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Dear Colleague

## **POLICE PENSIONS CIRCULAR No 2005/5**

### **THE POLICE PENSIONS (PART-TIME SERVICE) (SCOTLAND) REGULATIONS (DUE OCTOBER 2005)**

**This circular should be brought to the immediate attention of force personnel officers and the administrators of the Police Pension Scheme.**

1. Following recent consultation, amendment regulations are now being finalised that will allow a more equitable approach to calculating benefits where part-time service is involved. Currently, part-time working counts as pensionable service on the basis of the determined hours worked, without any reference to the calendar years served. The amendments to the regulations are designed to ensure that, as far as possible, officers with part-time service in the police receive a fair proportion of their full-time counterparts' pensions. A copy of the consultation letter and draft regulations can be viewed on our website or by clicking on the following link [Part-time Regs consultation](#)
2. It is planned to lay the regulations as soon as possible after Parliament's return from its summer recess in September which will mean that the amendments will come into force during October but have retrospective effect from 1 July 1992 (when part-time hours were introduced in the police service). However, also included in the amendments are changes necessary to G6 (buy-back of pre-1990 service for widowers' benefits) and amendments to the Police Pensions (Purchase of Increased Benefits) Regulations 1987 to take into account part-time service which are detailed below. These provisions will only have effect from the date the regulations come into force.
3. This circular simply aims to alert police forces of the planned amendments which hopefully will allow sufficient time to help identify those officers who may be affected. In addition to those officers who have retired with part-time pensionable service in their awards made under the current regulations there are also those part-time officers currently buying additional service under G6 or added years. Contributions will need to be up-rated to the full-time equivalent but

there will be a three month period (from when the regulations come in to force in October) for the officer to vary their original election. Further details are given below.

4. Although similar regulations have already been introduced by the Home Office from 22 June (SI 2005/1439) these amendments will not come into force in Scotland until later in the year (October) and therefore any changes or recalculations of awards must not be undertaken until then. A circular confirming that the regulations have come into force will be issued so that police forces can take the necessary action on the cases concerned.

#### **Payments to enhance widowers' awards (G6)**

5. Those currently paying added contributions to up-grade their pre-1990 service in the police to make it count for widowers' awards are divided into two categories: those who made elections under the arrangements introduced in 1994 and those who made elections under the arrangements of 2003 due to being excluded from the 1994 arrangements because of a gap in service of more than two years (e.g. by way of a career break through resignation and return). For officers who made an election under the 2003 arrangements (see SPPA circular 2003/5), there is provision to adjust the rate of contributions if they are serving part-time (More details are at paragraph 10).
6. For those who made an election under the 1994 arrangements, there has been no provision to adjust the percentage of the pensionable pay on which the contributions of an officer are based when she is in part-time service. The result has been that an officer in part-time service (and therefore with proportionately lower pensionable pay and contributions) has bought back pre-1990 full-time service at a lower cost than if she had been in full-time service. The amendment regulations will change this with effect from \*October 2005, but **not** retrospectively. All pre-1990 service for widowers' benefits bought before the date the amendment comes into force in October will remain full-time, whether or not the contributions which bought the service were a percentage of the pensionable pay of a full-time or a part-time officer.
7. Under new regulation G6 (4B), the contributions of officers in part-time service on \* October 2005 who made an election under the 1994 arrangements must be automatically uprated to the full-time salary level from that date, with a three-month window for those affected to vary their original election to make payments under G6. If the officer varies her election within those three months, future contributions will be reduced and the overpayments within this period will be returned to her. Note: If an officer does nothing (i.e. does not vary her election) her contributions from \*October 2005 onwards will be set at the full-time equivalent level until they cease to be payable, whatever her determined hours may be. If she varies her election her contributions from \*October 2005 onwards will be set at a constant percentage of her pensionable pay, whether that is related to full-time or part-time service.
8. New Regulation G6 (4D) will provide that women officers who made an election under the 1994 arrangements and who are full-time on \*October 2005 but become part-timers after that date will have their contributions similarly uprated at the point they go part-time. As above, they will have a three-month window within which to vary their election in order to have future contributions reduced and overpayments already made within the period returned to them.
9. The provisions of new regulations G6 (4B) and G6 (4D) make the default position the one that would bring the officer the greater benefits under the Police Pension Scheme, since all pre-1990 service was full-time. An officer who does not want to vary her election but is concerned that she may run into financial difficulties can request for the Police Authority to apply discretion, to be provided under new regulation G6 13A, for the payments to cease for such periods as the Police Authority considers fit. The Benefits bought back being pro-rated under regulation G6 (17).

10. For officers who made an election under the 2003 arrangements, there is already provision – in regulation G6 (4A) - for those with special circumstances to buy back at a rate set by the Government Actuary. This provision has enabled the contributions of those in part-time service to be up-rated to their full-time equivalent level. The new regulations will supersede these special arrangements in their application to part-timers and confirm that an officer in part-time service will pay contributions at the full-time level unless the election is varied. Where an officer who made an election under the 2003 regulations is in part-time service on \*October 2005, she too should be given the opportunity to vary her election under new regulation (4B) in the same way as an officer covered by the 1994 arrangements. Similarly, (4D) will apply to an officer who has had already made an election under the 2003 arrangements and is full-time on \*October 2005 but becomes part-time after that date.
11. A new Regulation G6 (4F) will cover the officer who makes an election on or after \*October 2005 while serving part-time - whether under the 2003 arrangements or any future arrangements. In such a case she must state when making the election whether the lump sum or periodical payments she wishes to make are to be set at the full-time level or the pro-rated level. New regulation G6 (4G) will provide that the decision to vary an election shall have effect for the remainder of the period of the payments, and therefore cannot be reversed.

**It is important therefore that officers are given full opportunity to make this choice within the time available i.e. the three month period from \*October 2005**

12. New regulation G6 (4G) also explains that the back-service bought by the reduced **payment or** payments made, **whether** by **lump sum or** periodical contributions, is reckonable on a pro-rata basis according to the formula provided.

Note: The existing provision at G6 (17) applies to reckoning back-service where there are gaps in the contributions, e.g. where they have been suspended with the consent of the police authority under new regulation G6 (13A).

**Purchase of increased benefits**

13. Under the separate Police Pensions (Purchase of Increased Benefits) Regulations 1987 increased benefits are purchased by means of either a lump sum or periodical payments expressed as a percentage of pensionable pay. There is no current specific provision for officers on part-time service in the regulations. This means that officers paying contributions during part-time service have been paying less for the same level of benefits. The amendment regulations will change this so that by means of a new definition of pensionable pay the rate for lump-sum or periodical payments will be the percentage of the full-time rate of pay, whether the officer serves full-time or part-time.
14. The amendment regulations will make the change with effect from \*October 2005, but **not** retrospectively. All added 60ths bought before \*October 2005 will remain as if they had been bought on a full-time salary. However from \*October 2005, the contributions of officers in part-time service will fall to be automatically uprated unless the officer chooses to vary the election.
15. Thus the contributions of officers in part-time service on \*October 2005 should be automatically uprated (by means of new regulation 7A (1)) to the full-time salary level, with a three-month window for those affected to vary payments. If the officer varies the payments within those three months, future contributions will be reduced and the overpayments within this period will be returned to the officer. Similarly, new regulation 7A (3) will provide that officers who are making contributions while serving full-time on \*October 2005 or subsequently elect to make payments while serving full-time and then become part-timers afterwards will have their

contributions similarly uprated at the point they go part-time. As above, they will have a three-month window within which to vary their election in order to have future contributions reduced and overpayments already made within the period returned to them.

16. The provisions of new regulations 7A (1) and 7A (3) above make the default position the one that would bring the officer the higher level of increased benefits. Officers who do not want to vary their election but are concerned that they may run into financial difficulties can request for the Police Authority to consider its discretion to allow the payments to cease for such periods as the Police Authority considers fit. (as in G6 payments as above) with again the increased benefits bought pro-rated under regulation 8.
17. New regulation 7A (5) covers the case of officers who make an election after \*October 2005 while serving part-time. In such a case they must state when making the election whether the lump sum or periodical payments they wish to make are to be set at the full-time level or the pro-rated level.
18. New regulation 7A (6) provides that the decision to vary or not to vary an election shall have effect for the remainder of the period of the payments, and therefore cannot be reversed.

**It is important therefore that officers are given full opportunity to make this choice within the 3 month time limit allowed.**

19. New regulation 7A (6) also explains that the increased benefits bought by payments, **whether by lump sum or** periodical contributions, which have been reduced are reckonable on a pro-rata basis according to the formula provided.

Note: These provisions are in addition to those under regulation 8 where increased benefits are pro-rated due to payments being stopped. See below also the separate provision for calculating increased benefits where the payments have had to be reduced for reasons of Inland Revenue limits.

20. For completeness there is provision, similar to G6(6) and (9) in the main Police Pensions Regulations, for officers to avoid hitting the Inland Revenue 15% limit on contributions, whether by lump sum or contributions, but especially where contributions are increased under Regulation 7A.
21. Please note that the amendment regulations will make no change to the fact that a person cannot buy increased benefits if he or she could build up 30 years' service by compulsory retirement age assuming full-time service throughout the rest of that person's career. Increased benefits cannot be used to make good an anticipated shortfall in pensionable service due to part-time service in the future.
22. The main point of the amending regulations is to allow a more equitable approach to calculating benefits where part-time service is involved. Hence the new regulations will allow as a general principle that the benefits of an officer with part-time service should be calculated as if she or he had been wholly full-time and then pro-rated for periods of part-time service. In addition because the relevant amendments are backdated to 1 July 1992 forces will also be required to reconsider awards already made where part-time service was used in the calculation to establish if a higher award is due. In the case where a higher award is due the amending regulations will also provide for compensatory interest to be paid on backdated pension payments.
23. The following outlines how benefits should be calculated from \*October 2005 where part-time service is involved and how compensation payments should be calculated on awards already made under the current regulations. Again these changes **must not** be introduced until the

regulations come in to force in October. However, the intervening period will help police forces identify those officers who have retired or are due to retire before \*October 2005 and have had or will have part-time service used in the calculation of their awards.

**Calculating awards that include part-time service under the new arrangements (All references to reckonable service means service reckonable for pension purposes)**

**Ordinary and short service pensions**

24. In calculating an ordinary or short service pension, the most equitable system is to provide an officer with part-time service with a fair proportion of the pension he or she would have received, had the officer served full-time throughout. This allows part-timers to benefit proportionally from dual accrual.

*Officers with no more than 30 calendar years' service:*

25. The formula for both ordinary and short service pensions will therefore be:

$$\frac{\text{Notional full-time pension} \times \text{Reckonable service}}{\text{Notional full-time service}} = \text{pension}$$

26. For example, an officer who worked half-time for the whole 30 years, with an average pensionable pay of £30 000, would be entitled to a pension of:

$$\frac{\text{£20 000} \times 15 \text{ years}}{30 \text{ years}} = \text{£10 000}$$

*Officers with more than 30 calendar years' service:*

27. There is a slight adjustment needed for an officer with part-time service who has accrued more than 30 years' qualifying service. This is because a full-time officer cannot accrue more 60ths after 30 years, when he or she becomes entitled to an ordinary pension of 40/60ths of average pensionable pay (APP), whereas an officer with part-time service can. By applying the pro-rata principle to a pension of more than two thirds of APP we allow such an officer to work for longer to bring his or her pension closer to two thirds of APP limit. It is considered fairest to all to allow an officer with part-time service to accrue further pension rights beyond the 30-year point at the average rate of accrual over a 30-year career – in effect 45ths. For such cases the same formula is used as above but the notional full-time pension is fixed at two thirds of APP and the notional full-time service is fixed at 30 years.

28. For example, an officer who worked 40 years half-time, with £30 000 average pensionable pay. The officer would be entitled to:

$$\frac{\text{£20 000} \times 20}{30 \text{ years}} = \text{£13 333}$$

**Ill-health pensions**

29. Ill-health pensions should be calculated with the aid of the same formula as for ordinary pensions in order to even out the peaks and troughs of the present system.

**30. Officers with no more than 30 calendar years' service:**

The formula is:

Notional full-time ill-health pension x Reckonable service = ill-health pension  
Notional full-time service

- 31.** For example an officer with APP of £30 000 on retirement, has served three years half-time. Currently he would not qualify for an ill-health pension since the threshold is 2 years' reckonable service. Under the revised regulations the officer would receive half of what he would have received as a full-time officer i.e.  $(3/60 \text{ of } £30\,000) / 2 = £750 \text{ pa.}$  To take another example, an officer with APP of £30 000 on retirement, who had served 12 years half-time, under the revised regulations the officer would be entitled to the full-time equivalent and then pro-rated i.e.  $20/60 \text{ of } £30\,000 \times 6/12 = £5\,000.$
- 32.** Please note that in the formula above only the notional full-time pension includes ill-health enhancements and that such enhancements are subject to the limits set out in Part III of Schedule B. This ensures that once an officer reaches a notional full-time service of 26½ years he or she would no longer benefit from ill-health enhancements. The formula also ensures that the prospective notional full-time service to compulsory retirement age (if that would be reached before 30 years' notional full-time service) is subject to the same pro-rating as applies to the officer's career so far.
- 33.** For example, a constable who serves half-time for 15 years and comes to retire on ill-health aged 50. The notional full-time pension would be limited to the officer working full-time until compulsory retirement age (in this case, 20/60th). The 20/60 would then be pro-rated for periods of part-time service  $(20/60 \times 7½/15 = 10/60).$

*Officers with more than 30 calendar years' service:*

- 34.** Full-time officers cannot have their ill-health pensions enhanced beyond the 40/60ths they would have received after 30 years. In line with the principle of a fair share of what full-time officers receive, officers with part-time service will not receive enhancements based on prospective further service after the 30-year point either. However, they can continue to accrue more ill-health pension rights, based on actual service, up to the maximum of two thirds final salary in the same way as for an ordinary pension. The formula to use in calculating an ill-health pension accrued over 30 calendar years is the same as for an ordinary pension accrued over that time. **See paragraphs 27 and 28 above.**

*Underpin for officers who reduce their hours*

- 35.** The new regulations will also include an underpin so that an officer will not be disadvantaged from switching to working for shorter hours. This cannot happen under the previous system based on reckonable service only, but it can happen under the new pro-rating system. For example, an officer who worked full-time for 26½ years and then 1 year half-time afterwards would receive less than a full pension, since it would be subject to pro-rating. The underpin means that such an officer must be awarded the 26½-year ill-health pension based on the final salary at the 26½-year point (uprated in line with pensions increase) instead of the pro-rated proportion of the notional full-time ill-health pension payable after 27½ years, if the former is more advantageous.

- 36.** Unlike ordinary, short service and deferred pensions an ill-health pension may not always be larger under the new system than when calculated under the old. The amendment will provide for serving or former officers with part-time pensionable service pre-dating \*October 2005 to preserve their entitlement to an ill-health pension calculated under the previous system where the result would be more favourable.

### **Injury Awards**

- 37.** The principle of a fair share of the full-time equivalent has been used to bring injury awards into line with the rest of the regulations. Injury awards consist of an injury gratuity and a minimum income guarantee which is used to determine the amount of injury pension payable.

#### *Injury gratuity*

- 38.** For the injury gratuity, this means that it will be calculated as if the officer with part-time service had worked full-time throughout and then pro-rated for periods of part-time service.

$$\frac{\text{Notional full-time gratuity} \times \text{reckonable service}}{\text{Notional full-time service}} = \text{gratuity}$$

- 39.** For example, in the case of someone working half-time for 30 years, with a 25% or less level of disablement, the calculation would be:

$$\frac{12.5\% \times 15}{30} = 6.25\% \text{ of APP}$$

#### **40. *Minimum income guarantee and injury pension***

For the injury pension the first step will be to establish the minimum income guarantee (MIG). This will be subject to a similar pro-rating process:

$$\frac{\text{Notional full-time MIG} \times \text{reckonable service}}{\text{Notional full-time service}} = \text{MIG}$$

- 41.** In the case above the minimum income guarantee would be,

$$\frac{60\% \times 15}{30} = 30\% \text{ of APP}$$

- 42.** The injury pension would then be the difference between the minimum income guarantee and three-quarters of any other police pension together with any relevant benefits. For example, assuming that same former officer had an APP of £30,000 (with an MIG of £9,000 and an ill-health pension of £10,000) and was in receipt of no relevant benefits, the injury pension would be: £9,000 (MIG) - £7,500 (75% of £10,000) = £1,500.

### *Underpin for officers who reduce their hours*

43. The amendment will provide injury awards with the same underpin as for ill-health pensions so that an officer will not be disadvantaged from switching to working for shorter hours. For example, an officer in the lowest band who worked full-time for 25 years and then 1 year half-time afterwards would receive a gratuity of less than 12½ of APP and a minimum income guarantee of less than 60% APP, which is payable at the 25-year point, since it would be subject to pro-rating. The underpin means that such an officer must be awarded the injury gratuity and the minimum income guarantee he or she would have received after 25 years, based on the final salary at the 25-year point (uprated in line with pensions increase), instead of pro-rated awards payable after 26 years, if they are more advantageous.

Note: The underpins for ill-health pensions and injury awards are both mandatory, so that a former officer cannot be paid the higher injury award but the lower ill-health pension or *vice versa*.

### *Underpin to preserve level of injury award at pre \*October 2005*

44. Like ill-health pensions, injury awards under the new system may not always be larger than those calculated under the old. The underpin to be provided gives an additional safeguard for an officer serving on or after \*October 2005 in that it enables him or her to be given the injury award which would have been payable on the day before \*October 2005, calculated under the old system and based on the final salary at that date (uprated in line with pensions increase), if that is more advantageous than the applicable pro-rated award under the new system.

Note: This specific safeguard is not needed for ill-health awards since serving officers with part-time pensionable service pre-dating \*October 2005 have a continuing entitlement to an ill-health pension calculated under the old system if more favourable. By its nature this application of the injury award underpin for serving officers is limited to such time as the injury award under the new system matches the uprated award as of the day before \*October 2005.

### *Safeguards for former officers with retained rights to the previous calculation method*

45. The amendment will also provide for officers with part-time service who ceased to serve before \*October 2005 to preserve their entitlement to an injury award calculated under the previous system where the result would be more favourable.

### **Deferred pension**

46. Although deferred pensions are subject to uniform accrual over the period of hypothetical service, unlike ordinary and short-service pensions, the amendment regulations will also make changes to ensure deferred pensions should be calculated using the same pro-rating procedure. The current provisions for calculating prospective service to compulsory retirement age or the point at which the officer would have served for 30 calendar years, whichever is the earlier, will therefore be amended. This is key to calculating hypothetical service. Currently an officer would be deemed to have continued to have kept the same hours as he or she was working immediately before leaving the service.



47. Under the regulations as amended the formula for calculating the deferred pension (DP) for someone with part-time service will be as follows:

$$\frac{\text{Hypothetical DP if all service had been full-time} \times \text{reckonable service}}{\text{Notional full-time service}} = \text{DP}$$

48. For example, an officer who works full-time between the ages of 25-35 and then half-time between 35-45. If the officer leaves the service at that point with a deferred pension the calculation is as follows:

$$\frac{40/60 \text{ of APP} \times 15}{30} = 20/60\text{ths of APP}$$

#### **Transfers-in**

49. The Regulations will rectify as far as possible any inequality which affects a serving police officer or pensioner, this therefore involves also adjusting calculations of a transfer credit into the police scheme. However, the Regulations are not written so that part-time employment before joining the police force is treated as if it were part-time police service.

50. Transfers-in are converted into credits of "reckonable" service. The amendment regulations have been drafted so that in all cases the transfers-in should be calculated as if the officer had been working the credited period full-time in the police service. This enables those transferring in from a money-purchase scheme to be treated just as favourably as someone transferring in from a final salary scheme.

51. The formula would therefore be used in calculating an ordinary pension with transferred-in service (TIS) as follows:

$$\frac{\text{Notional full-time pension (incl TIS)} \times \text{reckonable service (incl TIS)}}{\text{Notional full-time service (incl TIS)}} = \text{ordinary pension}$$

52. For example, an officer has worked in a private company for 10 years part-time and transfers her pension into the police - say worth 3 years' reckonable service. If the officer then served in the police for 20 years half-time, her ordinary pension would be calculated as:

$$\frac{26/60 \text{ APP} \times 13 (3 + 10)}{23 (3 + 20)} = \text{pension}$$

#### **Qualifying periods for pension benefits**

53. The amendment regulations will specify all the references to pensionable service in the Police Pensions Regulations which should from \*October 2005 not be interpreted as reckonable service but as notional full-time service.

54. The list is a long one and the provisions are self explanatory, but the two most notable cases are the service requirements for an ordinary pension, which currently are measured in years of reckonable service: 30 reckonable years to qualify for an immediate pension on retirement irrespective of age, and 25 reckonable years for a pension payable from age 50. The amendment regulations change that to enable officers with part-time service to qualify for such benefits by

virtue of years of notional full-time service (i.e. calendar years). Hence an officer who has worked 30 calendar years' half time would be entitled to retire with an immediate pension.

### **Surviving spouses' and children's award on death (Schedules C and D)**

- 55.** Under the Police Pensions Regulations survivors' awards are either based on the officer's actual or notional pension or the officer's average pensionable pay. The new regulations will make no specific provision for the calculation of survivor benefits based on the pension of an officer with part-time service in the police. This is because any necessary pro-rating will either have been applied already to the officer's pension or deferred pension - in the case of an officer dying in retirement, or will be applied to the notional ill-health pension on which the survivor's pension is based - in the case of an officer dying in service.
- 56.** A key point to note is that a survivor's pension based on a notional ill-health pension is covered by the same underpin and safeguards as the officer would have been entitled to had he or she been medically retired instead of dying in service. Thus a survivor would have the same protection as the officer against being disadvantaged from his or her having switched to shorter hours – *see paragraph 34*. Similarly, the survivors of serving or former officers with part-time pensionable service pre-dating \*October 2005 benefit from the officers' preserved entitlement to a pension based on a notional ill-health pension calculated under the previous system where the result would be more favourable – *see paragraph 36*.
- 57.** Specific provision in the regulations is needed, however, to ensure that survivor benefits based on the officer's average pensionable pay are in proportion to the benefits in respect of officers who served full-time throughout. The amendment regulations will insert a new sub-paragraph in paragraph 4 of Part VI of Schedule J to provide that for the survivors of officers with part-time service the pro-rating principle should apply to the calculation of their pensions as well. The formula is expressed as,

Average pensionable pay of full-timer x reckonable service = pro-rated APP  
Notional full-time service

- 58.** For example, a widow entitled to a widow's special pension of 45% of her husband's average pensionable pay for a week. Say her husband had worked 20 years, half-time, and died with an APP of £500 per week. Her pension would be,

$$\frac{(\pounds 500 \times 10)}{20} \times 0.45 = \pounds 112.5$$

*Underpin for survivor benefits where officers reduced their hours*

- 59.** The amendment regulations will insert a new sub-paragraph (5) into Part VI of Schedule J to provide such survivor benefits with the same type of underpin as for ill-health pensions so that an officer will not be disadvantaged from switching to working for shorter hours. For example, the survivor of an officer who worked full-time for 20 years and then 1 year half-time afterwards must be given the award he or she would have received had the officer died after 20 years, based on the final salary at the 20-year point (uprated in line with pensions increase), instead of a pro-rated award payable after 21 years, if the former is more advantageous.

*Underpin to preserve level of survivor benefits at pre \*October 2005 level*

- 60.** The underpin at new sub-paragraph (5) will provide an additional safeguard for the spouse or dependant of an officer serving on or after \*October 2005 in that it enables him or her to be given the survivor's benefit which would have been payable on the day before \*October 2005, calculated under the old system and based on the officer's final salary at that date (uprated in line with pensions increase), if that is more advantageous than the applicable pro-rated survivor's benefit under the new system.

Note: This specific safeguard is not needed for pension scheme benefits since serving officers with part-time pensionable service pre-dating \*October 2005 confer a continuing entitlement to a survivor's pension calculated under the old system if more favourable – *see paragraph 61 below.*

**61.** *Safeguards for survivor benefits where officers retained rights to previous calculation method*

The amendment will also provide for the survivors of officers who had ceased to serve before \*October 2005 and had part-time service pre-dating then to benefit from the officers' preserved entitlement to a pension based on the average pensionable pay they would have had as a full-time officer without pro-rating. This will apply to pension scheme benefits where the part-time service was pensionable and also to non-pension scheme benefits awarded where death results from an injury in the execution of duty.

- 62.** This underpin is extended to the survivors of servicing officers with part-time pensionable service pre-dating \*October 2005 but only in the case of the pension scheme benefits specified.

- 63.** The amendment will also clarify that references to pensionable service in the context of calculating awards and eligibility for retained rights extends to officers who opted out of the Police Pension Scheme **but only for the purpose of non-pension scheme survivor benefits - i.e. those not listed in sub-paragraph (7).**

**Compensation**

- 64.** Arrears may need to be paid to pensioners or those managing their estate where calculation of a former officer's and/or a surviving relative's pension under the amended regulations would have led to a higher pension than that paid under the old regulations. In some cases a pension should have come into payment earlier as well. Similarly some deferred pensions may not only need re-valuing for future payment but also need to be backdated.

- 65.** The amendment will provide for interest to be added on any whole or part-payment of benefit which is more than 3 months late. This threshold is put in to prevent the payment of minimal amounts of interest. Where a payment is more than three months late the interest due should be calculated from the date the payment was first due. Calculations of interest on back-payments should be calculated at the fixed rate of 5% per year, compounded with yearly rests. Guidance on how the interest should be calculated is at Annex A.

- 66.** The regulations do not provide for interest to be paid on payments falling due on or after \*October 2005 and there is no general provision for paying interest under the Police Pensions Regulations. However, it is suggested that the same approach is adopted as above but on an administrative basis – i.e. 5% per year compounded with yearly rests on any payment more than 3 months late. This suggested (non-statutory) rate for payments falling due on or after \*October

2005 will be kept under regular review as it could become inappropriate if economic conditions changed.

67. Administrators should also note the tax implications for those receiving such backdated payments, since they could be liable for a higher rate of income tax on the payments than would have been the case if they had received them when they fell due. This is a particular risk where officers, former officers or their survivors are being paid a large back-payment as one sum, where they could be pushed into a higher income tax bracket as a result. It may be possible to count at least some of the back-payments for tax purposes as if they had paid at the time they fell due, and so be taxed at the appropriate rate. Recipients of the payments should be advised to pursue this with the Inland Revenue if they feel they have lost out.

### **Commutation of late payments**

68. Officers entitled to receive back-dated pension payments will need to be given the opportunity as soon as possible to commute part of that pension into a lump sum. **The commutation factors to use will be those that applied at the time the pension should have been paid.** There are three basic types of case involving the option of back-dated commutation:

those whose pension should have come into payment earlier - *see paragraph 69;* -

those whose pension should have been paid at a higher rate – *see paragraph 70;*

those whose pension should have been paid at a higher rate and whose lump sum should have been subject to a higher limit – *see paragraph 71.*

But note also that there may be a few officers who cannot opt for retrospective commutation since they should have been subject to the 2.25 x pension limit at the time of retirement – *see paragraph 72.*

69. Officers may have retired after 25 calendar years with a pension deferred until 60 whereas it should have been paid from age 50.

Example: An officer served for 26 calendar years, the last four being 50% part-time, and retired in 2003 at age 50 with APP £30,000. Under the regulations at the time he had accrued a deferred pension which he could not draw until age 60, since he had built up only 24 years of reckonable service. Under the regulations as now amended he was able to take an immediate pension on retirement with a lump sum of up to £31,500 [2.25 x £14,000] and a residual pension of £11,900 p.a. [=£14,000 – £31,500/15].

Note: **He should therefore be given the opportunity for retrospective commutation of part of his pension so that he can receive a back-dated lump sum plus the back-dated monthly payments of the residual pension.** Because nothing has been paid so far there are no complications involved other than arranging back-payments with interest. He should be offered the choice of retrospective commutation to take the maximum lump sum or part of it, or not commuting the pension at all, so that it is all taken in the form of a monthly pension.

**70.** Officers may have retired with both a lower pension and a smaller lump sum than they should have received.

Example: An officer served for 28 calendar years, the last four being 50% part-time, and retired in 2003 at age 50 with APP £30,000. Under the regulations at the time he had accrued a pension of £16,000  $[(20/60 + 12/60) \times £30,000]$  which he opted to commute to the maximum extent to give a lump sum of £36,000  $[=2.25 \times £16,000]$  and residual pension of £13,600 p.a.  $[=£16,000 - £36,000/15]$ . Under the regulations as now amended he was entitled to a pension on retirement of £16,714 which he could convert into a lump sum of up to £37,607  $[2.25 \times £16,714]$  and a residual pension of £14,207 p.a.  $[=£16,714 - £37,607/15]$ .

**Note: He should therefore be given the opportunity for retrospective commutation of part of his pension so that he can receive a back-dated lump sum plus the back-dated monthly payments of the residual pension.** Because the pension and the maximum lump sum now available have increased in proportion to each other, there are no complications involved other than the payment of interest. He should be offered the choice of retrospective commutation to take the extra £1,607 of lump sum or part of it, or not commuting the extra pension at all, so that it is all taken in the form of an extra monthly pension.

**71.** Officers may have retired after 30 calendar years with a pension which should have been paid at a higher rate and whose lump sum should have been subject to a higher limit.

Example: An officer served for 30 calendar years, the last four being 50% part-time, and retired in 2003 at age 50 with APP £30,000. Under the regulations at the time he had accrued a pension of £18,000  $[(32/60 + 4/60) \times 30,000]$  which he opted to commute to the maximum extent to give a lump sum of £40,500  $[=2.25 \times £18,000]$  and residual pension of £15,300 p.a.  $[=18,000 - 40,500/15]$ . Under the regulations as now amended he accrued a pension of £18,667  $[=28/30 \times 2/3 \times 30,000]$  of which he could have commuted up to a quarter to provide a lump sum of £70,001  $[£4,667 \times 15]$  and a residual pension of £14,000  $[£18,667 - £4,667]$ .

**Note: He should therefore be given the opportunity for retrospective commutation of part of his pension – he has three options:**

Commute retrospectively to the maximum extent to give a lump sum on retirement of £70,000  $[=1/4 \times 18,667 \times 15]$  and residual pension of £14,000 p.a.  $[=3/4 \times 18,667]$ . Ignoring pension increases for simplicity, the level of pension in payment should be reduced to the new level and an additional lump sum payment of around £29,794  $[(70,000 - 40,500) \times 1.05 \times 1.05 - 2 \times (15,300 - 14,000) \times 1.05]$  should now be made.

Commute retrospectively to such an extent that the level of pension in payment is unchanged. A lump sum of  $[(18,667 - 15,300) \times 15]$  £50,500 would have been payable at retirement to leave a pension of £15,300 p.a. An addition lump sum payment of £11,025  $[(50,500 - 40,500) \times 1.05 \times 1.05]$  should now be made.

Not commute any of the additional pension entitlement. The pension in payment should be increased to £15,967 p.a.  $[=18,667 - 40,500/15]$  and back-payments should now be paid as a lump sum of around £1,400  $[=2 \times (15,967 - 15,300) \times 1.05]$ .

72. There is a further category of officer where retrospective commutation is not a possibility.

Example: An officer served for 26 calendar years, the last four being 50% part-time, and retired voluntarily in 2003 at age 55 years 6 months, half way through an extra year, with APP £30,000. Under the regulations at the time he had accrued a pension of £14,000  $[(20/60 + 8/60) \times £30,000]$  which he opted to commute to the maximum extent to give a lump sum of £50,750  $[=£3,500 \times 14.5]$  and residual pension of £10,500 p.a.  $[=£14,000 - £3,500]$ . Under the regulations as now amended he accrued a pension of £14,769  $[=£16,000 \times 24/26]$  which, as an officer with an ordinary pension, he could have converted into a lump sum of up to £33,231.

**Note: He cannot retrospectively commute any of his added pension for a lump sum since he should have received a smaller lump sum at the time of retirement.**

### **Specific points for pension administrators to note**

73. Administrators will need to note the following key points and the action to take – *see paragraphs 77, 83 and 85 in particular.*

### **Application to serving officers – résumé**

74. All new joiners on or after \*October 2005 and officers serving on \*October 2005 without any part time pensionable service in the Police Pension Scheme before that date will automatically come under the Police Pensions Regulations as amended by these amendment regulations.

75. However, officers serving on \*October 2005 with part-time pensionable service under the Police Pension Scheme before that date are eligible for certain protections under the Police Pensions Act 1976. As this package of measures may lead to some ill-health pensions being less favourable than under the regulations before amendment, such officers would have an entitlement to remain under the old regulations unless they elected to accept the new regulations.

76. In view of the complexities of trying to conduct an election exercise, the amendment regulations provide that where an officer who is serving on or after \*October 2005 and has part-time service under the Police Pension Scheme before that date is medically retired (or a death-in-service award becomes payable which is based on a notional ill-health pension in respect of that officer) the officer (or his or her surviving relative) should automatically be given the more advantageous award, whether under the old or new system of calculating an ill-health pension. This provision makes an election exercise unnecessary.

Note: This provision applies also to those returning to the service on or after \*October 2005 provided they are eligible to re-join the current Police Pension Scheme and have part-time pensionable service before that date.

**77. Pensions administrators will therefore need to check in any case of medical retirement involving such an officer whether the old system of calculating his or her ill-health pension would result in the higher award.**

78. Similar career-long protection under the Police Pensions Act 1976 does not apply to injury awards or injury-related death benefits:  
an injury award under regulation B4;

a widow(er)'s special award under regulation C2;  
a widow(er)'s augmented award under regulation C3;  
a child's special allowance under regulation D2;  
a dependent relative's special pension under regulation E1.

**79.** All officers serving on \*October 2005 will be subject to the new regulations in respect of such awards, whether or not they are in some cases less favourable in effect but, as explained at paragraphs 43 and 59 above, they and their survivors will have an underpin to preserve the level of their injury award or injury-related survivor benefit at its pre \*October 2005 level, if that (duly uprated in line with pensions increase) is more favourable.

#### ***Application to former officers – résumé***

**80.** The regulations as amended will apply to those who have left the service before \*October 2005, or to their surviving relatives, with backdated effect as from 1 July 1992 **only** if:

(a) those former officers had part-time service in the police as members of the Police Pension Scheme;

(b) or had such service as non-members in the case of injury benefits; and

(c) it would be beneficial to them for the regulations to apply.

Note: Former officers are given the same level of safeguard by the Police Pensions Act 1976 for injury awards and injury-related death awards as for pension scheme benefits.

**81.** Former officers and their surviving relatives in receipt of a pension will fall into three categories:

(a) those with an ordinary, short-term or deferred pension in payment, or with a survivor benefit based on such a pension, all of whom stand to be either better off or no worse off with their pension recalculated under the regulations as amended;

(b) those with an ill-health or injury award, or with a survivor benefit based on such an award, some of whom may be better off with their pension recalculated; and

(c) surviving spouses and dependants with a pension scheme benefit or a special, or augmented award or under Parts C, D or E, which are linked to average pensionable pay, who would be worse off under the new regulations.

All such cases need to be reviewed to confirm in which category they fall, so that corrections can be made where necessary.

**82.** Former officers with a deferred pension or with an ordinary pension awaiting payment at age 50 will virtually all stand to benefit from the change in the form of a larger pension, but some may also stand to benefit from earlier payment of their pension if they would have had 25 years or 30 years' service as full-timers. All such cases need to be reviewed so that the former officer receives the correct amount of pension at the correct time.

- 83.** Forces may not be able to establish with complete certainty which pensioners or deferred pensioners might benefit from having their pension recalculated. The regulations therefore provide for recalculation to require an application by or on behalf of the pensioner or deferred pensioner for a check to be made. **Pension administrators should nevertheless try to establish as far as they can which of their former officers would have been affected and supplement their own researches with a trawl of pensioners/surviving relatives/deferred pensioners where that is necessary.** The number of those affected will be limited by the fact that part-time service in the police did not start until 1 July 1992.
- 84.** All officers who are paying additional contributions for extra widowers' benefits or increased benefits and who are currently serving part-time will required to be alerted to the need for them to vary their election to pay such contributions if they want to keep them at a their current reduced level (i.e. based on the same percentage of the pensionable pay as it would be were they serving full-time). The time limit for varying their election is three months following \*October 2005. If they do nothing their payments will automatically be increased to the same amount of money that they would have to pay as full-timers.
- 85. Once the amending regulations have come into force pensions administrators should write out immediately to all such officers advising them of the situation. A sample letter is at Annex B.**

Yours sincerely



**Jim Preston**



## ANNEX A

### **Interest on Backdated Pension Payments to Police Part-Timers [DRAFT]**

Under regulation 4 the backdated payments to part-timers should now be paid "together with interest calculated at the rate of 5 per cent per year, compounded with yearly rests". In other words, compound interest at 5% per year must be applied to each payment, with each additional instalment of pension or other payment having interest applied separately. If the pension administration software does not perform these calculations it may be most convenient to program a spreadsheet to perform the calculations. The following examples illustrate the calculations that are required.

Example 1. The back-payment is £100 and is being paid exactly one year after falling due. The payment to be made including interest is  $£100 \times 1.05 = £105$ .

Example 2. The back-payment is £100 and is being paid exactly two years after falling due. The payment to be made including interest is  $£100 \times 1.05 \times 1.05 = £110.25$ . There is a more concise way of writing this calculation:  $£100 \times 1.052$  (i.e.  $1.052 = 1.05 \times 1.05$ ). This concise method can be used directly on a calculator using the "xy" button. It can also be entered as a formula on a spreadsheet as " $=1.05^2$ ".

Example 3. To take an example with real dates, suppose that the back-payment is £100 and fell due on 1 June 2002. The payment is being made on 15 February 2005, some 2 years and 259 days later. The payment to be made including interest is calculated as:  $£100 \times 1.05 \times 1.05 \times 1.0355 = £114.16$  (where 0.0355 is 259/365, or 0.710, of the 5% annual rate of interest). Using the more concise notation this calculation can be written as  $£100 \times 1.052.710$  (or " $=100*1.05^2.710$ " as a spreadsheet formula), which gives the answer £114.14. These two answers are very marginally different due to rounding effects, but either will do.

Example 4. The back-payments are a monthly top-up to pension of £100 starting on 1 January 2004, with a pension increase of, for the example, 1% applying from the May 2004 payment onwards. The payment to be made on 15 February 2005 including interest is calculated as shown in the table below. Note no interest is applicable for payments falling due after the regulations are made or that are less than three months late. The total amount to be paid is calculated as £1,449.02.

<b>Date</b>	<b>Back-payment due</b>	<b>Years elapsed to 15-Feb-05</b>	<b>5% compound interest calculation</b>	<b>Payment due with interest to 15-Feb-05</b>
01-Jan-04	£100.00	1.126	$£100.00 \times 1.05 ^ 1.126$	£105.65
01-Feb-04	£100.00	1.041	$£100.00 \times 1.05 ^ 1.041$	£105.21
01-Mar-04	£100.00	0.962	$£100.00 \times 1.05 ^ 0.962$	£104.80
01-Apr-04	£100.00	0.877	$£100.00 \times 1.05 ^ 0.877$	£104.37
01-May-04	£101.00	0.795	$£101.00 \times 1.05 ^ 0.795$	£104.99
01-Jun-04	£101.00	0.710	$£101.00 \times 1.05 ^ 0.710$	£104.56

\*October 2005 =the date the regulations come into force in Scotland  
SPPA Circular 2005/5  
PPS – Part-time Service

01-Jul-04	£101.00	0.627	$£101.00 \times 1.05^{0.627}$	£104.14
01-Aug-04	£101.00	0.542	$£101.00 \times 1.05^{0.542}$	£103.71
01-Sep-04	£101.00	0.458	$£101.00 \times 1.05^{0.458}$	£103.28
01-Oct-04	£101.00	0.375	$£101.00 \times 1.05^{0.375}$	£102.87
01-Nov-04	£101.00	0.290	$£101.00 \times 1.05^{0.290}$	£102.44
01-Dec-04	£101.00	-	-	£101.00
01-Jan-05	£101.00	-	-	£101.00
01-Feb-05	£101.00	-	-	£101.00
<b>TOTAL</b>	<b>£1,410.00</b>			<b>£1,449.02</b>

## ANNEX B

### Specimen letter to officers paying additional contributions which are subject to automatic increase from \*October 2005

Our records show that you are currently paying added contributions to increase [the widower's pension element of your pension benefits] [your pension benefits] and that you are serving on a part-time basis.

As an officer with part-time service you will be interested to know that the Police Pensions Regulations have been amended with effect from \* October 2005 to provide a fairer system of dealing with the pensions of officers in your position. There are two main benefits:

- you will become entitled to pension benefits, such as an ordinary pension after 25 years' service, at the same point as you would have done had you been in full-time service throughout your police career; and
- the pension you will receive will be based on a fair share of what you would have received if you had been in full-time service throughout your police career – whereas before the change a person who had served half time for 30 years would have received a pension of 15/60ths of final pensionable pay, that person would now receive 20/60ths, which is half the 40/60ths a full-time officer would get.

Our purpose in writing to you now, however, is to draw your attention to another provision of the amendment regulations. You are at present paying added contributions at [ ]% of your pensionable pay for [ ] benefits. Because of the original wording of the [Police Pensions Regulations 1987] [Police Pensions (Purchase of Increased Benefits) Regulations 1987], which were drafted when there was no part-time service, the percentage of pensionable pay you have been contributing for these extra benefits has stayed the same, whether your pay was at the full-time or part-time rate.

There has been no disadvantage for you as a result since the added contributions that you have been paying so far while on part-time service have been purchasing the same amount of extra pension benefits as you would have bought had you been making higher contributions as a full-timer. In keeping with the spirit of part-time service attracting its fair share of pension benefits this is now being changed with effect from \*October 2005.

With effect from \*October 22005 the regulations have been amended to provide that an officer on part-time service who makes smaller contributions will purchase a proportionately reduced amount of extra benefits. It is realised that many officers may not want to reduce the extra benefits that they are purchasing, since they have been counting on retiring with the full amount they originally elected to buy. Because of this the amendment regulations provide for a default position - **if you do not vary your election then your added contributions will automatically increase to the amount you would be paying as a full-timer and remain at that level for the rest of the period in which you are due to continue your payments.**

If, however, you do not want to pay at the full-time rate you have the opportunity to vary your election to pay added contributions so that your payments continue at the same percentage of your pay as before \*October 2005. **If you want to vary your election you must sign and return the attached form by three months from \*October 2005.** Varying your election will mean that you will not be able to buy the full amount of the extra benefits you originally elected to buy, but only a proportion of them.

Please note that a decision to let your added contributions increase to the full-time rate or to vary your election so that they stay at the same percentage of your pay as before \*October 2005 will be final. There will be no further opportunity to change. Thus if you do nothing (i.e. do not vary your election) your added contributions from \*October 2005 onwards will be set at the full-time equivalent level until they cease to be payable, whatever your determined hours may be. If you vary your election your added contributions from \*October 2005 onwards will be set at a constant percentage of your pensionable pay, whether that is related to full-time or part-time service. **Please note also that your ordinary pension contributions of 11% are not affected by this.**

You may want to continue to purchase the full amount of extra benefits you elected to buy but be concerned that increased added contributions, when added to your ordinary pension contributions, will either breach the Inland Revenue limit of 15% or cause you financial hardship. We cannot give you advice, but you should bear in mind the following:

(a) there is specific provision in the regulations for the automatic capping of your contributions to avoid their breaching Inland Revenue limits; and

(b) the regulations give the Police Authority discretion to allow discontinuation of payments for a period if payments would cause you undue financial hardship.

In both cases the extra benefits you are purchasing will be pro-rated to reflect the reductions in your added contributions.

**Please sign and return the attached form to us by three months from \*October 2005 whether you wish to vary your election or not. This will enable us to have confirmation that you received this letter and to have a record of your decision.** If you have any questions please do not hesitate to call xxxxxxxxxxxxxxxxxxxx on xxxxxxxxxxxx.

*Please delete one of the following as appropriate and sign below:*

\* I have received your letter of ..... and have decided **not** to vary my election to purchase increased [widower's] benefits.

\* I have received your letter of ..... and have decided to vary my election to purchase increased [widower's] benefits.

*Signed*..... *date* .....

*Full name*.....

**This circular should be brought to the immediate attention of force personnel officers and the administrators of the Police Pension Scheme.**