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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 113**

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

**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>(1)</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.

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(1) 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.

(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—
- (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.