

To:-  
Members of the Police Negotiating Board

Other interested parties (listed below)

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Dear Colleague

## **THE POLICE PENSIONS (AMENDMENT) (SCOTLAND) REGULATIONS 2010**

A number of amendments to the scheme were recently outlined by the Home Office as part of a consultation with the PNB. It is SPPA's intention to fully consider all those changes outlined in the latest Home Office circular and similarly propose them for Scotland where appropriate through a separate consultation.

One of the proposals concerning an amendment to regulation B1 and covered in the attached draft under Schedule 3 we are working to have this in force no later 28 March 2010. This is because the Scottish Parliament starts its Easter recess on 29 March 2010 and we are unable to include recess dates within the 21 days an instrument must sit with Parliament before it comes into force. This has restricted the amount of time we have been able to consider all the amendments proposed in the Home Office draft and has required a shorter consultation period than normal.

The following is a brief explanation of the amendments being proposed in this draft instrument. Those not included from the Home Office draft consultation, which are mainly around references to relevant service and overseas corps will be included in the next planned changes which are expected early in the New Year.

### **Citation and Comment**

I mentioned above the need to have this amendments instrument in force no later than 28 March 2010 which means it will have to be laid no later than the 8 March 2010.

## **Amendments to the Police Pensions Regulations 1987**

Paragraph 1 of Schedule 1 amends regulation A15(1) in line with regulation 86(1) of the Police Pensions Regulations 2006. Paragraph 2 brings regulations A16(b) to (e) into line with regulation 5(b) of the Police Pensions (Scotland) Regulations 2007 (NPPS Regs) but omitting the reference to written consent from the chief officer of the force. This omission is in line with the work carried out by the PNB to enable some HR functions to be delegated to below chief constable level.

Paragraph 3 amends regulation A17 to bring in line with regulation 17 of the NPPS Regs and, again, to omit the need for written consent.

Paragraph 4 amends regulation A20 to bring it in line with regulation 21 of the NPPS Regs by providing a means of reviewing whether a serving officer who has been assessed as being permanently disabled is still disabled. Subject to comments it is not thought necessary to include references also to whether the disablement has otherwise significantly worsened or improved, since they have no pensions implications under the 1987 Scheme.

Paragraph 5 deletes a reference to an injury award in payment being able to block the payment of a deferred pension since this insertion, by virtue of Schedule 1 to the Police (Injury Benefit) (Scotland) Regulations 2007, is incorrect.

Paragraph 6 amends regulation B8 to update the provisions relating to the commutation of small pensions and to bring them in line with regulation 38 of the NPPS Regs. At B8(1) two versions in square brackets – actuarial equivalence or capital value are provided. The former reflects the wording in the present regulations whereas the latter is used in the NPPS Regs. The Government Actuary's Department advises that the two expressions mean the same, and it is proposed to opt for the second, to avoid unnecessary differences between the 1987 and 2007 Regulations. Secondly, the final of the commutation requirements at (d) is being checked to confirm that paragraph 7 of schedule 29 to the Finance Act 2004 may have been replaced with effect from 1 December this year with a less stringent requirement and will be updated accordingly.

Paragraph 7 updates the tax references and paragraph 8 introduces an element of discretion into payments of lump-sum death grants to the estate of a deceased officer in order to make them more tax efficient. This brings the provision in line with regulation 46(4)(d) of the NPPS Regs. Paragraph 9 amends regulation E8 to update the reference to relevant allowances.

Paragraph 10 amends regulation E9 to bring this in line with regulation 50(2) of the NPPS Regs. The Pension Increase Acts apply to "official pensions" which are those specified in Schedule 2 to the PIA 1971. Paragraph 43 of Schedule 2 includes pensions payable under the Police Pensions Act 1976 as official pensions. However, derivative pensions are not included in this paragraph. A derivative pension is one which is not payable in respect of the pensioner's own services and is not attributable to the pensioner having become entitled to a pension credit. Adult survivors' pensions and child survivors' pensions are derivative pensions. It was decided when drafting the



NPPS Regs that the reference in paragraph (2) to Section 3 of the PIA was necessary to avoid double-indexation and that the possibility of double-indexation applied to adult survivors' as well as children's pensions.

Paragraph 11 removes the reference to not allowing a free-standing AVC to be transferred-in. This prohibition is no longer appropriate as these pensions are classed as personal pensions. Paragraph 12 amends regulation F8 to delete the reference to written consent in A17. Paragraph 13 amends regulation F10 to replace Section 1 of Part IV of Schedule F with a provision referring to separate guidance, outside the regulations, issued by the scheme actuary. This allows for more detailed guidance and quicker responses to changes than the regulations do. The amendment also removes the reference to disciplinary proceedings as a reason for stopping a transfer-out.

Paragraph 14 amends regulation G4(5). The amendment deletes the proviso that one cannot opt out twice. This enables a person who would otherwise be prevented from making a late transfer to the NPPS to do so. Paragraph 15 repeal regulation J1(6)(a) since regulation B8 as amended now refers to the requirements of the Contracting-out Regulations.

## **Schedule 2**

This replaces all references to the Government Actuary with references to the Scheme actuary, in line with the NPPS Regs.

## **Schedule 3**

This amends regulation B1 to give back-dated effect to the PNB Agreement of 2004 as set out in HOC 36/2004 and PNB Circular 04/05. The particular item of the Agreement in question was detailed in paragraph 8 of Annex B to the PNB Circular. Whereas the Circular was in terms of "over 50" it is considered that it meant to say "50 or over" and the amendment is therefore in those terms. At the time the PNB Agreement was concluded the need to give this entitlement to retire a statutory basis was unclear but it has since been brought to our attention that officers require clarity over their entitlement on 5 April 2006 to a pension age before 55. We have therefore decided that we should make this amendment. As you know this provision has since been superseded by one which came into effect on 1 October 2006.

## **Schedule 4**

Paragraph 2 amends regulation 5(b) to omit the reference to written consent from the chief officer of the force. Paragraph 3 amends regulation 74(10) to bring the charging regime in line with what has been agreed when HML were awarded the contract

If, following this consultation and that undertaken by the Home Office regarding the same proposals there are provisions which need longer consideration these can be removed from this batch of changes and considered in the next batch.



## **Timescale for comments**

It is already outlined the very tight timescales necessary on this particular draft of amendments and on that basis I should be grateful for your comments on the proposed regulations by **19 January 2010**. Unless specifically asked to treat a response as confidential, the Agency may wish to publish, in due course, responses to this consultation, or deposit them in the libraries of the Scottish Executive or the Scottish Parliament.

A copy of this consultation will also be placed on the Agency's website.

Yours sincerely

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## Addressees

Police Negotiating Board  
Audit Scotland  
National Association of Pension Funds  
Women's National Commission  
Home Office, Fire and Police Sections  
HM Treasury  
Government Actuary's Department  
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