

To:-
Members of the Police Negotiating Board

Other interested parties (listed below)

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Dear Colleague

POLICE PENSIONS (AMENDMENT) REGULATIONS

This Agency originally circulated in December 2001 draft regulations for amending the Police Pension Regulations with a view to make the scheme more equitable for part-time members. Since that date both the Home Office and the PNB have considered in great detail a number of issues that arose from the original draft. The attached draft takes this into account.

Currently part-time working counts as pensionable service on the basis of actual hours worked, without considering the actual calendar years worked. Average pensionable pay is based on the full-time equivalent but officers with part-time service have taken longer to benefit from double accrual after reckoning 20 years service and the right to retire with an ordinary pension after 25 years service is similarly affected. The Regulation amendments are designed to ensure that as far as possible part-timers receive a fair proportion of their full-time counterparts' pension.

I now enclose for your comments draft Regulations of which Schedule 1 of the draft will amend the Police Pension Regulations 1987 and Schedule 2 will amend the Police Pensions (Purchase of Increased Benefits) Regulations 1987 in their application in Scotland. Taking into account the Parliament's summer recess and the comments received it is hoped that the regulations will come into force in October. Similar changes are being introduced by the Home Office for England and Wales.

The draft Regulations make changes in the following areas:

Citation and Comment

As is usual, the Regulations will have a coming into force date 21 days being laid but there will be a backdating effect from 1 July 1992; the date when part-time service was introduced into the Police Pension Scheme.

Interest on late payments

At regulation 4 provision has been included where these amendment regulations cause back payments to be made. The police authority shall pay the amounts that would have been paid at the time, together with a fixed interest from three months after the relevant payments were, at 5% per annum, compounded with yearly rests. Three months has been chosen in order to avoid *de-minimis* payments.

Forces may not be able to establish with complete certainty which pensioners or deferred pensioners might benefit from having their pension recalculated. Although it is intended that the regulations should provide for recalculation only upon application by or on behalf of the pensioner or deferred pensioner, forces will be advised to check with officers and former officers in case of any doubt about their ability to retrieve this information.

Commutation of late payments

Regulation 5 makes express provision for officers to make backdated applications for a lump sum if they have not been able to have one already, or for a top-up of their lump sum. The latter applies where they have, say, 30 calendar years but not 30 reckonable years and have until now been limited to the 2.25 times pension lump sum.

Schedule 1

Payment to enhance widowers' awards

Paragraph 1 amends regulation G6 (which enables women officers to uprate their pre-1990 service to count for a widower's pension) to ensure that from now on, women in part-time service who pay their additional contributions at the same percentage of the pensionable pay as a full-timer will accrue no more than the appropriate proportion of the enhanced widower's benefits purchased by a full-timer. Under the current regulations where an officer who has made an election under G6 changes to part-time service the additional contributions being paid reduce accordingly with the lower pay without any effect on the service being purchased.

From the date these regulations come onto force those part-time officers who are buying additional service will automatically be uprated to the full-time salary level. However, women will have a choice of either paying the full-time amount of additional contributions or "varying" their election to pay such contributions, so that from then on they pay a fixed % of the pensionable pay, whether in full-time or part-time service. The resulting calculation takes into account the proportion of periodical contributions paid against those which would have been paid had payment remained at the full-time equivalent service. The effect of a variation for the purpose of reckonable service is explained in new regulation G6 (4G).

Provision is also made for periodical payments to cease for such a period determined by the police authority where it is satisfied that such payments are causing or likely to cause financial hardship.

Similar amendments have been made in Schedule 2 to the arrangements for purchasing increased benefits, (new regulation 7A (5)) which have until now had the same effect.

Policeman's ordinary and short-service pension

The regulations will apply a pro-rating principle to the calculation of ordinary and short-service pensions for officers with up to 30 calendar years' service – i.e. the pro-rated amount of what they would have received as a full-timer throughout that period. However, a different approach is needed for officers with more than 30 calendar years' service since there is not a full-time equivalent as service is limited to 30 full time years i.e. 40/60ths.

Paragraph 4 of Part I of Schedule B takes this into account where officers serve more than 30 years but paragraph 5 maintains that any pension may not exceed two thirds of the policeman's average pensionable pay.

Policeman's Ill Health Pension

A similar approach is needed for those retired with an ill-health pension before and after 30 calendar years. There is also a need to take into account those who have come off full-time service and then are medically retired. Unlike the current regulations the amendments will make a person who was a full-time officer possibly worse off if he or she were to be ill-health retired after a further year on half-time service, as the enhanced pension would be pro-rated. The officer will have the choice of either the full pension at last year's salary up-rated in line with pension increase or the pro-rated new full pension. This is covered by paragraph 6.

Consideration also has to be given to officers who would have been better off with an ill-health pension under the current regulations, such as someone who has served 20 years half-time. Under those he would get 20/60^{ths} (the same as a person after 10 years full-time) while under the new regulations he will get 13½/60^{ths} (i.e. 27/60^{ths} divided by 2). The more favourable result will be applied automatically, but only to those with part-time service pre-dating the new regulations. Those **retired** before then would have their current pensions unchanged if more favourable than the new, but uprated (and back-dated) under the new provisions if these were advantageous.

Paragraph 6 and 7 introduce the facility to ensure that where the original way of calculating an ill-health pension is more favourable than it is that which will prevail.

Injury Awards

Again, similar pro-rating principle will apply to injury awards. In the case of an injury pension it is the 'minimum income guarantee' (MIG) which has to be pro-rated, since the injury pension is merely any deficiency between the MIG and the sums received by way of pension and benefits.

Similar consideration to that applied to ill-health pensions are included in the case of an officer changing from full-time to part-time, but the facility preserving an entitlement to a more favourable award calculated under the old system, applies only to officers who have ceased to serve at the time the new system takes effect. The Police Pensions Act 1976 does not extend the preserved rights of serving officers under section 2 to existing scales of awards to injury awards.

Deferred pensions

Deferred pensions are already based on uniform accrual but they need amendment to make it clear that all the potential or “hypothetical” service of an officer who leaves early, including his part-time service up till then, should be deemed reckonable as if it were full-time service. This ensures that the part-timer receives a fair share of the full-timer’s deferred pension.

Entitlements by reference to pensionable service

The regulations amend the Police Pensions Regulations to distinguish “reckonable service” where this is used to calculate awards (no change) and where this is used to qualify officers for payment of awards. The latter has been amended to enable officers with, say, 30 or 25 calendar years’ service to retire with the pro-rated benefits of their full-time counterparts.

Surviving spouses and children awards

Currently some awards are based on average pensionable pay which is related to full-time service. The amendment inserts a new sub-paragraph in paragraph 4 of Part VI of Schedule J to provide for officers with part-time service. In these cases the pro-rating principle should apply to the calculation of such pensions as outlined. This is to ensure that part-timers receive a fair share of the full-timers award to reflect the pay they were receiving.

A similar protection offered to ill-health benefits is also included from sub paragraph 5 of the amendment so that an officer will not be disadvantaged from a change to working shorter hours. Protection to spouses’ and children’s pension scheme awards, which are based on the officer’s notional ill-health pension, is provided by the amendments made to ill-health pensions.

Schedule 2

Purchase of Increased Benefits

The amendments to the separate provisions for added 60th follow the pattern set for the earlier amendments to the provisions for up-rating widowers’ awards. In the absence of any notice of variation, the contributions will be automatically up-rated but, as with G6 cases, with a three-month window to vary payments. If variation occurs during the three months the overpayment of contributions for this period will be returned to the officer.

Timescale for comments

I should be grateful for your comments on the proposed regulations by **22 July**. 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



Jim Preston

Addressees

Police Negotiating Board
Audit Scotland
National Association of Pension Funds
Women's National Commission
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HM Treasury
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