SCOTTISH STATUTORY INSTRUMENTS

2003 No. 406

PENSIONS

The Police Pensions (Scotland) Amendment Regulations 2003

Made - - - -	*3rd September 2003*
Laid before the Scottish Parliament - - - -	*5th September 2003*
Coming into force - -	*1st October 2003*

The Scottish Ministers, in exercise of the powers conferred by sections 1 to 6 and 7(1) of the Police Pensions Act 1976(**1**), and of all other powers enabling them in that behalf, after consultation with the Police Negotiating Board for the United Kingdom(**2**), hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Pensions (Scotland) Amendment Regulations 2003 and shall come into force on 1st October 2003, except that–

(a) the amendment made by paragraph 5 of Schedule 1 has effect in relation to any period of maternity leave falling on or after 15th December 1999;

(b) paragraphs 1(a) and (c), 2 and 3 of Schedule 2 have effect from 1st December 2002; and

(c) paragraph 6(b) of Schedule 2 has effect from 1st November 1999.

(2) These Regulations extend to Scotland only.

Amendment of the Police Pensions Regulations 1987

2. The Police Pensions Regulations 1987(**3**) shall be amended in accordance with Schedule 1.

(**1**) 1976 c. 35. Section 1 of the Police Pensions Act 1976 (c. 35) ("the Act") is amended by section 2(3) of the Police Negotiating Board Act 1980 (c. 10) ("the 1980 Act"), 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) ("the 1997 Act"). Section 7(1) is amended by section 1(2) of the 1997 Act. These powers are extended by section 42 of the Welfare Reform and Pensions Act 1999 (c. 30). Functions under the Act as regards Scotland are transferred 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 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.

(**2**) See section 2(3) of the 1980 Act which substituted the Police Negotiating Board for the United Kingdom for the Police Council for the United Kingdom.

(**3**) S.I. 1987/257, as relevantly amended 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, 1998/577, and 2001/3649 and S.S.I. 2000/193 and 2001/459.

Amendment of the Police Pensions (Additional Voluntary Contributions) Regulations 1991

3. The Police Pensions (Additional Voluntary Contributions) Regulations 1991(**4**) shall be amended in accordance with Schedule 2.

St Andrew's House, Edinburgh
3rd September 2003

TAVISH SCOTT
A member of the Scottish Executive

(**4**) S.I. 1991/1304, as relevantly amended by S.S.I. 2001/461.

SCHEDULE 1

Regulation 2

AMENDMENTS OF THE POLICE PENSIONS REGULATIONS 1987

1. In regulation A9(2), after "policeman" insert "or for the purposes of regulation G6".

2.—(1) After regulation A12(1) insert–

"(1A) For the purpose of deciding if a person's disablement is likely to be permanent, that person shall be assumed to receive normal appropriate medical treatment for his disablement, and in this paragraph "appropriate medical treatment" shall not include medical treatment that it is reasonable in the opinion of the police authority for that person to refuse.".

(2) In regulation A12 (2), for "a male or female member of the force, as the case may be" substitute "a member of the force".

(3) In regulation A12, insert after paragraph (4)–

"(5) In this regulation, "infirmity" means a disease, injury or medical condition, and includes a mental disorder, injury or condition.".

3. In Regulation A20–

(a) after "police authority determine" insert ", having given due consideration to all the circumstances, advice, guidance and information available to them,"; and

(b) for "medical referee" substitute "board of medical referees".

4. In regulation B1(3)(ba) for from "and either" to the end of sub-paragraph (ba) substitute "or, if such a term has extended, at the end of the appointment for the extended term".

5. In sub-paragraph (c) of regulation F1(1) for "14 weeks" substitute "18 weeks".

6. In regulation G6–

(a) in paragraph (1)–

(i) in sub-paragraph (b) for "service" substitute "pensionable service that is reckonable by reason of service or employment"; and

(ii) in the words following that sub-paragraph, for "service" substitute "pensionable service that is reckonable by reason of service or employment";

(b) at the end of paragraph (3) insert–

", or

(c) if such contributions have ceased to be payable either before or during that period and again become payable more than 2 years after the date of cessation, but on or before 1st October 2003, that date, or

(d) if such contributions have ceased to be payable either before or during that period and again become payable more than 2 years after the date of cessation, but after 1st October 2003, the date on which they again become payable.";

(c) for paragraph (4) substitute–

"(4) In a case where the material date is the date given by paragraph (3)(a) or (b), the additional contributions to be paid are calculated, subject to paragraphs (6) to (11), in accordance with the Table in paragraph (18) by reference to the whole of the woman's pensionable service reckonable by reason of service or employment before 17th May 1990.

(4A) In a case where the material date is the date given by paragraph (3)(c) or (d), the additional contributions to be paid are such amounts as are determined in accordance with such guidance and Tables as the Government Actuary may issue for the purpose or, in any case where that guidance indicates that special considerations apply, such amounts as the Government Actuary determines for the case in question.";

(d) at the beginning of paragraph (5) for "The" substitute "In a case where the material date is the date given by paragraph (3)(a) or (b), the";

(e) in paragraphs (7)(b), (10)(b) and (14) for the word "service" in each place where it occurs substitute "pensionable service";

(f) at the beginning of paragraph (13)(a) insert "except where the payments are made in pursuance of an election for which the material date is that given by paragraph (3)(c) or (d),";

(g) in paragraph (15) after "pensionable service" in both places it occurs insert "reckonable by reason of service or employment"; and

(h) in the Table in paragraph (18)–

(i) after the words "pensionable service", in the first place where they occur, insert "reckonable by reason of service or employment", and

(ii) after those words in the second place where they occur insert "so reckonable".

7. In regulation H1, for paragraph (4) substitute–

"(4) The police authority may decide to refer a question in paragraph (2) or, as the case may be, (3) to a board of duly qualified medical practitioners instead of to a single duly qualified medical practitioner, and in such a case references in this regulation, regulations H2 and H3 (1), (2) and (4), and paragraphs 5(a) and 6 of Schedule H to a medical practitioner shall be construed as if they were references to such a board.

(5) In any case where one or both of questions (a) and (b) in paragraph (2) is or are referred to a selected medical practitioner, the decision of that practitioner on all the questions referred to him shall be expressed in the form of a report and shall, subject to regulations H2 and H3, be final.

(6) Where one or both of questions (c) and (d) in paragraph (2) is or are referred to a selected medical practitioner and paragraph (5) does not apply, the decision of that practitioner on all the questions referred to him shall be expressed in the form of a certificate and shall, subject to regulations H2 and H3, be final.

(7) A copy of any report under paragraph (5) shall be supplied to the person who is the subject of that report.".

8.—(1) In the heading at Regulation H2 for "Appeal to medical referee" substitute "Appeal to board of medical referees".

(2) In regulation H2(1) for "on any question which involves the reference of questions under Regulation H1 to a selected medical practitioner" substitute "in any case to which regulation H1(6) applies".

(3) After regulation H2(2) insert–

"(2A) Where a person is dissatisfied with the decision of the selected medical practitioner as set out in a report under regulation H1(5), he may, within 28 days after he has received a copy of that report or such longer period as the police authority may allow, and subject to and in accordance with the provisions of Schedule H, give notice to the police authority that he appeals against that decision.

(2B) In any case where a person gives notice to the police authority in accordance with paragraph (2A)–

(a) that person must supply to the police authority within a further 28 days of that notice being received or such longer period as the police authority may allow, a statement of the grounds of his appeal; and

(b) the police authority shall notify the Scottish Ministers, and the Scottish Ministers shall appoint a board of medical referees to decide the appeal.".

9. For "medical referee" in each place where it occurs in paragraph (3) of Regulation H2, paragraph (4) of Regulation H3, and paragraphs (a) and (b) of Regulation H4 substitute "board of medical referees".

10. In regulation H2(3)–

(a) after "the certificate" insert "or report";

(b) after "a certificate" insert "or, as the case may be, a report";

(c) for "he" in both places where it occurs substitute "it"; and

(d) for "his" substitute "its".

11.—(1) In regulation H3 in each of paragraphs (1) and (2) after "certificate" insert "or report as the case may be".

(2) In regulation H3(2) omit "on fresh evidence".

(3) In regulation H3(3)–

(a) after "medical practitioner" insert "or board of medical practitioners"; and

(b) after "his" insert "or, as the case may be, its".

(4) In regulation H3(4) after "made," insert "or if, following a notice of appeal to the police authority, the police authority have not yet notified the Scottish Ministers of the appeal,".

12. In regulation H5(1) after "that granted" insert "or, by a decision of the police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation A12(1A)".

13. In regulation H6(2) after "that granted" insert "or, by a decision of the Scottish Ministers as police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation A12 (1A)".

14. In Schedule A–

(a) after the definition of "average pensionable pay" insert ""board of medical referees" has the meaning assigned to it by paragraph 3(2) of Schedule H;";

(b) after the definition of "husband" insert ""infirmity" has the meaning assigned to it by regulation A12(5);"; and

(c) omit the definition of "medical referee".

15. In Schedule H–

(a) for paragraph 2 substitute–

"**2.** On receiving an appeal against a certificate issued under regulation H1(2)(c) or (d) or an appeal and the appellants grounds for appeal in appeals made against a report issued under regulation H1(5), the police authority, unless Regulation H3(2) applies, shall forward to the Scottish Ministers copies of the appeal and all other documents determined as necessary by the Scottish Ministers.";

(b) for paragraph 3 substitute–