

2004 No. 1491

**POLICE, ENGLAND AND WALES  
PENSIONS, ENGLAND AND WALES**

**The Police Pensions (Amendment) Regulations 2004**

<i>Made</i> - - - - -	<i>7th June 2004</i>
<i>Laid before Parliament</i>	<i>10th June 2004</i>
<i>Coming into force</i> - -	<i>1st July 2004</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 1 to 7 of the Police Pensions Act 1976<sup>(a)</sup>, with the consent of the Treasury<sup>(b)</sup>, and after consultation with the Police Negotiating Board for the United Kingdom, hereby makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Police Pensions (Amendment) Regulations 2004.

(2) These Regulations shall come into force on 1st July 2004 but—

- (a) the amendments made by Part 1 of the Schedule shall have effect from 10th November 2003<sup>(c)</sup>;
- (b) the amendments made by paragraphs 8, 9, 11 and 12 of Part 2 of the Schedule shall have effect from 1st April 2003;
- (c) the amendments made by Part 3 of the Schedule shall have effect from 1st April 2002; and
- (d) the amendment made by paragraph 14(1) in Part 4 of the Schedule has effect in accordance with paragraph 14(2) of the Schedule.

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

**Amendment of the Police Pensions Regulations 1987**

2. The Police Pensions Regulations 1987<sup>(d)</sup> shall be amended in accordance with the Schedule to these Regulations.

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(a) 1976 c. 35; section 1 is 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). Functions under the Act as regards Scotland are transferred by S.I. 1999/1750, article 2 and Schedule 1.  
(b) Formerly the Minister for the Civil Service: see S.I. 1981/1670.  
(c) Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.  
(d) S.I. 1987/257; relevant amendments were made by S.I. 1988/1339, 1989/733, 1990/805, 1992/1343, 1992/2349, 2000/843, 2002/3202, 2003/27, 2003/535 and 2003/2716.

### **Transitional provision relating to medical appeals**

3. The amendments made by regulation 2 and Part 1 of the Schedule to these Regulations shall not apply in respect of any appeal against a decision of the selected medical practitioner notified to the Secretary of State on or before 9th November 2003 unless the Secretary of State decides to refer the appeal to a board of medical referees.

### **Transitional provisions relating to unpaid parental leave**

4.—(1) In a case where unpaid parental leave has been taken and the period specified in sub-paragraph (a) of regulation F1(1D) of the Police Pensions Regulations 1987 has ended before, or ends or will end within a period of 3 months beginning with, the date on which these Regulations come into force (“the commencement date”), that sub-paragraph shall have effect as if the period within which notice were required to be given was a period of 3 months beginning with the commencement date:

Provided that where the police authority are satisfied that it was not reasonably practicable for notice to be given within that period they may in their discretion accept such notice at any time before the expiry of 12 months from the commencement date.

(2) In a case such as is mentioned in paragraph (1) in which notice is given in accordance with that paragraph, regulation F1(1D)(d) of the Police Pensions Regulations 1987 shall have effect as if after the words “30 months” in paragraph (ii) there were inserted the words “or such longer period ending not later than 4 years and six months after the due date as the police authority in their discretion may allow”.

Home Office

30th May 2004

We consent to the making of these Regulations

*Hazel Blears*  
Minister of State

7th June 2004

*Jim Murphy*  
*John Heppell*  
Two of the Lords Commissioners of Her Majesty's Treasury

## AMENDMENT OF THE POLICE PENSIONS REGULATIONS 1987

## Part 1

1. In regulation A20 for the words “medical referee” there shall be substituted “board of medical referees”.

2. In regulation H1(4) for the words “paragraphs 5(a) and 6 of schedule H” there is substituted “paragraphs 5(1)(a) and (2) of Schedule H”.

(2) For regulation H1(5) there shall be substituted—

“(5) The decision of the selected medical practitioner on the question or questions referred to him under this regulation shall be expressed in the form of a report and shall, subject to regulations H2 and H3, be final.”

(3) For regulation H1(6) there shall be substituted—

“(6) A copy of any such report shall be supplied to the person who is the subject of that report.”

(4) Regulation H1(7) shall be omitted.

3.—(1) For the heading at regulation H2 (“Appeal to medical referee”) there shall be substituted “Appeal to board of medical referees”.

(2) Regulation H2(1) and (2) shall be omitted.

(3) In regulation H2(2A) for the words “regulation H1(6)” there shall be substituted “regulation H1(5)”.

(4) In regulation H2(2B) for the words “and the Secretary of State shall appoint a medical referee to decide the appeal” there shall be substituted “and the police authority shall refer the appeal to a board of medical referees, appointed in accordance with arrangements approved by the Secretary of State, to decide”.

(5) Regulation H2(2A) shall be renumbered H2(1).

(6) Regulation H2(2B) shall be renumbered H2(2).

(7) In regulation H2(3)—

- (a) in each place where the words “medical referee” occur there shall be substituted “board of medical referees”;
- (b) for the words “certificate or report” there shall be substituted “report”;
- (c) for the words “certificate or as the case may be a report” there shall be substituted “report”;
- (d) in each place where the word “he” occurs there shall be substituted “it”; and
- (e) for the word “his” there shall be substituted “its”.

4.—(1) In regulation H3(1)—

- (a) after the word “him” there shall be inserted “, or as the case may be it,”;
- (b) after the word “his” there shall be inserted “, or as the case may be its,”;
- (c) for the words “certificate or report as the case may be” there shall be substituted “report”.

(2) For regulation H3(2) there shall be substituted—

“(2) The police authority and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him, or as the case may be it, for reconsideration, and he, or as the case may be it, shall accordingly reconsider his, or as the case may be its, decision and, if necessary, issue a fresh report, which, subject to any further reconsideration under this paragraph or paragraph (1) or an appeal, where the claimant requests that the appeal of which he has given notice (before referral of the decision under this paragraph) be notified to the Secretary of State, under regulation H2, shall be final.”

(3) In regulation H3(4) in each place where the words “medical referee” occur there shall be substituted “board of medical referees”.

5. In regulation H4 in each place where the words “medical referee” occur there shall be substituted “board of medical referees”.

6. In Schedule A (glossary of expressions)—

- (a) the definition “medical referee” shall be omitted;
- (b) after the definition “average pensionable pay” there shall be inserted the following definition—  
““board of medical referees” has the meaning assigned to it by paragraph 3(1) of Schedule H;”;

- (c) after the definition “police authority” there shall be inserted the following definition—  
““public holiday” means Christmas Day, the 26th December (if it falls on a Saturday or Sunday), the 1st January (if it so falls), Good Friday or a bank holiday;”.

7. For Schedule H (medical appeals) there shall be substituted the following schedule—

“Schedule H (medical appeals)

1. Every notice of appeal under regulation H2(2A) and statement of grounds under regulation H2(2B) shall be in writing.

2. On receiving a notice of appeal against a report issued under regulation H1 and the appellant’s statement of grounds for appeal, the police authority, unless regulation H3(2) applies, shall forward to the Secretary of State and a board of medical referees copies of those documents and all other documents determined as necessary by the Secretary of State.

3.—(1) The board of medical referees shall consist of not less than three medical practitioners appointed by, and in accordance with, arrangements approved by the Secretary of State, provided that—

- (a) at least one member of the board of medical referees shall be a specialist in a medical condition relevant to the appeal;
- (b) one member of the board of medical referees will be appointed chairman; and
- (c) where there is an equality of voting among members of the board of medical referees, the chairman shall have a second or casting vote.

(2) The board of medical referees shall appoint a time and place for hearing the appeal, at which it may interview or examine the appellant, and for any such further hearings as it may consider necessary and shall give not less than 2 months notice, or such shorter period as the police authority and appellant may agree, thereof to the appellant and police authority.

(3) The police authority and the appellant shall, not less than 35 days (including weekends and public holidays) before the date appointed for the hearing, inform the board of medical referees whether they intend to be represented at the hearing.

4.—(1) Where either party to the appeal intends to submit written evidence or a written statement at a hearing arranged under paragraph 3 above that party shall, subject to paragraph (2) submit it to the board of medical referees and the other party not less than 35 days before the date appointed for the hearing.

(2) Where any written evidence or statement has been submitted under paragraph (1), any written evidence or statement in response may be submitted by the other party to the board of medical referees and the party submitting the first-mentioned evidence or statement at any time not less than 7 days before the date appointed for the hearing.

(3) The board of medical referees may postpone or adjourn the date appointed for the hearing where any written evidence or statement is submitted in contravention of paragraphs (1) or (2) or it appears necessary to do so for the proper determination of the appeal.

(4) References in paragraphs (1) and (2) to periods of days shall include weekends and public holidays.

5.—(1) Any hearing (including any examination) may be attended by—

- (a) the selected medical practitioner; and
- (b) a duly qualified medical practitioner appointed for the purpose by the appellant,

although they may only observe any examination.

(2) If the selected medical practitioner does not attend any examination then a duly qualified medical practitioner appointed for that purpose by the police authority may attend the examination as an observer.

(3) If any hearing includes an examination then only medical practitioners may be present for that part of the hearing.

6. The board of medical referees shall supply the police authority, the appellant and the Secretary of State with a written statement of its decision. Where the board of medical referees disagrees with any part of the selected medical practitioner’s report, the board of medical referees shall supply a revised report.

7.—(1) There shall be paid to the board of medical referees—

- (a) such fees as are determined in accordance with arrangements made by the Secretary of State; or
- (b) where no such arrangements have been made, such fees and allowances as the Secretary of State may from time to time determine.

(2) Any fees and allowances payable to the board of medical referees under paragraph (1) shall, subject to paragraph 8(2), be paid by the police authority and shall be treated as part of the expenses of the police authority for the purposes of this Schedule.

8.—(1) Save as hereinafter provided, the expenses of each party to the appeal shall be borne by that party.

(2) Where a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of the police authority, less than 11 days before the hearing (excluding weekends and public holidays) the board of medical referees shall require the police authority to pay to the appellant any expenses actually and reasonably incurred by him in respect of attending or arranging to attend the cancelled, adjourned or postponed hearing as the case may be.

(3) Where the board of medical referees determines that a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of the appellant, less than 11 days before the hearing (excluding weekends and public holidays) the police authority may, subject to paragraph (4), require the appellant to pay towards the cost of the cancellation, adjournment or postponement as the case may be, such sum not exceeding the total costs of the cancellation, adjournment or postponement as the case may be as the authority thinks fit.

(4) If the board of medical referees, after taking account of any representations from either party, decides that the cancellation, adjournment or postponement as the case may be was not due to any fault on the part of the appellant and the appellant should not pay towards the cost of the cancellation, adjournment or postponement as the case may be, it shall state that this is the case and the police authority shall not require the payment of any such costs.

(5) Where the board of medical referees decides in favour of the police authority and reports that in its opinion the appeal was frivolous or vexatious, the authority may, subject to paragraph (6), require the appellant to pay towards the cost of the appeal such sum not exceeding the board of medical referees' total fees and allowances as the authority thinks fit.

(6) If the board of medical referees, after taking account of any representations from either party, decides there are exceptional reasons why the appellant should not pay towards the cost of the appeal, it shall state that this is the case and the police authority shall not require the payment of any such costs.

(7) Where the board of medical referees decides in favour of the appellant, the police authority shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending any such hearing as is mentioned in paragraph 3."

## Part 2

8. In regulation A10(2)(h) after the words "unpaid maternity leave" there shall be inserted the words "or unpaid parental leave".

9.—(1) After regulation F1(1)(d) there shall be inserted—

"(da) any period of unpaid parental leave taken after 1st April 2003 in respect of which the conditions specified in paragraph (1B) are not satisfied;"

(2) In regulation F1(1B) after the words "in subparagraph (c)" there shall be inserted the words "and (da)".

(3) In regulation F1(1B)(a) after each occurrence of the word "maternity" there shall be inserted the words "or parental".

(4) In regulation F1(1B)(b) after each occurrence of the words "unpaid maternity leave" there shall be inserted the words "or unpaid parental leave".

10. In regulation F10(2)(b) for the words "2 years' pensionable service" there shall be substituted "3 months' pensionable service".

11. In regulation G1(3) for the words "sick leave or maternity leave" there shall be substituted the words "sick leave, maternity leave or parental leave".

12. In Schedule A (glossary of expressions)—

(a) for the definition "maternity leave" there shall be inserted the following definition—

"“maternity leave” has the same meaning as in regulation 3 of the Police Regulations 2003(a)";

(b) after the definition "overseas service" there shall be inserted the following definition—

"“parental leave” means leave granted in accordance with regulation 33(8) of the Police Regulations 2003;"

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(a) S.I. 2003/527.

Part 3

**13.** For regulation K4(1) there shall be substituted—

“(1) Subject to paragraph (2), a police authority by whom a pension is payable under Part B of these Regulations or under regulation E1 (adult dependent relative’s special pension) may, in their discretion, withdraw the whole or any part of the pension for any period during which the pensioner is serving as a regular policeman in any police force, save that such withdrawal shall not apply to any pension credit under Part M; and, where they have done so, they shall be discharged from all actual or contingent liability in respect of the pension or the part thereof withdrawn for the period in question.”

Part 4

**14.**—(1) In paragraph (c) of the proviso to regulation F1(1) (reckoning of pensionable service during maternity leave) for the words “18 weeks” there are substituted the words “26 weeks”.

(2) Sub-paragraph (1) has effect in relation to any period of maternity leave falling on or after 6th April 2003.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Police Regulations 1987 (“the 1987 Regulations”) as they apply in England and Wales.

The amendments made by Part 1 of the Schedule relate to the new system of police medical appeal boards which replaced the appeal to a medical referee with effect from 10th November 2003. The amendments are backdated to that date. A new Schedule H to the 1987 Regulations, which sets out the medical appeals procedure is substituted by paragraph 7 of Part 1 of the Schedule. Regulation 3 is a transitional provision making clear that the new system applies only to medical appeals notified to the Secretary of State on or after 10th November 2003: appeals in progress before that date will continue to be dealt with under the existing system.

Paragraph 10 of Part 2 of the Schedule amends regulation F10 of the 1987 Regulations to reduce from 2 years to 3 months the period of pensionable service a member of the police pension scheme must accrue before becoming eligible for a transfer of the value of his pension fund to another pension scheme. This change comes into force on 1st July 2004.

Paragraphs 8, 9, 11 and 12 of Part 2 of the Schedule make a number of changes to ensure that the provisions for buying back time spent on parental leave are the same as those already in place for maternity leave. These amendments are backdated to 1st April 2003. Regulation 4 makes transitional provision relating to periods of unpaid parental leave which occurred before the commencement of these Regulations.

Part 3 of the Schedule corrects typographical errors in regulation K4(1). The amendment is backdated to 1st April 2002.

Part 4 of the Schedule amends regulation F1 so as to increase the period of maternity leave which counts as pensionable service that is reckonable from 18 to 26 weeks.

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