



SCOTTISH PUBLIC PENSIONS AGENCY

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Dear Sir or Madam

POLICE PENSIONS CIRCULAR No 2003/5

CHANGES TO ILL-HEALTH MANAGEMENT, AVC PROVISION AND OTHER MISCELLANEOUS AMENDMENTS

1. This circular advises police authorities of the making of the Police Pensions (Scotland) Amendment Regulations 2003 (SSI 406/2003).

It should be brought to the attention of pension and personnel managers and staff who are responsible for the administration of the Police Pensions Scheme.

2. Police authorities should also ensure that the contents of this circular are brought to the attention of police officers, in accordance with the "disclosure of information" requirements outlined in SPPA Police Circular 1997/1
3. SPPA Police Circulars 2002/4, 2003/3 and 2003/4 gave the background and guidance regarding the changes that were required covering the management of ill-health, the appointment of an additional AVC provider and a number of other miscellaneous changes to the Regulations.
4. These regulations have now been made and come into force from 1 October with earlier effective dates applying to the extension of pensionable service during maternity leave, the appointment of Standard Life as an additional AVC provider and back payments relating to widower's benefits. One copy of the SSI is attached to the e-mail message delivering this circular. If further copies are required they can be obtained from HMSO at <http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2003/20030406.htm>
5. The new procedures for ill-health management are applicable from 1 October. Any appeals made prior to this date which have not yet been submitted to the Agency should be forwarded as soon as possible so that a single medical referee can be appointed.

Schedule 1

The main part of this Schedule introduces the better management of ill-health retirements together with a number of miscellaneous changes which are summarised below.

- **Male and female duties. Schedule 1 paragraph 2**

Removal of the distinction between the duties of male and female officer duties.

- **Definition of infirmity Schedule 1 paragraph 2**

In order to make it clear that disablement, for the purpose of medical retirement, must have a recognised medical cause or be a disability as a result of injury, such as the loss of a leg, infirmity of mind or body is defined as a disease, injury or medical condition.

- **Ill-health retirement decisions Schedule 1 paragraphs 3 and 7**

The police authority has discretion under regulation A20 not to retire an officer who has been assessed by the Selected Medical Practitioner (SMP) as permanently disabled. Regulation A20 is amended to require police authorities in making their determination to give due consideration to all the circumstances, advice and information available to them before reaching a decision.

Where the SMP is considering permanent disablement he or she will complete a report and not a certificate in order to make clear that the final decision to medically retire an officer rests with the police authority. The SMP report remains final in respect of the medical questions it addresses (subject to appeal) but it is not the sole determining factor in the authority's decision. (Cases involving injury awards only, or questions under K1, K2 or K3 are to be referred to an SMP who shall continue to express his or her findings in a certificate).

The police authority may decide that in exceptional circumstances the function of the SMP should be carried out by a board of doctors. The regulations therefore have a qualification to the term "duly qualified medical practitioner" and "selected medical practitioner" to take that into account. A board may be comprised of two or more doctors.

- **Timelimits Schedule 1 paragraph 8**

Where an SMP has answered questions on permanent disablement the officer will have a period of 28 not 14 days following receipt of the SMP's H1 report during which an appeal can be lodged. The appeal is against the SMP's decision not a determination of the police authority. As with the present regulations, this (new) time limit may be extended at the discretion of the police authority. Once an appeal has been made the officer must provide a written statement of the grounds of appeal within 28 days following the date of lodging the appeal. Where the officer gives no statement within 28 days to the police authority the right of appeal lapses unless the authority exercises discretion to allow a longer period for the statement.

This provision applies only to those cases involving the permanent disablement question, or permanent disablement and injury questions. Where one or both of questions H1(2)(c) and (d) have been referred to the SMP in isolation from H1(2)(a) and (b), or where a decision is taken under K1, K2 or K3, the 14 day time limit will still apply.

- **Internal review of HI Schedule 1 paragraph 11**

H3(2) has been amended to enable a decision under H1 to be referred back to the SMP, if the claimant and the police authority agree to this, even though the claimant has given notice of an appeal against the SMP's decision. This aims to allow an opportunity for a dispute to be resolved without the need of an appeal, but without prejudice to the claimant's right of appeal. This applies to all questions under H1, whether on permanent disablement alone, or on permanent disablement combined with injury, or on injury alone, and including K1, K2 or K3.

A further change is that a review under H3(2) by agreement between the claimant and the police authority may now be carried out without the need for fresh evidence. This provision applies not only to reviews of decisions under H1 but also to review of appeal decisions under H2.

The Sheriffs Court is to hear any appeal against the police authority not accepting the refusal of medical treatment by a home police force officer as reasonable. A Tribunal under regulation H6 is to hear any appeal against the police authority not accepting the refusal of medical treatment by an overseas policeman, an inspector of constabulary and a central police office as reasonable.

- **Board of medical referees Schedule 1 paragraphs 9 and 15**

All references to a single medical referee are replaced and a definition of what the board constitutes is also included. Changes have been made to the timelimits for submissions and responses to be made to the Appeal Board and the responsibility for the costs of an Appeal Board.

- **Fixed term appointments Schedule 1 paragraph 4**

Regulation B1(3)(ba) is amended to make it clear that ACPO-rank officers (with at least 25 years' reckonable service) who retire at the end of their fixed term appointment qualify for an ordinary pension under Regulation B1 before the age of 60. The officer is entitled to an ordinary pension under Regulation B1 before age 60 even if the fixed term appointment could have been further extended. This provision affects appointments made for a fixed term, or varied to a fixed term or an appointment extended for a further fixed term.

Please be aware that this is a different provision from that which the PNB Circular 3/02 sought approval for, regarding the Police Pensions Regulations being amended further so that chief officer ranks were entitled to an ordinary pension before 60 under Regulations B1 under the same conditions as other ranks. This issue is still under consideration.

- **Maternity leave Schedule 1 paragraph 5**

Regulation F1 is amended to increase the period of maternity leave which counts as pensionable service that is reckonable from 14 to 18 weeks. This is in line with PNB Circular 01/22 and Police Division Circular 1/2002 dated 22 March 2002 and is backdated to cover periods of maternity leave falling on or after 15th December 1999. (The status, for pension purposes from 6 April 2003, of the extension of maternity leave to 26 weeks, parental and adoption leave and time off for dependants remains under consideration but general guidance was issued under SPPA Police Circular 2003/2).

- **Widowers' benefits Schedule 1 paragraph 1 and 6**

It was agreed by the PNB (circular 92/4) that female officers should be able to elect to "buy back" their service prior to 17 May 1990 (SPPA circular 1994/2 refers). In the absence of an election, service prior to 17 May 1990 would not count for widower's pension purposes. The Police Pension Regulations were amended by (S.I. 641/1994) to allow female officers to elect to make back payments of pensions contributions so that their service prior to 17 May 1990 counts for the purposes of widowers' benefits. This option was open only to officers who were contributors during a 3-month election period commencing on 1 April 1994, plus officers who were not paying contributions before the end of the election period but who resumed doing so within 2 years from the date the contributions ceased.

The amendments allow officers who were excluded from the original provision because they had had a career break of longer than 2 years at the time of the original election period in 1994, to make these back payments of pensions contributions. **There is the same three-month period from the amendments coming into force (1 October 2003) for making an election and so we advise forces to urgently alert women officers to this provision and the time limit for elections.** Officers who had left the service before the end of this election period but who rejoin later may also elect to make back payments within the period of 3 months from when the contributions become payable again.

Only regulation G6(13)(b) applies to women taking up the new provision so that their periodical payments cease after 5 years. A new table of factors has been prepared by the Government Actuary's Department for this purpose and are annexed. These tables should hold good for all cases, whatever

the length of career break, provided the buy-back is made by an officer serving full-time. Advice on how officers who are now in part-time service can also buy back all their pre-1990 service within 5 years will be provided separately.

Separate consideration is being given to an amendment to enable women officers paying under the existing arrangements to vary their top up rate in view of career breaks, changes in their conditioned hours etc. Please note that paragraph 1 amends regulation A9 so as to enable reckonable service to be apportioned for the purposes of regulation G6.

In case of future claims by officers that they were not notified of these provisions, we would advise administrators to keep a record of who has been notified and how this was done and to ask officers who do not intend to make an election to sign a statement to that effect, which is kept with their pensions records.

Schedule 2 AVCs

- **Choice of AVC provider - Schedule 2, paragraphs 1 – 4**

The appointment of Standard Life Assurance Company as an additional AVC provider was covered in SPPA circular 2002/4. This enables officers to make contributions to the Police Pension AVC Scheme with either Standard Life or the Equitable Life Assurance Society. This amendment is backdated to 1 December 2002 when Standard Life's AVC product was launched. Officers who are considering investing in this product may obtain Standard Life's information pack by telephoning the company's helpline on 0800 333315 or by downloading it from the website at www.standardlife.co.uk/police

- **Transfers out of in-house AVC - Schedule 2, paragraph 5**

Introduces a new Regulation 10A under which officers may request that monies realised from their investments with the AVC providers in the Police Pension AVC Scheme be transferred out of the Scheme. A transfer to a free-standing additional voluntary contributions scheme (FSAVC) is the only possible route for transfers from the Police Pension AVC Scheme independent of main scheme benefits. This is subject to the restriction that the officer must already be a participator in the accepting FSAVC.

Transfers out of the Police Pension AVC Scheme together with main scheme benefits may be made to FSAVCs, other employers' in-house AVC schemes, personal pension schemes or other Inland Revenue-approved schemes.

- **Deferment of purchase of annuity - Schedule 2, paragraph 6**

SPPA Circular 1999/4 advised that in view of the new flexibility allowed by the Inland Revenue, officers retiring on or after 1 November 1999 may elect to defer purchasing an annuity from the date that main scheme benefits came into payment up to his or her 75th birthday. Forces were asked to apply this administratively until the Regulations were amended. However, only paragraph 6(b) is backdated to 1 November 1999, in order to confirm that officers who have retired on or after that date have not been subject to the requirement to make a pension election within a month of retirement under regulation 11(2). The former pension regulations remain in force and still apply for officers retired before 1 November 1999.

- **Choice of annuity provider - Schedule 2, paragraphs 1, 6**

Also amends Regulation 11 of the 1991 Regulations to enable members to select the provider from any insurance company he or she specifies under that Regulation, instead of from the list of pension

providers in Schedule 1 to the Regulations. This amendment is not backdated and the references to the term “pension provider” in Regulation 11(4) and the related Schedule 1 have therefore been retained. The definition of insurance company (in paragraph 1) follows advice given by the Treasury on the changes stemming from The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649).

- **Death in service - Schedule 2, paragraph 2**

Only Equitable Life Assurance Society offers death benefit cover at present. However, to enable flexibility in the future without having to amend the Regulations again, the Regulations as amended now enable any approved AVC provider to provide death benefit cover.

- **Responsibility for payment of annuity - Schedule 2, paragraph 8**

To provide that the annuity provider, and not the police authority, has the responsibility for the regular annuity payments to the scheme member and for the payment of any lump sum under Regulation 11(5) (if the participator dies within 5 years from the commencement of the pension). In these two cases the police authority has discharged its liability. The police authority retains the liability for all other lump sum payments.

Yours faithfully



Jim Preston
Policy Manager

Regulation G6: Payments by women members to enhance widower's awards

Table of factors for Regulation G6 (4A)

	Contributions for each year or part of a year of pensionable service before 17 May 1990	
Age last birthday at material date	Periodical payments as percentage of pensionable pay from time to time, payable for 5 years	Lump sum as percentage of annual rate of pensionable pay 3 months after material date
30	0.22	1.03
31	0.23	1.05
32	0.23	1.08
33	0.24	1.11
34	0.24	1.12
35	0.24	1.12
36	0.25	1.13
37	0.25	1.13
38	0.25	1.13
39	0.24	1.12
40	0.24	1.10
41	0.23	1.08
42	0.23	1.06
43	0.23	1.04
44	0.22	1.02
45	0.22	1.00
46	0.22	0.98
47	0.21	0.96
48	0.21	0.95
49	0.21	0.95
50	0.21	0.95
51	0.21	0.95
52	0.21	0.95
53	0.21	0.95
54	0.21	0.95