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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No.**

**PENSIONS**

**The Police Pension (Amendment) (Scotland) Regulations 2010**

*Made* - - - - 2010

*Laid before the Scottish Parliament* 2010

*Coming into force* - - 28th March 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 1 of the Police Pensions Act 1976(a) and 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 (Amendment) (Scotland) Regulations 2010.

(2) These Regulations come into force on 28th March 2010 and have effect from that date except that regulation 2(3) and Schedule 3 have effect from 1 April 2004 until 30 September 2006(c).

(3) These Regulations extend to Scotland only.

**Interpretation**

2. In these Regulations—

the “1987 Regulations” means the Police Pensions Regulations 1987(d);

the “2007 Regulations” means the Police Pensions (Scotland) Regulations 2007(e); and

the “Injury Benefit Regulations” means the Police (Injury Benefit) (Scotland) Regulations 2007(f).

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- (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 1998 (c.46).
- (b) See section 2(3) of the Police Negotiating Board Act 1980 (c.10), which substituted the Police Negotiating Board for the United Kingdom for the Police Council for the United Kingdom.
- (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 and 2006/285.
- (e) S.S.I. 2007/201.
- (f) S.S.I. 2007/68.

**Amendments to regulations**

- 3.—(1) Schedule 1 (which makes amendments to the 1987 Regulations) has effect.
- (2) Schedule 2 (which amends references to the Government Actuary in the 1987 Regulations) has effect.
- (3) Schedule 3 (which makes further amendments to the 1987 Regulations) has effect.
- (4) Schedule 4 (which makes amendments to the 2007 Regulations) has effect.
- (5) Schedule 5 (which makes amendments to the Injury Benefits Regulations) has effect.

St Andrew's House,  
Edinburgh  
(date)

Authorised to sign by the Scottish Ministers

## SCHEDULE 1

(Regulation 2(1))

### Amendments to the Police Pensions Regulations 1987

1. The 1987 Regulations are amended as follows.
2. For regulation A15(1) (alterations in police areas) substitute—

“(1) Where a police area is or has been combined with another police area by an order made under section 21B of the Police (Scotland) Act 1967(a), the police force, the police authority, and police fund for the combined police area of which the first named area for the time being forms part shall, for the purposes of these Regulations, be deemed to be the same force, authority, pension fund, and police fund as the force, authority, pension fund and police fund for the first-named area.”.
3. For regulation A16(b) to (e) (transfers) substitute—

“(b) at the end of a period of relevant service joining another home police force as a regular policeman; or”.
4. In regulation A17 (retirement)—
  - (a) at the end of paragraph (1)(aa) insert “and”;
  - (b) at the end of paragraph (1)(b) for “; and” substitute “;”;
  - (c) omit paragraph (1)(c);
  - (d) in paragraph (1)(e) omit “with such consent as is mentioned in paragraph (2)”;
  - (e) omit paragraph (2).
5. In regulation A(20) (compulsory retirement on grounds of disablement) —
  - (a) for “Regulation” substitute “paragraph”;
  - (b) the existing provisions become paragraph (1); and
  - (c) after that paragraph insert—

“(2) This paragraph applies to a regular policeman who is permanently disabled for the performance of his duty but who, in accordance with a determination of the police authority in the circumstances of his case, continues to serve as such.

(3) The police authority for the force in which a regular policeman to whom paragraph (2) applies is serving may consider, at such times as they may in their discretion determine, whether the disablement has ceased.

(4) If on any such consideration the police authority, having considered all the relevant circumstances, advice and information available to them, determine that the policeman ought to retire on the ground that he is permanently disabled for the performance of his duty they shall require him to retire under paragraph (1) (subject to the proviso to that paragraph).”.
6. In regulation B5(2)(b) (policeman’s deferred pension) omit “or to an award under regulation 11 of the Police (Injury Benefit) (Scotland) Regulations 2007”.
7. For regulation B8 (commutation-small pensions) substitute—

“**B8.**—(1) Where the annual rate of any pension payable to or in respect of a regular policeman under this Part, regulation J1(2) (policeman with a guaranteed minimum for the purposes of the Social Security Pensions) or Part M (pension sharing) does not exceed the small pensions commutation maximum, the police authority may pay the person entitled to

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(a) 1967 c.77 section 21B was inserted by section 34 of the Local Government etc. (Scotland) Act (c.39), section 34.

the pension a lump sum of such an amount as [the Scheme Actuary advises represents the capital value of the pension][is the actuarial equivalent of the pension, calculated from tables prepared by the Scheme Actuary] if—

- (a) that person consents; and
- (b) where the pension payable to that person is one which may not be less than that person's guaranteed minimum, he has reached state pension age.

(2) If—

- (a) a person is entitled to more than one pension under this Part or regulation J1(2);
- (b) a person is entitled to more than one relevant award in respect of the same regular policeman; or
- (c) a pension credit member is entitled—
  - (i) to more than one pension under Part M; or
  - (ii) to one or more pensions under this Part or regulation J1(2) in addition to one or more pensions under Part M,

those pensions may only be commuted under this regulation if they do not in aggregate exceed the amount that is permitted to be commuted under all the commutation requirements that apply in the circumstances in question.

(3) The payment of a lump sum under this regulation in respect of pension discharges the relevant police authority from all liability in respect of that pension.

(4) In this regulation—

“commutation requirements” means requirements permitting the commutation of small pensions that are imposed—

- (a) by regulation 19,20, or 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996;
- (b) by regulation 2 of the Occupational Pension Scheme (Assignment, Forfeiture, Bankruptcy etc) Regulation 1997;
- (c) by regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000; or
- (d) [by paragraph 7 of Schedule 29 to the Finance Act 2004 (which defines trivial commutation lump sums for the purposes of Part 1 of that Schedule)];

“relevant award” means an award under any of the following—

- (a) these Regulations;
- (b) the Police Pensions (Scotland) Regulations 2007(a);
- (c) the Police (Injury Benefit)(Scotland) Regulations 2007(b);
- (d) the Police Pensions (Additional Voluntary Contributions) Regulations 1991(c); and

“small pensions commutation maximum” means the amount that is permitted to be commuted, having regard to all the commutation requirements that apply in the circumstances in question.

**8.** In regulation B11 (deduction of tax from certain awards)—

(a) in paragraph (1) for “repayment of contributions within the meaning of paragraph 2 of Part II of Schedule 5 to the Finance Act 1970” substitute “short service refund lump sum within the meaning of section 205 of the Finance Act 2004”; and

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(a) S.S.I 2007/201.  
(b) S.S.I. 2007/68.  
(c) S.I. 1991/1304.

(b) for paragraph (2) omit from “the tax for the time being chargeable thereon under paragraph 2 of the said Part II” substitute “the charge to income tax arising under that section”.

**9.** For regulation E3A(4) (lump sum death grant) substitute—

“(4) The grant is to be paid to any widow who qualifies for it; but if there is no such widow, the police authority may in their discretion pay the grant to the personal representatives.”.

**10.** In regulation E8 (increase of widow’s pension or child’s allowance during first 13 weeks)—

- (a) in paragraph (2A)(b) for “regulations 49 to 52B of the Police Regulations 1987” substitute “Schedule 3 to the Police (Scotland) Regulations 2004(a)”; and
- (b) in paragraph (2B)(a) after “Part V of that Schedule (member’s injury award)” insert “or to an injury award under regulation 11 of the Injury Benefit (Scotland) Regulations 2007”.

**11.** In regulation E9(2) (increase of awards (other than flat-rate awards) by reference to the Pensions (Increase) Acts)—

- (a) omit “Where the relevant award is a child’s allowance,”; and
- (b) for “so long as the allowance is payable” substitute “so long as the pension is payable”.

**12.** In regulation F6(1A) (previous service reckonable under current interchange arrangements) omit “, other than rights to benefits arising out of a free-standing additional voluntary contributions scheme”.

**13.** In regulation F8(1)(b) (transfer values payable between police authorities) omit “with such consent as mentioned in regulation A17(2)”.

**14.** In regulation F10(4) (transfer values payable following cessation of contributions)—

- (a) for “Section 1 of Part IV of Schedule F” substitute “tables and guidance prepared by the Scheme Actuary and approved by the Scottish Ministers”; and
- (b) in the proviso omit “disciplinary proceedings or”.

**15.** In regulation G4(5) (election not to pay pension contributions) in the proviso omit subparagraph (i).

**16.** Omit regulation J1(6)(a) (policeman with a guaranteed minimum for the purposes of the Social Security Pensions Act 1975).

**17.** In paragraph 8(2) and (3) of Schedule H (medical appeals), for “less than 11 days before the hearing (excluding weekends and public holidays)” substitute “less than 22 days before the hearing (including weekends and public holidays) before the date appointed for the hearing”.

**18.** In Part 1 (personal awards) of Schedule J (special cases – exceptions and modifications) omit paragraph 9(4).

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(a) S.S.I. 2004/257.

## SCHEDULE 2

### Amendments to references to the Government Actuary in the Police Pensions Regulations 1987

1. In the following provisions of the 1987 Regulations for “Government Actuary” substitute “Scheme actuary”—

- (a) regulation B7(7);
- (b) regulation B9(8);
- (c) regulation B12(a);
- (d) regulation C6(3);
- (e) regulation C10;
- (f) regulation E3(2)(c);
- (g) regulation E6(3);
- (h) regulation E11;
- (i) regulation F10(4);
- (j) regulation F11(7) (in each place);
- (k) regulation G6(4A) (in each place);
- (l) regulation G7(5);
- (m) regulation G8(3) and (7);
- (n) regulation K1(5)(b);
- (o) regulation M18;
- (p) paragraph 3 of Part IV of Schedule B;
- (q) Part II of Schedule E;
- (r) Part III of Schedule E;
- (s) paragraphs 6(2), 9A(2), 10(2) and 13 of Section 1 of Part II of Schedule F;
- (t) paragraphs 4 and 5 of Section 1 of Part IV of Schedule F;
- (u) paragraph 1(aa)(iii) of Section 2 of Part IV of Schedule F; and
- (v) paragraph 4 of Section 3 of Part VI of Schedule J.

2. In Schedule A (glossary of expressions) in the appropriate place insert—

““the Scheme actuary” means the actuary for the time being appointed by the Scottish Ministers to provide a consulting service on actuarial matters relevant to these Regulations;”.

## SCHEDULE 3

Regulation 2(3)

### Further amendments to the Police Pensions Regulations 1987

1. After regulation B1(3)(a) (policeman's ordinary pension) of the 1987 Regulations insert—

“(aa) being a chief officer of police, deputy chief constable, assistant chief constable and not being subject to any procedures under regulations made under section 26 of the Police Scotland Act 1967<sup>(a)</sup>, he retires or retired on or after attaining the age of 50 years having given to the police authority 6 months' written notice of his intention to retire;”.

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(a) 1967 c.77.

## SCHEDULE 4

Regulation 2(4)

### **Amendments to the Police Pensions (Scotland) Regulations 2007**

1. The 2007 Regulations are amended as follows.
2. In regulation 5(b) (transfers) omit the words from “subject” to the end.
3. In regulation 74(10)(b) and (c) (procedure and costs on appeals under regulation 72) for “excluding” substitute “including”.
4. In Schedule 1 (glossary of expressions), in the definition of “regular police officer” after “inspector of constabulary” insert “, an assistant inspector of constabulary”.

**SCHEDULE 5**

Regulation 2(5)

**Amendments to the Police (Injury Benefit) (Scotland)  
Regulations 2007**

1. In Schedule 1 to the Injury Benefit Regulations—
  - (a) in the inclusive definition of “member of a police force” at the end of paragraph (a) insert “or an assistant inspector of constabulary”.
  - (b) in the definition of “regular police officer” at the end of paragraph (b) insert “or an assistant inspector of constabulary”.

**EXPLANATORY NOTE**

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

Regulation 2(1) and Schedule 1 make various amendments to the Police Pensions Regulations 1987 (“the 1987 Regulations”) to update those Regulations and bring them into line with the Police Pensions (Scotland) Regulations 2007 (“the 2007 Regulations”). The amendments made by paragraph 15 of Schedule 1 enable expenses or costs to be paid where a medical hearing is cancelled less than 22 days (including weekends and public holidays) before the hearing date.

Regulation 2(3) and Schedule 3 amend the 1987 Regulations to implement an agreement of the Police Negotiating Board of the United Kingdom to give senior police officers the right to retire on or after reaching 50 years, if they are not subject to any disciplinary proceedings and give 6 months notice to the police authority. This amendment has effect from 1st April 2004 until 30th September 2006. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

The Regulations also make related amendments to the 2007 Regulations and the Police (Injury Benefit) Regulations 2007.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.