

2011 No.

PENSIONS

The Police Pensions Amendment (Scotland) Regulations 2011

<i>Made</i>	- - - -	2011
<i>Laid before the Scottish Parliament</i>		2011
<i>Coming into force</i>	- -	2011

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

1.—(1) These Regulations may be cited as the Police Pensions Amendment (Scotland) Regulations 2011.

(2) These Regulations come into force on 2011 and have effect from April 2011.

(3) These Regulations extend to Scotland only.

Amendments of the Police Pension Regulations

2.—(1) Schedule 1 (which amends the Police Pensions Regulations 1987(c)) has effect.

(2) Schedule 2 (which amends the Police Pensions Regulations (Scotland) 2007(d)) has effect.

(3) Schedule 3 (which amends the Police (Injury Benefit) (Scotland) Regulations 2007(e)) has effect.

(a) 1976 c.35... The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by S.I. 1999/1750 article 2 and Schedule 1.
(b) See section 61 of the Police Act 1996 (c.16). The requirement for consent by the Minister for the Civil Service under section 1 was transferred to the 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).
(c) S.I. 1987/257.
(d) S.S.I. 2007/201.
(e) S.S.I. 2007/68.

(4) Schedule 4 (which amends the Police Pension Account (Scotland) Regulations 2010^(a)) has effect.

St Andrew's House,
Edinburgh
Date

Authorised to sign by the Scottish Ministers

^(a) S.S.I. 2010/232.

SCHEDULE 1

Amendments to the Police Pensions Regulations 1987

1. The Police Pensions Regulations 1987 are amended as follows.

2.—(1) Regulation A6 (meaning of certain expressions in relation to persons who are not members of a home police force) is amended as follows.

(2) After paragraph (5C) insert—

“(5D) For the purposes of these Regulations, an employed constable of NPIA shall be deemed to be a member of a home police force, except where the context otherwise requires.

(5E) In relation to an employed constable of NPIA—

- (a) a reference in these Regulations to a force shall be construed as a reference to NPIA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to NPIA.

(5F) For the purposes of regulation A4(3) to (5), an employed constable of NPIA shall be deemed to hold the rank of a member of a home police force (other than the metropolitan police force) which he is treated by the NPIA as holding for the purposes of his employment.

(5G) For the purposes of these Regulations, a police member of SCDEA shall be deemed to be a member of a home police force.

(5H) In relation to a police member of SCDEA—

- (a) a reference in these Regulations to a force shall be construed as a reference to SCDEA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to SPSA.

(5I) For the purposes of regulation A4(3) to (5), a police member of SCDEA shall be deemed to hold the rank of a member of a home police force (other than the metropolitan police force) which he is treated by the SPSA as holding for the purposes of his appointment.”.

3.—(1) Regulation A12 (disablement) is amended as follows.

(2) In paragraph (2) at the start insert “Subject to paragraph (2A),”.

(3) After paragraph (2) insert—

“(2A) In the application of paragraph (2) to a specified employee of SOCA or to an employed constable of NPIA, the reference to “the ordinary duties of a member of the force” shall be construed as a reference to the ordinary duties of a member of the home police force in which the person last served before becoming a specified employee of SOCA, an employed constable of NPIA, as the case may be.”.

4.—(1) Regulation A16 (transfers) is amended as follows.

(2) In paragraph (e) omit “or”.

(3) At the end insert—

“(g) leaving a home police force for the purpose of joining NPIA as an employed constable of NPIA and joining NPIA in that capacity, where—

- (i) not being the chief officer of police of, or a constable on probation in, that force, he leaves that force after giving a month’s notice in writing of his

intention to do so to the police authority, or such shorter period of notice as may have been accepted by the police authority; or

(ii) being the chief officer of police of, or a constable on probation in, that force, he leaves that force with the consent of the chief officer of police or, in the case of the chief officer of police, of the police authority of that force; or

(h) being an employed constable of NPIA, leaving NPIA for the purpose of joining a home police force as a regular policeman and joining that force in that capacity, where the employed constable leaves NPIA after giving notice of such period as required by the contract of employment of an intention to do so or after giving such shorter period of notice as may be agreed between the employed constable of NPIA and NPIA.”.

5.—(1) Regulation A17 (retirement) is amended as follows.

(2) In paragraph (1)(a), after “1967” insert “or section 23 of the Police, Public Order and Criminal Justice (Scotland) Act 2006”.

(3) After paragraph (1)(aa) insert—

“(ab) to the contract under which an employed constable of NPIA is employed by NPIA being terminated;”.

(4) After paragraph (1)(f) insert—

“(g) on becoming an employed constable of NPIA.”.

6. In regulation A18(4) (compulsory retirement on account of age) at the end insert “or to an employed constable of NPIA.”.

7. In regulation A19(1) (compulsory retirement on grounds of efficiency of the force) for “or specified employee of SOCA” substitute “, specified employee of SOCA or employed constable of NPIA”.

8.—(1) Regulation B1 (policeman’s ordinary pension) is amended as follows.

(2) In paragraph (1), after “(2),” insert “(3A),”.

(3) In paragraph (3), omit subparagraphs (ca) and (cb).

(4) After paragraph (3) insert—

“(3A) This regulation shall not apply to—

(a) a specified employee of SOCA who retires or retired without giving to SOCA notice of such period as required by the contract of employment of an intention to retire or such shorter period of notice as agreed between the specified employee of SOCA and SOCA;

(b) an employed constable of NPIA who retires or retired without giving to NPIA notice of such period as required by the contract of employment of an intention to retire or such shorter period of notice as agreed between the employed constable of NPIA and NPIA;

unless SOCA or NPIA (as the case may be) have decided that this Regulation should apply or the contract of employment is or was terminated.”.

(5) In paragraph (6)(b), for “(3)(ca)” substitute “(3A)(a) or (b)”.

9.—(1) Regulation B2A (short service award on voluntary retirement) is amended as follows.

(2) In paragraph (2) omit “or (5)” and insert “, (5) or (6)”.

(3) After paragraph (5) insert—

“(6) An employed constable of NPIA who wishes to retire voluntarily must give to NPIA notice of such period as required by the contract of employment of an intention to retire or such shorter period of notice as may be agreed between the employed constable of NPIA and NPIA.”.

10. In regulation E8(2A)(b) (increase of widow’s pension or child’s allowance during first 13 weeks) after “SOCA” insert “or an employed constable of NPIA.”.

11. In regulation G1(1) (pensionable and average pensionable pay) after “SOCA” insert “or an employed constable of NPIA”.

12. In regulation K1(1)(d) (cancellation of ill-health pensions) after “SOCA” insert “or an employed constable of NPIA”.

13.—(1) Schedule A (glossary of expressions) is amended as follows.

(2) The following definitions are inserted in the appropriate places—

““an employed constable of NPIA” means a member of staff of NPIA who is a constable and an employee of NPIA;”;

““NPIA” means the National Policing Improvement Agency;”;

““a police member of SCDEA” means a person appointed by virtue of paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006(a);”;

““SCDEA” means the Scottish Crime and Drug Enforcement Agency;” and

““SPSA” means the Scottish Police Services Authority;”.

(3) In the definition of “indexing” for “Government Index of Retail Prices” substitute “Pensions Increase Act 1971(b)”.

(4) In the definition of “maternity leave”—

(a) after “2004” insert “or, as the case may be, means leave taken in accordance with the provisions of a determination under [regulation 22(a)] of the Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011 by a qualified female police member”; and

(b) at the end insert “, and in relation to an employed constable of NPIA it means any period of maternity leave taken whilst employed by NPIA”.

(5) In the inclusive definition of “member of a police force”—

(a) in paragraph (e) omit “and”; and

(b) at the end insert—

“(g) an employed constable of NPIA; and

(h) a police member of SCDEA.”.

(6) In the definition of “parental leave”—

(a) for “Police Regulations 2003” substitute “Police (Scotland) Regulations 2004(c)”,

(b) after “2003” insert “or [regulation 26(9)(b)] of the Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011”, and

(c) at the end insert “and in relation to an employed constable of NPIA it means any period of parental leave taken whilst employed by NPIA”.

(7) In the definition of “part-time service” at the end insert “, or as an employed constable of NPIA”.

(8) In the definition of “regular policeman”—

(a) in paragraph (d) omit “and”; and

(b) at the end insert—

“(f) an employed constable of NPIA;

(g) a police member of SCDEA; and

(a) 2006 asp 10.
(b) 1971 c.56.
(c) S.S.I. 2004/257.

(h) a member of a home police force engaged on temporary service in accordance with arrangements made under section 12A(2) of the Police (Scotland) Act 1967.”.

(9) In the definition of “sick leave”—

- (a) after “2004” insert “or [regulation 26(6)] of the Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011”; and
- (b) at the end insert “, and in relation to an employed constable of NPIA it means any period of sick leave taken whilst employed by NPIA.”.

SCHEDULE 2

Amendments to the Police Pensions (Scotland) Regulations 2007

PART 1

1. The Police Pensions (Scotland) Regulations 2007 are amended as follows.

2.—(1) Regulation 3 (meaning of certain expressions in relation to persons who are not members of a home police force) is amended as follows.

(2) In paragraph (1)—

(a) after “Regulations,” insert “unless the context otherwise requires,”;

(b) after “SOCA” insert “, an employed constable of NPIA, or a police member of SCDEA”.

(3) After paragraph (3) insert—

“(4) In relation to an employed constable of NPIA—

(a) any reference in these Regulations to the police authority shall be construed as a reference to NPIA;

(b) any reference in these Regulations to a force shall be construed as a reference to NPIA.

(5) In relation to a police member of SCDEA—

(a) any reference in these Regulations to the police authority shall be construed as a reference to SPSA;

(b) any reference in these Regulations to a force shall be construed as a reference to SCDEA.”.

3.—(1) Regulation 4 (disablement) is amended as follows.

(2) In paragraph (3), for “paragraph (4)” substitute “paragraphs (3A) and (4)”.

(3) After paragraph (3) insert—

“(3A) In the application of paragraph (3) to a specified employee of SOCA or to an employed constable of NPIA, the reference to “the ordinary duties of a member of the police force” shall be construed as a reference to the ordinary duties of a member of the home police force in which the person last served before becoming a specified employee of SOCA, or an employed constable of NPIA, as the case may be.”.

4.—(1) In regulation 5 (transfers), at the end insert—

“or

(d) leaving a home police force for the purpose of joining NPIA as an employed constable of NPIA and joining NPIA in that capacity, where—

(i) not being the chief officer of police of, or a constable on probation in, that force, he leaves that force after giving a month’s notice in writing of his intention to do so to the police authority, or such shorter period of notice as may have been accepted by the police authority; or

(ii) being the chief officer of police of, or a constable on probation in, that force, he leaves that force with the written consent of the chief officer of police or, in the case of the chief officer of police, of the police authority of that force;

or

(e) being an employed constable of NPIA, leaving NPIA for the purpose of joining a home police force as a regular police officer and joining that force in that capacity, where the employed constable leaves NPIA after giving notice of such period as

required by the contract of employment of an intention to do so or after giving such shorter period of notice as may be agreed between the employed constable of NPIA and NPIA.”.

5.—(1) Regulation 17 (retirement) is amended as follows.

(2) In paragraph (d) omit “or”.

(3) At the end of paragraph (e) insert—

“(f) leaving a force on joining NPIA as an employed constable of NPIA.”.

6.—(1) Regulation 18 (voluntary retirement) is amended as follows.

(2) In paragraph (2) for “paragraph (2A)” substitute “paragraphs (2A) and (2B)”.

(3) After paragraph (2A) insert—

“(2B) An employed constable of NPIA who intends to retire under this regulation shall give NPIA notice of such period as required by the contract of employment of that intention or shall give such shorter period of notice as may be agreed between the employed constable of NPIA and NPIA.”.

(4) In paragraph (5) after “SOCA” insert “or an employed constable of NPIA”.

7. In regulation 19(4) (compulsory retirement on account of age) at the end insert “or an employed constable of NPIA”.

8. In regulation 20(3) (compulsory retirement on grounds of efficiency of the force) at the end insert “, or an employed constable of NPIA”.

9. In regulation 23 (pensionable pay) after “SOCA,” insert “or an employed constable of NPIA”.

10. In regulation 51(14) (review and cancellation of pensions payable on the ground of permanent disablement) after “SOCA” insert “and an employed constable of NPIA,”.

11.—(1) Regulation 52 (withdrawal of pension during service as a regular police officer) is amended as follows.

(2) In paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (3).”.

(3) After paragraph (2) insert—

“(3) This regulation shall not apply in relation to any period during which a pensioner is serving as an employed constable of NPIA, where that period of service commenced on or before 31st August 2009.”.

12.—(1) Schedule 1 (glossary of expressions) is amended as follows.

(2) The following definitions are inserted in the appropriate places—

““an employed constable of NPIA” means a member of staff of NPIA who is a constable and an employee of NPIA;”;

““NPIA” means the National Policing Improvement Agency;”;

““a police member of SCDEA” means a person appointed by virtue of paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006(a);”;

““SCDEA” means the Scottish Crime and Drug Enforcement Agency;”;

““SPSA” means the Scottish Police Services Authority;”.

(3) In the definition of “maternity leave”—

(a) after “2004” insert “or, as the case may be, means leave taken in accordance with the provisions of a determination under [regulation(a)] of the Scottish Crime and Drug

(a) 2006 asp 10.

Enforcement Agency (Scotland) Regulations 2011 by a qualified female police member”;
and

- (b) at the end insert “, and in relation to an employed constable of NPIA it means any period of maternity leave taken whilst employed by NPIA”.

(4) In the definition of “parental leave”—

- (a) after “2004”, insert “or [regulation 26(9)(b)] of the Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011; and
(b) at the end insert “, and in relation to an employed constable of NPIA it means any period of parental leave taken whilst employed by NPIA.”

(5) In the definition of “part-time service” at the end insert “or as an employed constable of NPIA or as a police member of SCDEA”.

(6) In the definition of “regular police officer” after “SOCA” insert “, an employed constable of NPIA, a police member of SCDEA,”.

(7) In the definition of “sick leave”—

- (a) after “2004” insert “or [regulation 26(6)] of the Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011; and
(b) at the end insert “, and in relation to an employed constable of NPIA it means any period of sick leave taken whilst employed by NPIA.”

PART 2

13. In relation to a regular police officer to whom the Police Pensions (Scotland) Regulations 2007 first applied on or after 1st April 2011, those Regulations are amended as follows.

14. In regulation 6(2)(b) (application of regulations) at the end insert “(and for this purpose account shall be taken of any pensionable service the officer would have been entitled to reckon had any transfer value not been paid under regulation F10 of the 1987 Regulations)”.

15.—(1) Paragraph 9 of Schedule 2 (application of regulations to officers to whom regulation 6(2) and (3) applies) is amended as follows.

(2) For sub-paragraph (e), substitute—

“(e) there were inserted in paragraph (1) after the words “35 years” the words—

“less the total pensionable service he was entitled to reckon under the 1987 Regulations, calculated in accordance with paragraphs (3) and (4), at the applicable time”.”.

(3) After sub-paragraph (e) insert—

“(ea) there were added after paragraph (1) the following paragraph—

“(1A) (a) For the purposes of this regulation, the “applicable time” shall be determined in accordance with this paragraph.

(b) In a case falling within paragraph 9(a) to (c) of Schedule 2—

(i) subject to sub-paragraph (ii), the applicable time is the time of his retirement with an entitlement to—

- (aa) an ordinary pension under regulation B1; or, as the case may be,
(bb) a short service award under regulation B2;
(cc) an ill-health pension under regulation B3;
(dd) a deferred pension under regulation B5;
(ee) an award by way of repayment of aggregate pension contributions under regulation B6

of the 1987 Regulations,

(ii) where he has retired with an entitlement mentioned in sub-paragraph (i) and before retiring he had made an election under regulation G4(1) of the 1987 Regulations (election not to pay pension contributions) which had not been cancelled before retiring, the applicable time is the time when he made that election.

(c) In a case falling within paragraph 9(d) of Schedule 2, the applicable time is the time when he made his election under regulation G4(1) of the 1987 Regulations.””.

(4) In sub-paragraph (f)—

(a) for “the time mentioned in paragraph (1)(a)(i), (ii), (iii) or (iv) or (b), as the case may be,” substitute “the applicable time”;

(b) for “as at the time of his retirement mentioned in paragraph (1)(a), (b), (c) or (d), as the case may be” substitute “at the applicable time”;

(c) for “date of retirement mentioned in paragraph (1)” insert “the applicable time”.

16. After paragraph 18 of Schedule 3 (transfer elections under regulation 6(8)) insert—

“**19.**—(1) Subject to sub-paragraph (2), this paragraph applies to a regular police officer whose transfer election has taken effect and in respect of whom a transfer value has been paid under regulation F10 of the 1987 Regulations.

(2) This paragraph does not apply to a regular police officer who falls within paragraph 9(a) to (d) of Schedule 2

(3) Regulation 16 (reckoning of service for purposes of awards) shall have effect subject to the modifications set out in paragraph 9 of Schedule 2, except that the modification in paragraph 9(ea) shall not apply and instead regulation 16 shall have effect as if there were added after paragraph (1) the following paragraph—

“(1A) For the purposes of this regulation, the “applicable time” means the time when the regular police officer made an election under regulation G4(1) of the 1987 Regulations.””.

SCHEDULE 3

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

1. The Police (Injury Benefit) (Scotland) Regulations 2007 are amended as follows.

2. After regulation 3(4) (meaning of certain expressions in relation to persons who are not members of a home police force), insert—

“(5) For the purposes of these Regulations an employed constable of NPIA shall be deemed to be a member of a home police force, except where the context otherwise requires.

(6) In relation to an employed constable of NPIA—

- (a) a reference in these Regulations to a force shall be construed as a reference to NPIA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to NPIA.

(7) For the purposes of these Regulations a police member of SCDEA shall be deemed to be a member of a home police force, except where the context otherwise requires.

(8) In relation to a police member of SCDEA—

- (a) a reference in these Regulations to a force shall be construed as a reference to SCDEA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to SPSA.”.

3. After regulation 6(3B) (injury received in the execution of duty) insert—

“(3C) In the case of a person who is an employed constable of NPIA, paragraph (2)(a) shall have effect as if references to duty and being on duty were references to acting within the scope of the person’s employment.”.

4.—(1) Schedule 1 (glossary of expressions) is amended as follows.

(2) The following definitions are inserted in the appropriate places—

““employed constable of NPIA” means a member of staff of NPIA who is a constable and an employee of NPIA;”;

““NPIA” means the National Policing Improvement Agency;”;

““police member of SCDEA” means a person appointed by virtue of paragraph 7(2)(c) of Schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006(a);”;

““relevant service” has the meaning assigned to it by section 38A of the Police (Scotland) Act 1967;”;

““SCDEA” means the Scottish Crime and Drug Enforcement Agency”; and

““SPSA” means the Scottish Police Services Authority”.

(3) In the inclusive definition of “member of a police force”—

(a) in paragraph (b) omit “and”;

(b) at the end insert—

“(d) an employed constable of NPIA; and

(e) a police member of SCDEA.”.

(a) 2006 asp 10.

- (4) In the definition of “regular police officer” or “regular policeman”—
- (a) in paragraph (c) omit “and”;
 - (b) at the end insert—
 - “(e) an employed constable of NPIA; and
 - (f) a police member of SCDEA.”.

SCHEDULE 4

Amendments to the Police Pension Account (Scotland) Regulations 2010

1. The Police Pension Account (Scotland) Regulations 2010 are amended as follows.
- 2.—(1) Regulation 2 (interpretation) is amended as follows.
 - (2) The following definitions are inserted in the appropriate places—
 - ““a police member of SCDEA” means a person appointed by virtue of paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006;”;
 - ““SCDEA” means the Scottish Crime and Drug Enforcement Agency;”;
 - ““SPSA” means the Scottish Police Services Authority;”.
 - (3) For the definition of “police authority”, substitute—
 - ““police authority” has the meaning given by section 50(b) of the 1967 Act, but in relation to an inspector of constabulary, it means the Scottish Ministers, and in relation to a police member of SCDEA, it means SPSA;”.
 - (4) For the definition of “regular police officer” substitute—
 - ““regular police officer” means a member of a police force, an inspector of constabulary, a police officer engaged on relevant service, a specified employee of SOCA and a police member of SCDEA;”.

EXPLANATORY NOTE

(This note is not part of the Regulations)