relevant criminal offence, the pension supervising authority may to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable to the beneficiary in respect of the member.

<sup>(100)</sup> See section 2 of the Police (Northern Ireland) Act 2000 for the meaning of “the Board”

<sup>(101)</sup> Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1), Sch. 1 para.42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.I. 2005/433) Sch.1 para.5, the Child Support, Pensions and Social Security Act (Northern Ireland) (2000 c.4) sections.52, 67, Sch. 5 Pt. 1 para.1 and Sch.3 Pt.3(4), the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) Art.261(2) and the Pensions Act (Northern Ireland) 2008 (c.1.(N.I.))

<sup>(102)</sup> 1989 c. 6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

(2) The scheme manager may withhold benefits but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 13 of the 1993 Act.

(3) The pension supervising authority may to the extent that in its discretion it thinks fit restore to the member or apply for the benefit of an eligible child or surviving adult of the member any amount of pension that has been forfeited under this regulation.

(4) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 9 (death benefits) applies as if the beneficiary had died before the member.

(5) In this regulation, “relevant criminal offence” means—

- (a) the murder of the member;
- (b) the manslaughter of the member; or
- (c) any other offence of which the unlawful killing of the member is an element.

#### **Forfeiture: relevant monetary obligations and relevant monetary losses**

**211.**—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable to P under this scheme.

(2) The scheme manager may withhold benefits but may only withhold that part of P’s pension that exceeds any guaranteed minimum to which P is entitled under section 10 of the 1993 Act.

(3) The scheme manager may not withhold more than the lesser of—

- (a) the amount of the relevant monetary obligation or relevant monetary loss; and
- (b) the value of P’s entitlement to benefits.

(4) The scheme manager may only withhold benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or
- (b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—
  - (i) under an order of a competent court;
  - (ii) in consequence of an award of an arbitrator; or
  - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

(5) In this regulation—

“relevant monetary obligation” means a monetary obligation which—

- (a) was incurred to the Department or P’s employer (if different);
- (b) was incurred after P became an active member of this scheme;
- (c) arose out of P’s criminal, negligent or fraudulent act or omission; and
- (d) arose out of or was connected with the eligible service in respect of which P is a member of this scheme; and

“relevant monetary loss” means a monetary loss which—

- (a) was caused to this scheme; and
- (b) arose as a result of P’s criminal, negligent or fraudulent act or omission.

**Set-off**

**212.**—(1) The pension supervising authority may require the scheme manager to set off a relevant monetary obligation against a member’s entitlement to benefits under this scheme.

(2) In this regulation, a “relevant monetary obligation” is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

(3) The conditions are that the monetary obligation—

- (a) was incurred to the Department or P’s employer (if different);
- (b) was incurred after P became an active member of this scheme; and
- (c) arose out of or was connected with the eligible service in respect of which P is a member of this scheme.

(4) The conditions are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of P’s criminal, negligent or fraudulent act or omission.

(5) The conditions are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of a payment made to P in error by the scheme manager.

(6) Paragraph (7) applies if a set-off is to be applied as a result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

(7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P’s entitlement to benefits that represents transfer credits within the meaning of article 121 (interpretation of Part 2) of the 1995 Order<sup>(103)</sup> (other than prescribed transfer credits for the purpose of article 89(5)(d) of the 1995 Order<sup>(104)</sup>) (exceptions from the inalienability of occupational pensions).

(8) The scheme manager may only apply a set-off against that part of a member’s pension that exceeds any guaranteed minimum to which the member is entitled under section 10 of the 1993 Act.

(9) The value of the set-off applied must not exceed the lesser of—

- (a) the amount of the relevant monetary obligation; and
- (b) the value of P’s entitlement to benefits.

(10) The scheme manager may only set off a relevant monetary obligation against P’s entitlement to benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation; or
- (b) the relevant monetary obligation is enforceable—
  - (i) under an order of a competent court;
  - (ii) in consequence of an award of an arbitrator; or
  - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

<sup>(103)</sup>The definition of “transfer credits” in Article 121(1) was amended by the Pensions (Northern Ireland) Order 2005 (S.I.2005/255 (N.I. 1)), Art.290(1), Sch.10 para. 63(1), 63(2);

<sup>(104)</sup>Article 89(5)(d) was amended by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I.11)) Schedule 9 para 46(1) and (4). See S.R. 1997 No.153 which prescribes the transfer credits.

### **Forfeiture and set-off: procedure**

**213.**—(1) If the pension supervising authority proposes to require the scheme manager to withhold benefits or apply a set-off against a person’s entitlement to benefits, the pension supervising authority must notify the person of the proposal in writing.

(2) If the scheme manager withholds benefits under regulation 211 (forfeiture: relevant monetary obligations and relevant monetary losses) or applies a set-off against an entitlement to benefits under regulation 212 (set-off), the scheme manager must give the member a certificate showing—

- (a) the amount withheld or set off; and
- (b) the effect of the withholding or set-off on the member’s benefits under this scheme.

### **Forfeiture: appeals to the Department**

**214.**—(1) If the pension supervising authority proposes to require the scheme manager to withhold any benefits payable to or in respect of a member of the police service (“the member”), the member or a person claiming payment of a benefit for or in respect of the member may, subject to regulation 207 (limitations on appeals), appeal against the proposal to the Department,

(2) Regulation 222 (procedure on appeals to the Department) sets out the procedure for appeals under this regulation to the Department.

## **CHAPTER 6**

### **Payment and deduction of tax**

#### **Scheme manager to be scheme administrator for purposes of Part 4 of Finance Act 2004**

**215.** The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on the scheme administrator by or under Part 4 of the 2004 Act (pension schemes etc.).

#### **Payment on behalf of members of lifetime allowance charge**

**216.**—(1) A member of this scheme may request the scheme manager to pay on the member’s behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the 2004 Act (“the amount”) if—

- (a) an event that is a benefit crystallisation event (“the event”) listed in the table in section 216(1) of the 2004 Act **(105)** occurs in relation to the member; and
- (b) the member and the scheme manager are jointly and severally liable in relation to the event.

(2) A request may only be made by notice given to the scheme manager before the event occurs.

(3) The scheme manager may only comply with a request if the member pays the amount to the scheme manager on or before the date on which the event occurs.

#### **Reduction of benefits where lifetime allowance charge payable**

**217.**—(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event (“the event”) listed in the table in section 216(1) of the 2004 Act (“the table”) occurs in relation to a member;

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**(105)** Section 216(1) was amended by the Finance Act 2005 (c.7) Schedule 10 paragraphs 1, 31 and 42; the Finance Act 2006 (c.25) Schedule 23 paragraphs 1 and 30; the Finance Act 2008 (c.9) Schedule 29 paragraphs 1, 4 and 5; and the Finance Act 2011 (c.11) Schedule 16 paragraphs 43, 62, 73 and 104.

- (b) the member and the scheme manager are jointly and severally liable in relation to the event; and
  - (c) no request has been duly made under regulation 216 (payment on behalf of members of lifetime allowance charge) in relation to the event or, if such a request has been made, the scheme manager is prevented from complying with it by paragraph (3) of that regulation.
- (2) If this regulation applies—
- (a) the scheme manager must pay the tax payable on the event;
  - (b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced; and
  - (c) in the case of any other event in the table, the amount or value of the benefits payable to or in respect of the member must be reduced.
- (3) The amount or value of the reduction—
- (a) must fully reflect the amount of the tax so paid;
  - (b) must be determined in accordance with guidance provided by the scheme manager; and
  - (c) in the case of any reduction to pension benefits, must be consistent with normal actuarial practice.

#### **Information about payment of annual allowance charge**

**218.**—(1) If a member’s pension scheme input amount for this scheme for a tax year exceeds the amount of the annual allowance for that tax year, paragraph (2) applies in respect of the member for that tax year.

(2) The scheme manager must, no later than 31st July after the end of the tax year, provide the member with any information the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for that tax year.

(3) In this regulation, “pension scheme input amount” has the same meaning as in section 237B(2) of the 2004 Act<sup>(106)</sup> (liability of scheme administrator).

#### **Reduction of benefits where annual allowance charge paid by scheme manager**

**219.**—(1) This regulation applies where—

- (a) a member gives valid notice to the scheme manager of joint and several liability for an annual allowance charge under section 237B(3) of the 2004 Act; and
- (b) the scheme manager satisfies the liability specified in the notice.

(2) The amount or value of the benefits payable to or in respect of the member for the tax year to which the notice relates must be reduced by the scheme manager in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount or value of the reduction of benefits—

- (a) must fully reflect the amount paid by the scheme manager; and
- (b) must be consistent with normal actuarial practice.

(4) Benefits may only be reduced under this regulation to the extent that the reduction would not result in the loss of any part of a guaranteed minimum pension to which a person is entitled under sections 10 (earner’s guaranteed minimum) or 13 (minimum pension for surviving spouses and civil partners) of the 1993 Act.

<sup>(106)</sup>2004 c. 12; section 237B was inserted by the Finance Act 2011 (c. 11), Schedule 17, paragraph 15 and was amended by the Finance Act 2013 (c. 29), Schedule 46, paragraphs 119 and 129.

## CHAPTER 7

### General

#### **General prohibition on unauthorised payments**

**220.** Nothing in these Regulations requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of the 2004 Act (pension schemes etc.) (see section 160(5) of that Act).

#### **Calculation of periods of membership and service**

**221.**—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days and fractions of a day, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that require to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

This is subject to paragraph (3).

(3) If membership or service is referred to in these Regulations as membership or service in years—

- (a) the days referred to in paragraph (1); and
- (b) the full days referred to in paragraph (2),

are converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to four decimal places.

(4) If a period of membership or service is less than one year, this regulation applies as if the words “whole years, and” were omitted from paragraph (1) and the words “in excess of the period of whole years” were omitted from paragraph (3).

#### **Procedure on appeals to the Department**

**222.**—(1) An appeal to the Department under regulation 206 (payments of benefits; appeals to the Department) or 214 (forfeiture: appeals to the Department) must—

- (a) be made by notice in writing; and
- (b) specify the grounds of appeal.

(2) The Department, on receiving a notice of appeal, must appoint an appeal tribunal (“the tribunal”) to hear the appeal.

(3) The tribunal must consist of 3 persons including—

- (a) a barrister or solicitor of not less than 7 years’ standing who must be appointed as chair;
- (b) a former member of the police service or of a police force in Great Britain who held a rank not below Superintendent before leaving the police.

(4) The tribunal must—

- (a) determine the time and place of the hearing and of any postponed or adjourned hearing; and
- (b) give reasonable notice of those details to the appellant and to the scheme manager (“the parties”).

(5) Either party may—

- (a) be represented before the tribunal by counsel, a solicitor or any other person the party considers appropriate;
  - (b) adduce evidence; and
  - (c) cross-examine witnesses.
- (6) The tribunal must determine its own procedure but—
- (a) the tribunal must have regard to the practice in a hearing of an appeal to a county court under article 28 of the County Courts (Northern Ireland) Order 1980(107); and
  - (b) the rules of evidence that apply to an appeal under that Order, apply to an appeal under this regulation.
- (7) The tribunal, after hearing and determining the appeal, may make any order as appears to it just.
- (8) The order must state the reasons for the decision and each of the parties must be given a copy.
- (9) Either party may appeal to the High Court in accordance with rules of court on any point of law arising from a decision of the tribunal under this regulation.

#### **Evidence of entitlement**

**223.**—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

- (a) the person's identity; and
- (b) the person's continuing entitlement to payment of any amount.

(2) If the person does not provide the required evidence, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

#### **Provision of benefit information statements to members**

**224.** The scheme manager must provide benefit information statements to each active member of this scheme in accordance with—

- (a) section 14 of the Act (information about benefits); and
- (b) Department of Finance and Personnel directions given under that section.

#### **Transitional provisions**

**225.** Schedule 4 (transitional provisions) has effect.

#### **Consequential Amendment**

**226.** Schedule 5 has effect.



Sealed with the official seal of the Department of Justice on 2nd March 2015.

(L.S.)

*David Ford*  
Minister of Justice

The Department of Finance and Personnel has consented to these Regulations.  
Sealed with the official seal of the Department of Finance and Personnel on 2 March 2015

(L.S.)

*Joanne McBurney*  
A senior official of the  
Department of Finance and Personnel