
SCOTTISH STATUTORY INSTRUMENTS

2009 No.

PENSIONS

The Police Pensions Amendment (Increased Pension Entitlement) (Scotland) Regulations 2009

Made - - - - - [] February 2009

Laid before the Scottish Parliament [13th] February 2009

Coming into force - - - [6th] April 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1, 3 and 7 of the Police Pensions Act 1976(a), and of all other powers enabling them to do so.

In accordance with section 1(1) of that Act they 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 Pensions (Increased Pension Entitlement) (Scotland) Regulations 2009.

(2) These Regulations come into force on [6th April 2009] and, subject to paragraph (3), have effect from that date(c).

(3) Regulation 3, in so far as required to give effect to regulation 4 and regulation 4 have effect from [] April 1979 to [5th April 2009].

(4) These Regulations extend to Scotland only.

Amendment of the Police Pensions Regulations

2. The Police Pensions Regulations 1987(d) are amended in accordance with regulations 3 to 6.

3. After regulation M19 (application of general regulations to pension credit benefits and pension credit members), insert—

(a) 1976 c.35 (“the Act”). 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). These powers are extended by section 42 of the Welfare Reform and Pensions Act 1999 (c.30). The functions of the Secretary of State under the Act as regards Scotland are transferred to the Scottish Ministers by S.I. 1999/1750, article 2, Schedule 1. The requirement for consent by the Minister for the Civil Service under section 1 of the Act was transferred to 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 1988 (c.46).

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

(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. 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. 2000/93, 2001/459, 2003/406, 2004/486, 2005/200 and 495, 2006/285 and 2008/387.

“PART N
INCREASED PENSION ENTITLEMENT

Interpretation

N1. In this Part–

“the existing Orders” means the Pensions Increase (Annual Review) Order 1978(a), the Pensions Increase (Review) Order 1979(b) the Pensions Increase (Review) Order 1980(c), the Pensions Increase (Review) Order 1981(d), the Pensions Increase (Review) Order 1982(e), the Pensions Increase (Review) Order 1983(f), the Pensions Increase (Review) Order 1984(g), the Pensions Increase (Review) Order 1985(h), the Pensions Increase (Review) Order 1986(i), the Pensions Increase (Review) Order 1987(j), the Pensions Increase (Review) Order 1988(k), the Pensions Increase (Review) Order 1989(l), the Pensions Increase (Review) Order 1990(m), the Pensions Increase (Review) Order 1991(n), the Pensions Increase (Review) Order 1992(o), the Pensions Increase (Review) Order 1993(p), the Pensions Increase (Review) Order 1994(q), the Pensions Increase (Review) Order 1995(r), the Pensions Increase (Review) Order 1996(s), the Pensions Increase (Review) Order 1997(t), the Pensions Increase (Review) Order 1998(u), the Pensions Increase (Review) Order 1999(v), the Pensions Increase (Review) Order 2000(w), the Pensions Increase (Review) Order 2001(x), the Pensions Increase (Review) Order 2002(y), [the Pensions Increase (Review) Order 2003(z), the Pensions Increase (Review) Order 2004(aa)], the Pensions Increase (Review) Order 2005(bb), the Pensions Increase (Review) Order 2006(cc), the Pensions Increase (Review) Order 2007(dd) and the Pensions Increase (Review) Order 2008(ee); and “existing Order” shall be construed accordingly;

“guaranteed minimum pension” has the same meaning as it does for the purposes of the Social Security Act 1975(ff);

“pension authority” has the same meaning as given by section 7(1) of the 1971 Act;

“police authority” has the meaning given to it by section 11(2) of the Police Pensions Act 1976;

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- (a) S.I. 1978/1211.
 - (b) S.I. 1979/1047.
 - (c) S.I. 1980/1302.
 - (d) S.I. 1981/1217.
 - (e) S.I. 1982/1178.
 - (f) S.I. 1983/1264.
 - (g) S.I. 1984/1307.
 - (h) S.I. 1985/1575.
 - (i) S.I. 1986/1116.
 - (j) S.I. 1987/130.
 - (k) S.I. 1988/217.
 - (l) S.I. 1989/477.
 - (m) S.I. 1990/483.
 - (n) S.I. 1991/684.
 - (o) S.I. 1992/198.
 - (p) S.I. 1993/779.
 - (q) S.I. 1994/776.
 - (r) S.I. 1995/708.
 - (s) S.I. 1996/800.
 - (t) S.I. 1997/634.
 - (u) S.I. 1998/503.
 - (v) S.I. 1999/522.
 - (w) S.I. 2000/672.
 - (x) S.I. 2001/664.
 - (y) S.I. 2002/669.
 - (z) S.I. 2003/681.
 - (aa) S.I. 2004/758.
 - (bb) S.I. 2005/858.
 - (cc) S.I. 2006/741.
 - (dd) S.I. 2007/801.
 - (ee) S.I. 2008/711.
 - (ff) 1975 (c.60).

“police fund” means the funds provided to pay police pensions;

“relevant police authority” means the authority responsible for payment of the person’s pension as determined by regulation L1 (authorities responsible for payment of awards) of these Regulations;

“the scheme” means the Police Pension Scheme for Scotland established by these Regulations; and

“tax year” means a period of 12 months beginning on 6th April and ending on the following 5th April.

Application of Part

N2. This Part applies to a person who–

- (a) is entitled to a pension under the scheme on [5th April] 2009;
- (b) is entitled to a guaranteed minimum pension on that date^(a); and
- (c) has in any tax year since entitlement to the guaranteed minimum pension commenced received either or both of the payments described in regulation N3(1) (“GMP-related payments”).

Payments

N3.—(1) The payments are–

- (a) the payment of an increase in the annual rate of the pension which is equal to the increase in the annual rate of that part of the guaranteed minimum pension attributable to [reckonable service accrued during] the tax years 1978-79 to 1987-88;
- (b) the payment of an increase in the annual rate of the pension which is equal to the increase in the annual rate of that part of the guaranteed minimum pension attributable to [reckonable service accrued during] the tax years 1988-89 to 1996-97, where that annual increase was above 3%,

that meet the conditions in paragraph (2).

(2) The conditions are that the payments are made–

- (a) by the relevant police authority;
- (b) out of the police fund;
- (c) applying the existing Orders as if the person was not entitled to a guaranteed minimum pension; and
- (d) between [xth] April 1979 and [5th April 2009].

(3) In this regulation, a reference to “the increase in the annual rate” means, in relation to any tax year, the rate of increase provided for in the existing Order relevant to that tax year.”.

4. After regulation N3 (payments), insert–

“Authorisation of payment of GMP-related payments

N4.—(1) The relevant police authority may pay GMP-related payments to–

- (a) a person to whom this Part applies; and
- (b) a deceased entitled member.

(2) Where a relevant police authority has paid GMP-related payments, the authority may not recover those payments.

(a) By virtue of section 17 of the Pension Schemes Act 1993 (c.48) [and regulation [x] of the scheme], the widow, widower or surviving partner of a [pensioner member] is entitled to a guaranteed minimum pension under the scheme.

- (3) In this regulation, a deceased entitled member is a person who—
- (a) at the date of his death was entitled to a pension under the scheme;
 - (b) at that date was entitled to a guaranteed minimum pension; and
 - (c) has in any tax year since entitlement to the guaranteed minimum pension commenced received either or both of the payments described in regulation N3(1).”.

5. After regulation N4 (authorisation of payment of GMP – related payments), insert—

“Increased Pension Entitlement

N5.—(1) Subject to paragraph (4) and (5), a person to whom this Part applies is entitled to an Increased Pension Entitlement calculated in accordance with paragraph (3).

(2) An Increased Pension Entitlement is payable by the relevant police authority and shall be paid out of the police fund.

(3) The annual amount of the Increased Pension Entitlement that the person is entitled to is equal to the GMP-related payment that the person received for the tax year 2008-09.

(3A) [The annual amount of the Increased Pension Entitlement that the person is entitled to is equal to the annual amount of the GMP-related payment [for the tax year 2009-10]].

(3B) [In this regulation, the [annual amount of the] GMP-related payment for the tax year 2009-10 is the amount of GMP-related payment [, within the meaning of regulation N3(1),] that the person would have received in the tax year 2009-10 if the relevant police authority had, in relation to that complete tax year, applied the existing Orders and the Pensions Increase (Review) Order 2009(a) as if the person was not entitled to a guaranteed minimum pension.

(4) Where the person’s pension is terminated under the scheme, the person is not entitled to receive any payment of an amount of the Increased Pension Entitlement in respect of any period after the date on which the pension is terminated.

(5) Where the person’s pension, or any proportion of the pension, is forfeited, either permanently or temporarily, the same proportion of the person’s Increased Pension Entitlement is forfeited for the same period of time.

(6) An Increased Pension Entitlement is payable for life and shall be discharged by payments in advance at such reasonable intervals as the police authority may, in their discretion, determine except that payment on account of an Increased Pension Entitlement may be delayed, in whole or in part, pending the determination of any question as to the liability of the police authority in respect thereof, including any question as to the continuance of that liability.

(7) The Increased Pension Entitlement or any portion of that entitlement may not be commuted for a lump sum.”.

6. In regulation E8(2)(b) (increase of widow’s pension or child’s allowance during first 13 weeks), for “the weekly amount of his pension together with any increase therein, immediately before he died, under the Pensions (Increase) Acts” substitute—

“—

- (i) the weekly amount of his pension together with any increase therein, immediately before he died, under the Pensions (Increase) Acts; and

(a) S.I. 2009/xxxx.

- (ii) where he was, immediately before he died, entitled to an Increased Pension Entitlement, the weekly amount of his Increased Pension Entitlement”.

St Andrew’s House,
Edinburgh
February 2009

A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)