

Police Pension Scheme Stakeholders

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27 July 2017

Dear Colleagues

## **Draft regulations - The Police Pension Scheme (Scotland) Amendment Regulations 2017**

### **Content**

1. The purpose of this consultation is to seek the views of police stakeholders on draft amendments to Police Pension Scheme (Scotland) Regulations 2015 (“the 2015 scheme”).

The amendments cover the following areas:

#### **Automatic enrolment**

2. Newly appointed officers to Police Service of Scotland (and the legacy forces before 2013) are automatically enrolled into the pension scheme, although officers can opt out on request to the scheme manager. Under the Pensions Act 2008, all employers, including Police Scotland, are obliged to meet statutory requirements on ongoing pension provision. With the formation of the single service in 2013, Police Scotland was given a staging date for automatic enrolment of 1 May 2017. Regulations 4 to 9 amend the scheme regulations to reflect the statutory requirements and to provide for the force to be exempt from the requirement to re-enrol certain officers, such as those with tax protected status. The regulations are also intended to provide that where an officer with deferred benefits again opts out within three months of re-enrolment, they are treated as not having been a member of the scheme in this later period.

#### **Shared parental leave**

3. The Police Negotiating Board reached agreement in 2015 that the principles contained in the Children and Families Act 2014 should extend to police officers.

SPPA Circular 4/2016 provided for this agreement to be applied administratively pending the appropriate legislation. The Police Service of Scotland Regulations 2013 were amended in December 2016 (SSI 2016/419), introducing shared parental leave as an entitlement for police officers and allowing Scottish Ministers to determine in respect of constables the leave and pay available to adopters and birth parents taking parental leave. Regulations 3, 10, 16, 17 and 19 update the 2015 scheme regulations with appropriate references to the amended 2013 regulations.

### **Transfers between UK police forces**

4. Where an officer moves from one police force to another, current arrangements mean the new employing force takes on the liability for the officer's accrued pension. A transfer statement is provided by the officer's former scheme manager however there is no exchange of transfer values between authorities, unlike transfers from other pension providers or other public service pension schemes. This system has been in place since 1996 and was introduced in recognition of the police schemes' funding arrangements.

5. In discussions leading up to the reform of the police pension scheme in 2015, Scottish Ministers agreed to provide for more favourable actuarial factors for early retirement from age 55. This was funded by changing the scheme accrual rate from the proposed UK-wide 1/55.3ths of pensionable earnings to 1/56.1ths, leading to a reduction of around 15% at age 55 compared with a reduction of around 22% elsewhere in the UK. This difference, in absence of an appropriate transfer value, exposes the Scottish 2015 scheme to additional liability as where an officer from another UK force moves to Police Scotland having accrued pension at a faster rate, they may have the option to take early retirement at the more preferential rate.

6. Regulation 12 therefore proposes an amendment to scheme regulation 41 on the actuarial reduction on early payment of pension in relation to an officer who has transferred from another force. At retirement the early retirement factor applicable to the scheme from which the officer transferred should be applied to the appropriate proportion of full retirement pension accrued in the officer's former scheme. This provision closes a loophole which would otherwise potentially add significant long-term cost to the scheme. However, whilst the accumulative savings are notable, on an individual level the impact is not as significant and it is not expected that this policy would impact on recruitment trends between forces.

7. The regulation only covers circumstances where an officer moves to Scotland from another UK police force. An officer who moves from Scotland to another UK force currently has accrued pension at a slightly slower rate than UK colleagues, and loses access to the early retirement factors designed to balance this accrual. In order for the officer to retain access to the applicable Scottish early retirement factor for the pension accrued in Scotland, equivalent legislation would need to be introduced in England and Wales and Northern Ireland. In this consultation, departments and stakeholder groups throughout the United Kingdom are invited to consider the merits of a reciprocal arrangement that might introduce portability of early retirement factors, ensuring fairness for all officers moving between forces.

## **Administration where an ill-health pension ceases to be payable**

8. Regulations 13 and 14 insert new regulations 51A and 55A to make provision for the action to be taken where an ill-health pension ceases to be payable.

9. Regulation 51A provides that where the officer returns to pensionable service, the retirement account is closed and the scheme manager must re-establish an active member's account. The level of pension recorded in the active member's account should equal the amount of lower-tier ill health pension payable when the award was first made. For the period where the officer was not in pensionable service, they are to be treated as having been in pensionable employment but having received no pay.

10. Regulation 55A provides that where an ill-health pension ceases to be payable and the officer does not return to pensionable service, the retirement account is closed and a deferred pension account established, equalling the level of lower-tier ill health pension at the time the ill-health pension became payable.

## **Surviving adult partner pensions**

11. Regulation 15 substitutes existing scheme regulation 125. Under the provisions of the scheme, unmarried partners of members or pensioners may be eligible for survivor benefits providing certain underlying criteria are met, including the requirement for a member to nominate the surviving adult partner to receive benefits in the event of the member's death.

12. On 8 February 2017 the Supreme Court determined that refusing a claim to a survivor pension under the Local Government Pension Scheme (Northern Ireland) on the grounds that a nomination form had not been completed, despite the underlying conditions being met, was incompatible with Article 14 of the European Convention on Human Rights. The requirement for the scheme manager to have received a surviving partner declaration from the member is therefore removed. All other eligibility criteria remain unchanged. Similar changes will be made to the 2006 pension scheme regulations in due course, although as advised in SPPA Circular 3/2017, administrative arrangements are in place in advance of the legislative changes.

## **Minor amendments**

13. The draft amendments clarify some definitions contained in the 2015 scheme regulations, with retrospective effect. Regulation 3 clarifies the meaning of "index adjustment" for the purposes of pension revaluation. Regulation 11 corrects the meaning of "retirement index adjustment" in regulation 37 of the 2015 scheme, and regulation 18 amends the meaning of "transfer date" in regulation 178 to mean the later of the a) two months from the date a transfer statement was issued, or b) the date the transfer payment is received by the scheme manager.

## Consultation

14. Comments are invited on the draft regulations but in particular on the following questions:

**1 Do you consider there to be any implications resulting from the changes to the treatment of early retirement factors for officers transferring to Police Scotland?**

**2. Do regulations 4-9 adequately provide for the employer's responsibilities under automatic enrolment?**

You can respond to this consultation on line via the following link:

[https://www.surveymonkey.co.uk/r/Amendment\\_regulations\\_2017](https://www.surveymonkey.co.uk/r/Amendment_regulations_2017)

Alternatively you may complete the Consultation Response Form attached at Annex A which can be submitted electronically to [policepensionsreform@gov.scot](mailto:policepensionsreform@gov.scot) or by post to the following address:

Police Pensions Consultation  
SPPA Policy  
7 Tweedside Park  
Tweedbank  
Galashiels  
TD1 3TE

A printable Consultation Response Form is included at Annex A.

**The consultation will close on Monday 18 September and we ask that anyone wishing to respond does so by then.**

A copy of the consultation documentation is also available on the [SPPA website](#).

15. We intend to publish a summary of consultation responses as soon as possible after the consultation closes. We would like to be able to include any response you make in that summary. However, if you ask us not to publish your response to this consultation, we will regard it as confidential.

16. Respondents should also be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and will have to respond appropriately to any relevant request made to the SPPA under that Act for information concerning this consultation exercise.

Yours faithfully

Iain Coltman  
Senior Policy Manager  
Scottish Public Pensions Agency

## ANNEX A

### CONSULTATION RESPONSE FORM - POLICE PENSION SCHEME CONSULTATION ON DRAFT REGULATIONS –The Police Pension Scheme (Scotland) Amendment Regulations 2017.

#### 1. Name/Organisation

Organisation Name

Title

Surname

Forename

#### 2. Postal Address

Postcode

Phone

Email

**3. Permissions - I am responding as...** (please complete either sections (a), (b) and (d) or sections (c) and (d):

**Individual**

or

**Group/Organisation**

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please state yes or no:* \_\_\_\_\_

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please state yes to one of the following:*

Yes, make my response, name and address all available .....

or

Yes, make my response available, but not my name and address .....

or

Yes, make my response and name available, but not my address .....

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please state yes or no:* .....

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please state yes or no:* .....

## ABOUT YOU

I am responding ...

- as a member of the 1987 scheme (old scheme)
- as a member of the 2006 scheme (new scheme)
- as a member of the 2015 scheme (CARE scheme)
- on behalf of an Employer Organisation
- on behalf of a Trade Union/Staff Association
- other (please specify)

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What is your gender?

- I am female
- I am male

I am employed as...

- a police officer
- I'm retired
- other (please specify)

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What is your working pattern?

- I work part-time
- I work full- time
- Not applicable

## CONSULTATION QUESTIONS

**Question: Do you consider there to be any implications resulting from the changes to the treatment of early retirement factors for officers transferring to Police Scotland?**

**1.**

Comments:

**Question: Do regulations 4-9 adequately provide for the employer's responsibilities under automatic enrolment?**

**2.**

Comments:

**Other comments:**

Please e-mail your response to: [policepensionsreform@gov.scot](mailto:policepensionsreform@gov.scot)  
Or post your response to:

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SPPA Policy  
7 Tweedside Park  
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The closing date for this consultation is Monday 18 September 2017.