STATUTORY INSTRUMENTS

2018 No. 530

POLICE, ENGLAND AND WALES
PENSIONS, ENGLAND AND WALES

The Police Pension Schemes and Additional Voluntary Contributions (Amendment) (England and Wales) Regulations 2018

Made - - - -	*25th April 2018*
Laid before Parliament	*27th April 2018*
Coming into force - -	*21st May 2018*

The Secretary of State, in exercise of the powers conferred by sections 1(1)(a), (b), (3) and (5) and 7(1) of the Police Pensions Act 1976(**1**) and sections 1(1), (2)(g) and 3(1) and (2)(b) of the Public Service Pensions Act 2013(**2**) makes the following Regulations.

In accordance with section 1(1) of the Police Pensions Act 1976 and section 3(5) of the Public Service Pensions Act 2013 these Regulations are made with the consent of the Treasury(**3**).

In accordance with section 1(1ZA)(a) and (1ZB) of the Police Pensions Act 1976(**4**), the Secretary of State has consulted with the Police Advisory Board for England and Wales and has also invited the views of the Northern Ireland Policing Board and the Police Association for Northern Ireland.

In accordance with section 21 of the Public Service Pensions Act 2013 the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

(**1**) 1976 c. 35. Section 1(1) was amended by section 2(3) of the Police Negotiating Board Act 1980 (c. 10); paragraph 28 of Schedule 7 to the Police Act 1996 (c. 16) and by section 133(3)(a) and (b) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). These Regulations make retrospective provision by virtue of section 1(5) of the Police Pensions Act 1976.
(**2**) 2013 c. 25.
(**3**) The functions of the Minister for the Civil Service under the Police Pensions Act 1976 were transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).
(**4**) Section 1(1ZA) and (1ZB) were inserted by section 133(3)(b) of the Anti-social Behaviour, Crime and Policing Act 2014.

PART 1

Introductory

Citation, commencement, effect and extent

1.—(1) These Regulations may be cited as the Police Pension Schemes and Additional Voluntary Contributions (Amendment) (England and Wales) Regulations 2018 and come into force on 21st May 2018.

(2) The amendments made by regulations 3 and 5 to 13 have effect from 1st September 2014.

(3) The amendments made by regulations 18 to 28 have effect from 28th July 2016.

(4) These Regulations extend to England and Wales.

PART 2

Amendment of the Police Pensions Regulations 1987

General

2. The Police Pensions Regulations 1987(**5**) are amended in accordance with this Part.

Amendment of regulation A10

3. In regulation A10(2)(h) (aggregate pension contributions for purposes of awards)(**6**) for "or unpaid parental leave" substitute ", unpaid parental leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave.".

Amendment of regulation B5A

4.—(1) Regulation B5A (early payment of deferred pension)(**7**) is amended as follows.

(2) In paragraph (3) for "Unless paragraph (4) applies" substitute "Subject to paragraph (3A)".

(3) After paragraph (3) insert—

"(3A) All or part of an actuarial reduction may be bought out in accordance with paragraphs (4) to (8).".

(4) In paragraph (4)(b)—

(a) after "equal to" insert "all or part of", and

(b) for "paragraphs (5) to (7)" substitute "paragraphs (5) to (8)".

(5) For paragraphs (6) and (7) substitute—

"(6) If the whole of the compensation lump sum is insufficient to buy out the actuarial reduction, the police pension authority may, in its discretion, pay into the police pension fund an additional amount for the purpose of buying out all or part of the reduction.

(6A) But an additional amount under paragraph (6) is subject to any restriction imposed by regulations made under section 153A of the Small Business, Enterprise and Employment

(**5**) S.I. 1987/257.
(**6**) Regulation A10(1)(h) was inserted in relation to England and Wales by S.I. 1988/1339 and amended by S.I. 2004/1491.
(**7**) Regulation B5A was inserted in relation to England and Wales by S.I 2012/3057 and amended by S.I 2013/487.

Act 2015 (regulations to restrict public sector exit payments)(**8**)that applies at the time that the additional amount is to be paid.

(7) Paragraph (7A) applies if the police pension authority—

(a) decides not to pay the additional amount required to buy out all of the actuarial reduction, or

(b) is unable to buy out all of the actuarial reduction because of the restriction referred to in paragraph (6A).

(7A) Where this paragraph applies the regular policeman may pay to the police pension authority a sum equal to all or part of the additional amount that has not been paid by the authority.

(7B) The police pension authority must pay any amount received under paragraph (7A) into the police pension fund.".

Amendment of regulation F1

5. In regulation F1 (reckoning of pensionable service)(**9**)—

(a) after paragraph (1)(da) insert—

"(db) any period of unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave taken on or after 1st September 2014 in respect of which the conditions specified in paragraph (1B) are not satisfied; "; and

(b) for paragraph (1B) substitute—

"(1B) The conditions referred to in sub-paragraph (c), (da) and (db) of the proviso to paragraph (1) are that the person concerned—

(a) was serving as a regular policeman immediately before a period of maternity, parental, adoption, adoption support or maternity support leave which includes the period of unpaid maternity, unpaid parental, unpaid adoption, unpaid adoption support or unpaid maternity support leave in question and no election under regulation G4 was effective in respect of that person immediately before the commencement of that period of unpaid leave;

(b) in accordance with the provisions of paragraph (1D) pays to the police pension authority a sum equal to the sum of the pension contributions which would have been payable for the period of unpaid maternity leave, unpaid parental leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave in question if that person's notional pensionable pay during that period had been at the same rate as that person's pensionable pay (including any statutory maternity pay, statutory adoption pay or statutory paternity pay(**10**) payable under the Social Security Contributions and Benefits Act 1992) immediately before the commencement of the period of unpaid maternity leave, unpaid parental leave, unpaid adoption leave, unpaid adoption support leave or unpaid

(**8**) 2015. c. 26; section 153A was inserted by section 41(1) of the Enterprise Act 2016 (c. 12).

(**9**) Regulation F1(1) was amended in relation to England and Wales by S.I. 1988/1339, 2000/843 and 2004/1491; paragraph (1B) was inserted by S.I. 2000/843.

(**10**) Statutory paternity pay may be payable under the Social Security Contributions and Benefits Act 1992 (c. 4) in respect of a period of maternity support leave or adoption support leave granted under Annex S of the determination made by the Secretary of State under regulation 33(8) of the Police Regulations 2003 (S.I.2003/527). The determination is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170609/amendment-to-determinations.pdf; a hard copy can be obtained by writing to the Police Workforce and Professionalism Unit, Home Office, 2 Marsham Street, London, SW11 4DF.

maternity support leave which constituted or included the period in question.".

Amendment of regulation G1

6. In regulation G1(3) (pensionable and average pensionable pay)(**11**) for "sick leave, maternity leave or parental leave" substitute "sick leave, maternity leave, parental leave, adoption leave, adoption support leave or maternity support leave".

Amendment of Schedule A

7. In Schedule A (glossary of expressions)—

(a) after "active member" insert—

""adoption leave" means, for a person in service as a member of a home police force, leave granted in accordance with regulation 33(8) of the Police Regulations 2003(**12**) and for a person in service as a member of a police force in England and Wales other than a home police force, any period of equivalent leave taken by the person while in that service;

"adoption support leave" means, for a person in service as a member of a home police force, leave granted in accordance with regulation 33(8)(**13**) of the Police Regulations 2003 and for a person in service as a member of a police force in England and Wales other than a home police force, any period of equivalent leave taken by the person while in that service;", and

(b) after "maternity leave" insert—

""maternity support leave" means for a person in service as a member of a home police force, leave granted in accordance with a determination(**14**) made under regulation 33(8) of the Police Regulations 2003 or, for a person in service as a member of a police force in England and Wales other than a home police force, any period of equivalent leave taken by the person while in that service;".

PART 3

Amendment of the Police Pensions Regulations 2006

General

8. The Police Pensions Regulations 2006(**15**) are amended in accordance with this Part.

Amendment of regulation 10

9. In regulation 10 (reckoning of pensionable service)(**16**)—

(a) after paragraph (1)(b) insert—

(**11**) Regulation G1(3) was amended in relation to England and Wales by S.I. 2000/843 and 2004/1491.
(**12**) S.I. 2003/527. The relevant part of the determination made by the Secretary of State under regulation 33(8) of the Police Regulations 2003 for adoption leave is Annex R.
(**13**) Regulation 33(8) was inserted by S.I. 2006/3449. The relevant part of the determination made by the Secretary of State under regulation 33(8) the Police Regulations 2003 for adoption support leave is Annex S.
(**14**) The relevant part of the determination made by the Secretary of State under regulation 33(8) of the Police Regulations 2003 for maternity support leave is Annex S.
(**15**) S.I. 2006/3415.
(**16**) Regulation 10 was amended by S.I. 2011/3063.

"(ba) any period of unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave taken on or after 1st September 2014 in respect of which the conditions specified in paragraph (2) are not satisfied;", and

(b) for paragraph (2) substitute—

"(2) The conditions referred to in sub-paragraphs (a) and (b) of the proviso to paragraph (1) are that the person concerned—

(a) was serving as a regular police officer immediately before a period of maternity leave, parental leave, sick leave, adoption leave, adoption support leave or maternity support leave which includes the period of unpaid maternity leave, unpaid parental leave, unpaid sick leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave in question and no election under regulation 9 was effective in respect of that person immediately before the commencement of that period of unpaid leave;

(b) in accordance with the provisions of paragraph (4) pays to the police pension authority a sum equal to the sum of the pension contributions which would have been payable for the period of unpaid maternity leave, unpaid parental leave, unpaid sick leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave in question if the person's notional pensionable pay during that period had been at the same rate as the person's pensionable pay (including any statutory maternity pay, statutory adoption pay or statutory paternity pay payable under the Social Security Contributions and Benefits Act 1992) immediately before the commencement of the period of unpaid maternity leave, unpaid parental leave, unpaid sick leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave which constituted or included the period in question.".

Amendment of regulation 24

10. For regulation 24(2)(a)(ii) (final pensionable pay)(**17**) substitute—

"(ii) paragraph (1)(a)(ii) applied only in respect of any payment in respect of a period of unpaid maternity leave, unpaid parental leave, unpaid sick leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave taken in the period before the election took effect; and".

Amendment of regulation 25

11. In regulation 25 (average pensionable pay)—

(a) in paragraph (2) after "parental leave" insert ", adoption leave, adoption support leave, maternity support leave", and

(b) in paragraph (3) for "unpaid maternity leave, unpaid parental leave or unpaid sick leave" substitute "unpaid maternity leave, unpaid parental leave, unpaid sick leave, unpaid adoption leave, unpaid adoption support leave or unpaid maternity support leave,".

Amendment of regulation 26

12. In regulation 26(3)(a) (aggregate pension contributions for purposes of repayment)(**18**) for "unpaid maternity leave, unpaid parental leave or unpaid sick leave" substitute "unpaid maternity

(**17**) Regulation 24 was amended by S.I. 2011/3063.
(**18**) Regulation 26 was amended by S.I. 2011/3063.