

2010 No. 232

PENSIONS

The Police Pension Account (Scotland) Regulations 2010

Made - - - - *10th June 2010*

Laid before the Scottish Parliament *10th June 2010*

Coming into force - - *5th July 2010*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1 and 7 of the Police Pensions Act 1976(a) and all other powers enabling them to do so.

In accordance with section 1(1) of that Act the Scottish Ministers have consulted with the Police Negotiating Board for the United Kingdom(b).

Citation, commencement, effect and extent

- 1.—(1) These Regulations may be cited as the Police Pension Account (Scotland) Regulations 2010.
- (2) These Regulations come into force on 5th July 2010 but have effect from 1st April 2010(c).
- (3) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

- the “1967 Act” means the Police (Scotland) Act 1967(d);
- the “1987 Regulations” means the Police Pensions Regulations 1987(e);
- the “2007 Regulations” means the Police Pensions (Scotland) Regulations 2007(f);
- “financial year” means the period of twelve months ending on 31st March;

(a) 1976 c. 35 (“the 1976 Act”). Section 1 was amended by section 2(3) of the Police Negotiating Board Act 1980 (c.10), section 103 and paragraph 28 of Schedule 7 to the Police Act 1996 (c.16) and section 1(1) of the Police and Firemen’s Pensions Act 1997 (c.52). These powers are extended by section 42 of the Welfare Reform and Pensions Act 1999 (c.30). The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by S.I. 1999/1750, article 2 and Schedule 1. The requirement for consent by the Minister for the Civil Service under section 1 was transferred to the Treasury by virtue of S.I. 1981/1670 and such consent is not required in the exercise by the Scottish Ministers of the transferred functions by virtue of S.I. 1999/1750 and section 63 of the Scotland Act 1998 (c.46).

(b) See section 61 of the Police Act 1996 (c.16).

(c) Retrospective effect is permitted by section 1(5) of the 1976 Act.

(d) 1967 c. 77.

(e) S.I. 1987/257; relevant amendments were made by S.I. 1987/341 and 2215, 1988/1339, 1989/733, 1990/805, 1991/1517, 1992/1343 and 2349, 1994/641, 1996/867, 1997/1429 and 2852 and 1998/577 and S.S.I. 2000/193, 2001/459, 2003/406, 2004/486, 2005/200 and 495, 2006/285, 2007/68, 2008/327, 2009/185 and 2010/85.

(f) S.S.I. 2007/201; amended by S.S.I. 2008/387 and 2010/85.

the “Injury Benefit Regulations” means the Police (Injury Benefit) (Scotland) Regulations 2007^(a);

“police authority” has the meaning given by section 50(b) of the 1967 Act and in relation to an inspector of constabulary, it means the Scottish Ministers;

“police authority employer contributions” has the meaning given by regulation 5(1);

“police force” has the meaning given by section 50(c) of the 1967 Act;

“Police Operating Account” in relation to each police authority means the general account kept and maintained by a police authority by virtue of section 93 of the Local Government (Scotland) Act 1973;

“Police Pension Account” in relation to each police authority means the pension account to be established by it in accordance with regulation 3(1);

“proper accounting practices” has the meaning given by section 12 of the Local Government in Scotland Act 2003^(b);

“regular police officer” means a member of a police force, an inspector of constabulary and an officer engaged on relevant service and a specified employee of SOCA;

“relevant service” has the meaning given by section 38A of the 1967 Act;

“serviceman” in relation to the 1987 Regulations, has the meaning given by Schedule A to those Regulations; and in relation to the 2007 Regulations has the meaning given by Schedule 1 to those Regulations; and

“specified employee of SOCA” has the meaning given by Schedule A to the 1987 Regulations.

Establishment, maintenance and operation of a Police Pension Account

3.—(1) Every police authority must establish a separate account for police pensions.

(2) A Police Pension Account must be established for the financial year ending on 31st March 2011 and maintained for each subsequent financial year.

(3) Every police authority must keep accounts in respect of all payments into or out of its Police Pension Account.

(4) Such accounts must be maintained in accordance with proper accounting practices.

(5) Except as may otherwise be provided in these Regulations—

(a) any sum paid or repaid to a police authority for the purposes of the regulations mentioned in paragraph (6) is receivable into that authority’s Police Pension Account; and

(b) any sum paid or repaid by a police authority for the purposes of the regulations mentioned in paragraph (6) is payable out of that authority’s Police Pension Account.

(6) For the purposes of paragraph (5), the regulations mentioned in this paragraph are—

(a) the 1987 Regulations;

(b) the 2007 Regulations; and

(c) any other previous regulations making provision for police pensions, in connection with rights acquired and liabilities incurred under such regulations (including such rights and liabilities which have been transferred to a police authority).

Particular payments into and out of the Police Pension Account

4.—(1) Without prejudice to the generality of regulation 3(5), the following payments which are receivable by a police authority are to be paid into that authority’s Police Pension Account—

(a) S.S.I. 2007/68; amended by S.S.I. 2007/201, 2008/387 and 2009/185.

(b) 2003 asp 1.

- (a) pension contributions receivable from regular police officers under regulation G2(1) (pensionable contributions payable by regular policeman) of the 1987 Regulations or regulation 7(1) (pension contributions payable by regular police officers) of the 2007 Regulations;
 - (b) sums receivable from regular police officers under regulation F1(1A)(b) or (1B)(b) (reckoning of pensionable service), G3 (additional or further contributions) or G6 (payments by women to enhance widowers' award) of the 1987 Regulations or regulation 10(2)(b) (reckoning of pensionable service) of the 2007 Regulations;
 - (c) sums receivable from regular police officers under regulation F4 (previous service reckonable on payment) or F5 (previous service reckonable at discretion of police authority) of the 1987 Regulations or regulation 13 (previous service reckonable on payment) of the 2007 Regulations;
 - (d) transfer values receivable from regular police officers under regulation F6(1)(c) (previous service reckonable under current interchange arrangements) of the 1987 Regulations or regulation 15(1)(b) (service reckonable by reason of transfer value) of the 2007 Regulations;
 - (e) sums receivable in pursuance of an election under regulation 3 (election to purchase increased benefits) of the Police Pensions (Purchase of Increased Benefits) Regulations 1987^(a) or regulation 56(2) (election to purchase increased benefits) of the 2007 Regulations;
 - (f) sums receivable from regular police officers under regulation 85(3) (payment on behalf of officers of lifetime allowance charge) of the 2007 Regulations;
 - (g) sums receivable from regular police officers under regulation F10(6) (transfer values payable following cessation of contributions) of the 1987 Regulations or regulation 78(6) (transfer values payable on leaving the police service or ceasing to make pension contributions) of the 2007 Regulations; and
 - (h) transfer values receivable in accordance with regulation F11 (mis-sold pensions) of the 1987 Regulations or regulation 80 (mis-sold pensions) of the 2007 Regulations.
- (2) Without prejudice to the generality of regulation 3(5), the following payments which are payable by a police authority are to be paid out of that authority's Police Pension Account—
- (a) awards payable under Part B (personal awards), C (widows' awards), D (children's awards) or E (awards on death – additional provisions) of the 1987 Regulations or Part 4 (pension awards) of the 2007 Regulations;
 - (b) sums payable under regulation F4(3) (previous service reckonable on payment) or F5(3) (previous service reckonable at discretion of police authority) of the 1987 Regulations;
 - (c) sums payable under regulation G4(4)(a) (election not to pay pension contributions) of the 1987 Regulations or regulation 9(4) (election not to pay pension contributions) of the 2007 Regulations;
 - (d) awards payable under Part M (pension sharing) of the 1987 Regulations or Part 6 (pension sharing: pension credit members) of the 2007 Regulations;
 - (e) awards payable under Part N (increased pension entitlement) of the 1987 Regulations;
 - (f) transfer values payable under regulation F10 (transfer values payable following cessation of contributions) of the 1987 Regulations or regulation 78 (transfer values payable on leaving the police service or ceasing to make pension contributions) of the 2007 Regulations;
 - (g) amounts payable on behalf of a regular police officer under regulation 85 (payment on behalf of officers of lifetime allowance charge) of the 2007 Regulations; and
 - (h) sums payable under regulation 86(2)(a) (reduction of benefits where lifetime allowance charge payable) of the 2007 Regulations.

(a) S.I. 1987/2215.

Police authority contributions

5.—(1) In each financial year a police authority must transfer from its Police Operating Account into its Police Pension Account, contributions (“police authority employer contributions”) at the rate of 24.7% of the pensionable pay of a regular police officer in respect of any period during which pension contributions are paid by the officer under regulation G2(1) (pension contributions payable by regular policeman) of the 1987 Regulations or regulation 7(1) (pension contributions payable by regular police officers) of the 2007 Regulations or are treated as being so paid.

(2) For the purposes of paragraph (1), the periods during which pension contributions are treated as being paid by a regular police officer are—

- (a) any period of unpaid maternity leave which falls within the first 26 weeks of any period of maternity leave;
- (b) any period reckonable as pensionable service in accordance with regulation F1 (reckoning of pensionable service), F4 (previous service reckonable on payment) or F5 (previous service reckonable at discretion of police authority) of the 1987 Regulations or regulation 10 (reckoning of pensionable service) or 13 (previous service reckonable on payment) of the 2007 Regulations; and
- (c) any period during which pension contributions are not or have not been paid by a serviceman in the circumstances mentioned in the proviso to regulation I8(1) (pension contributions etc.) of the 1987 Regulations or the proviso to regulation 95(2) (pensionable service and pension contributions) of the 2007 Regulations.

(3) Subject to paragraph (4), in this regulation “pensionable pay” has the meaning assigned to it by regulation G1(1) and (1A) (pensionable and average pensionable pay) of the 1987 Regulations or regulation 23 (pensionable pay) of the 2007 Regulations as appropriate.

(4) Where the amount of a regular police officer’s pensionable pay in respect of a period is reduced due to one of the circumstances mentioned in paragraph (5), that officer is to be treated for the purposes of this regulation as if his or her pensionable pay were not so reduced.

(5) The circumstances mentioned in this paragraph are that the officer has taken a period of sick leave, maternity leave, parental leave or any other period of leave which was paid at a reduced rate.

(6) Where a police authority repays the pension contributions of a regular police officer under regulation G4(4)(a) (election not to pay pension contributions) of the 1987 Regulations or regulation 9(4) (election not to pay pension contributions) of the 2007 Regulations, the police authority must transfer from its Police Pension Account into its Police Operating Account an amount equal to the aggregate of the police authority employer contributions it has transferred in accordance with paragraph (1) in respect of such an officer.

(7) Where a regular police officer retires with an entitlement to an ill-health pension under regulation B3 (policeman’s ill-health award) of the 1987 Regulations before—

- (a) attaining the age at which the officer could have been required to retire in accordance with the provisions of regulation A18 or A4 (if an earlier relevant voluntary retirement age applies) of those Regulations; or
- (b) being entitled to reckon 30 years’ pensionable service,

the police authority must transfer from its Police Operating Account into its Police Pension Account an amount equal to twice the average pensionable pay for the officer concerned, calculated in accordance with regulation G1 (pensionable and average pensionable pay) of the 1987 Regulations.

(8) For the purposes of paragraph (7)(b), if some or all of the service by which the regular police officer’s pensionable service is reckonable was part-time, that officer is to be treated as if such service had been full-time.

(9) Where a regular police officer retires with an entitlement to an ill-health pension under regulation 29 (police officer’s ill-health pension) of the 2007 Regulations before attaining the age of 55, the police authority must transfer from its Police Operating Account into its Police Pension

Account an amount equal to twice the final pensionable pay of the officer concerned, calculated in accordance with regulation 24 (final pensionable pay) of the 2007 Regulations.

(10) Where a police authority continues to pay a pension in whole or in part in a case where they have a discretion to withdraw the whole or any part of it under regulation K4 (withdrawal of pension during service as a regular policeman) of the 1987 Regulations or regulation 52 (withdrawal of pension during service as a regular police officer) of the 2007 Regulations, the police authority must, in a financial year, transfer from its Police Operating Account into its Police Pension Account, an amount equal to the amount of pension paid during that financial year to the regular police officer.

Awards under the Injury Benefits Regulations

6. Subject to regulation 7, awards payable under the Injury Benefit Regulations must be paid out of its Police Operating Account.

7.—(1) This paragraph applies where a person is entitled to receive, in respect of any particular period, payments on account of—

- (a) an award under the provisions mentioned in paragraph (2); and
- (b) an award under the 1987 Regulations or the 2007 Regulations in respect of the death of the same person but for the prevention of duplication provisions.

(2) The provisions mentioned in this paragraph are—

- (a) regulations 13 (adult survivor's special award), 14 (adult survivor's augmented award), 17 (child's special allowance) and 20 (adult dependent relative's special pension); and
- (b) regulations C2, C3, D2 and E1 of the 1987 Regulations(a).

(3) Where paragraph (1) applies—

- (a) the award set out in paragraph (1)(b) is payable by a police authority out of its Police Pension Account; and
- (b) the award set out in paragraph (1)(a) is payable by a police authority in part out of its Police Pension Account and in part out of its Police Operating Account in accordance with paragraphs (4) and (5).

(4) That part of the award which is equal to the award set out in paragraph (1)(b) is payable by the police authority out of its Police Pension Account.

(5) The remainder of the award is payable by the police authority out of its Police Operating Account.

(6) This regulation is without prejudice to the operation of the prevention of duplication provisions.

(7) In this regulation “the prevention of duplication provisions” means regulation E7 of the 1987 Regulations, regulation 49 of the 2007 Regulations and regulation 27 of the Injury Benefit Regulations.

Transfers between the Police Pension Account and the Police Operating Account

8.—(1) Where, in respect of any financial year, the amount shown in the accounts for the Police Pension Account as expended (including transfers payable) exceeds the amount shown in those accounts as receivable (including transfers receivable), the police authority must transfer from its Police Operating Account to its Police Pension Account an amount equal to the difference between those amounts.

(2) Where, in respect of any financial year, the amount shown in the accounts for the Police Pension Account as receivable (including transfers receivable) exceeds the amount shown in those

(a) Regulations C2, C3, D2 and E1 were the corresponding provisions of the 1987 Regulations to regulations 13, 14, 17 and 20 of the Injury Benefit Regulations and were in force until 6th April 2006.

accounts as expended (including transfers payable), the police authority must transfer from its Police Pension Account into its Police Operating Account an amount equal to the difference between those amounts.

(3) For the purposes of this regulation, no account is to be taken of payments made by the Scottish Ministers or the police authority under regulation 9.

Effect of transfers between the Police Pension Account and the Police Operating Account

9.—(1) Where—

- (a) a police authority's audited accounts for the previous financial year show that the authority has transferred an amount into its Police Pension Account under regulation 8(1); or
- (b) on the basis of information provided to the Scottish Ministers under regulation 10, they are of the opinion that a police authority is likely to make a transfer of an amount into its Police Pension Account in respect of any financial year under regulation 8(1),

the Scottish Ministers must take that amount into account when deciding on future funding for pensions for that authority and may pay to the authority a sum not exceeding that amount out of moneys provided by Parliament.

(2) Where—

- (a) a police authority's audited accounts show that the authority has transferred an amount into its Police Operating Account under regulation 8(2); or
- (b) on the basis of information provided to the Scottish Ministers under regulation 10, they are of the opinion that a police authority is likely to make a transfer of an amount into its Police Operating Account in respect of any financial year under regulation 8(2),

the Scottish Ministers must take that amount into account when deciding on future funding for pensions for that authority and may require the authority to pay a sum not exceeding that amount into the Scottish Consolidated Fund.

Provision of information

10.—(1) The Scottish Ministers may by written notice to a police authority require the police authority to prepare and send to them such information, accounts and reports—

- (a) in respect of that authority's Police Pension Account; or
- (b) relevant to the exercise of the Scottish Ministers functions under regulation 9, as they may specify.

(2) Such notice may specify the form of the accounts and reports and the times at which the police authority must send them to the Scottish Ministers.

(3) Without prejudice to the generality of paragraph (1), the Scottish Ministers may require the police authority to provide—

- (a) estimates of the expenditure and income of that authority's Police Pension Account; and
- (b) accounts (whether audited or unaudited) relating to that authority's Police Pension Account.

(4) A police authority must respond to a notice under paragraph (1) within such period as the Scottish Ministers may specify in that notice, or within such longer period as they may in any particular case allow.

Further sums payable out of the Police Operating Account

11.—(1) Subject to regulation 4(2)(g), any charge, interest or penalty payable by a police authority in connection with the Regulations mentioned in regulation 3(6) is payable out of the authority's Police Operating Account.

(2) Any administrative cost arising from administering pension arrangements under the 1987 Regulations, the 2007 Regulations, the Injury Benefit Regulations, any other previous Regulations making provisions for police pensions, and these Regulations is payable by the police authority out of its Police Operating Account.

Particular cases

12.—(1) In the application of these Regulations to the Scottish Ministers as police authority in relation to an inspector of constabulary or assistant inspector of constabulary as appointed under sections 33 (inspectors of constabulary) and 34 (assistant inspectors and staff officers) of the 1967 Act, these Regulations have effect subject to the following modifications.

(2) References to transfers from the Police Operating Account or to awards or sums payable out of the Police Operating Account are to be construed as references to transfers from or payable out of moneys provided by the Scottish Ministers.

(3) References to transfers into the Police Operating Account are to be construed as references to transfers into the funds of the Scottish Ministers.

(4) The reference in regulation 5(1) to 24.7% is to be read as a reference to 26%.

(5) Regulations 3(4), 5(7), (8) and (9), 9 and 10 do not apply.

13.—(1) All awards payable under the 1987 Regulations by the Scottish Ministers by reason that they are treated as the police authority in relation to a police officer engaged on relevant service are payable out of the Police Pension Account if they were payable before 1st April 2010.

(2) The Police Pension Account mentioned in paragraph (1) is the Police Pension Account established and maintained by the Scottish Ministers as police authority in relation to an inspector of constabulary.

Amendment of the 1987 Regulations

14.—(1) The 1987 Regulations are amended as follows.

(2) In regulation A6(5) (meaning of certain expressions in relation to persons who are not members of a home police force) omit “a central police officer”.

(3) In regulation A15 (alterations in police areas)—

(a) in paragraph (1)—

(i) after “police authority” insert “, Police Pension Account”;

(ii) for “police fund” substitute “Police Operating Account”; and

(iii) for “and fund” (in both places) substitute “, Police Pension Account and Police Operating Account”;

(b) in paragraph (2)—

(i) after “police authority” insert “, Police Pension Account”;

(ii) for “police fund” substitute “Police Operating Account”; and

(iii) for “and fund” in each place that it occurs substitute “, Police Pension Account and Police Operating Account”;

(c) in paragraph (3)(a), for “or fund” substitute “, Police Pension Account or Police Operating Account”; and

(d) omit paragraph (4)(a).

(4) In regulation H6 (appeal by overseas policeman, inspector of constabulary or central police officer)—

(a) in the cross heading omit “or central police officer”;

(b) omit paragraph (1)(c) and the word “or” immediately prior to that paragraph; and

(c) in paragraph (10)(a) omit “or a central police officer”.

- (5) Omit regulation L2 (funds out of which and into which payments are to be made).
- (6) In regulation M19(1) (application of general regulations to pension credit benefits and pensions credit members) omit “Regulation L2 (funds out of which and into which payments are to be made)”.
- (7) In regulation N1 (interpretation) omit the definition of “police fund”.
- (8) In regulation N6(1) (increased pension entitlement – further provision) omit “and shall be paid out of the police fund”.
- (9) In Schedule A (glossary of expressions), after the definition of “police authority” insert—
 - ““Police Operating Account” and “Police Pension Account” have the same meanings as assigned to them in regulation 2 of the Police Pension Account (Scotland) Regulations 2010;”.

Amendment of the 2007 Regulations

- 15.—(1) The 2007 Regulations are amended as follows.
- (2) In regulation 3(2) (meaning of certain expressions in relation to persons who are not members of a home police force) omit “or an officer engaged on relevant service”.
- (3) In regulation 67 (appeal by inspector of constabulary or police officer engaged on relevant service)—
 - (a) in the cross heading omit “or police officer engaged on relevant service”; and
 - (b) omit paragraph (1)(b) and the word “or” immediately prior to that paragraph.
- (4) In regulation 87 (alterations in police areas)—
 - (a) for “and police fund” in both places it occurs substitute “, Police Pension Account and Police Operating Account”; and
 - (b) for “and fund” in each place it occurs substitute “, Police Pension Account and Police Operating Account”.
- (5) In Schedule 1 (glossary of expressions), after the definition of “police force” insert—
 - ““Police Operating Account and Police Pension Account” have the same meanings as assigned to them in regulation 2 of the Police Pension Account (Scotland) Regulations 2010;”.

Amendment of the Injury Benefit Regulations

- 16.—(1) The Injury Benefit Regulations are amended as follows.
- (2) For regulation 42 (funds out of which and into which payments are to be made) substitute—

“Accounts out of which and into which payments are to be made

42.—(1) Subject to paragraph (2) all payments for the purposes of these Regulations made by or to a police authority are the responsibility of the police authority and are to be paid out of or into that authority’s Police Operating Account in accordance with the Police Pension Account (Scotland) Regulations 2010.

(2) All payments for the purposes of these Regulations made by or to the Scottish Ministers by reason that they are treated as the police authority in relation to an inspector of constabulary, an assistant inspector of constabulary or a police officer engaged on relevant service are to be paid out of moneys provided by the Scottish Parliament or, as the case may be, into the Scottish Consolidated Fund.”.

(3) In paragraph 1 of Schedule 1 (glossary of expressions), after the definition of “the Pensions (Increase) Acts” insert—

““Police Operating Account” has the same meaning as assigned to it in regulation 2 of the Police Pension Account (Scotland) Regulations 2010;”.

St Andrew’s House,
Edinburgh
10th June 2010

JOHN SWINNEY
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the establishment and maintenance of a police pension account by police authorities for the purposes of the Regulations mentioned in regulation 3(6). Sums paid or repaid to a police authority for the purposes of those Regulations are receivable into the police authority's Police Pension Account. Sums paid or repaid by a police authority for the purposes of those Regulations are payable out of the police authority's Police Pension Account. Without prejudice to this general provision, regulation 4 sets out particular amounts which are receivable into or payable out of the Police Pension Account.

Regulation 5 requires police authority employer contributions to be transferred into its Police Pension Account. Regulation 6 provides that injury benefit payments are to be paid from the Police Operating Account and regulation 7 sets out how payment of pension scheme benefits and injury benefits paid to the same person should be treated with regard to the Police Pension Account.

Under regulation 8, where a Police Pension Account shows a net credit in respect of any financial year, the surplus must be transferred into the Police Operating Account and is to be taken into account by the Scottish Ministers when deciding on future police pension funding. Where the police pension account shows a net debit in respect of any financial year, an amount equal to that net debit must be transferred from the Police Operating Account into the Police Pension Account. Regulation 9 indicates how surpluses and deficits (both anticipated and confirmed from the audited accounts of the Police Pension Account) are to be treated.

Regulation 10 makes provision for information to be provided to the Scottish Ministers and regulation 11 outlines what further pension related sums are payable from the Police Operating Account.

Regulations 12 and 13 make particular provision relating to the inspectorate of constabulary and confirm that Scottish Ministers will only be acting as police authority for police officers on central service for awards made up to and including 31st March 2010.

Regulations 14 to 16 make consequential amendments to the Police Pensions Regulations 1987, the Police Pensions (Scotland) Regulations 2007 and the Police (Injury Benefit) (Scotland) Regulations 2007.

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