

2012 No. 3057

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment No. 3) Regulations 2012

Made - - - - *5th December 2012*

Laid before Parliament *10th December 2012*

Coming into force - - *1st January 2013*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 1 of the Police Pensions Act 1976(a).

In accordance with section 1(1) of the Act, the Treasury(b) have consented to the making of these Regulations and the Secretary of State has consulted with the Police Negotiating Board for the United Kingdom(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Pensions (Amendment No. 3) Regulations 2012.

(2) These Regulations come into force on 1st January 2013.

(3) These Regulations extend to England and Wales.

Amendment to the Police Pensions Regulations 1987

2.—(1) The Police Pensions Regulations 1987(d) are amended as follows.

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- (a) 1976 c. 35. Extensions to the powers conferred by section 1 are in sections 1, 4, 6 and 7 of the Police Pensions Act 1976. Section 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), section 1(1) of the Police and Firemen's Pensions Act 1997 (c. 52) and paragraph 129 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13); section 7 was amended by paragraph 19 of Part II of Schedule 5 to the Police and Magistrates' Courts Act 1994 (c. 29), paragraph 29 of Schedule 7 to the Police Act 1996, section 1(2) of the Police and Firemen's Pensions Act 1997, section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), section 126(1) of and paragraph 6(1) and (2) of Schedule 4 to the Criminal Justice and Police Act 2001 (c.16), paragraph 6(1) of Schedule 3 to the International Development Act 2002 (c.1), paragraph 30 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraph 58 of Part 7 of Schedule 1 and Part 1(A) of Schedule 15 to the Police and Justice Act 2006 (c. 48), paragraph 11(2) of Part 2 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47) and paragraph 2(2) of Part 1 of the Schedule to S.I. 2007/1098. Section 8A was inserted by section 2 of the Police and Firemen's Pensions Act 1997 and amended by article 109 of S.I. 2001/3649 and paragraph 131 of Schedule 16 to the Police Reform and Social Responsibility Act 2011.
- (b) Formerly the Minister for the Civil Service: see S.I. 1981/1670.
- (c) See section 61 of the Police Act 1996 (c. 16).
- (d) S.I. 1987/257, as amended by S.I. 1988/1339, S.I. 1990/805, S.I. 1996/867, S.I. 2000/1549, S.I. 2001/3888, S.I. 2002/3202, S.I. 1998/577, S.I. 2003/27, S.I. 2003/535, S.I. 2004/1491, S.I. 2004/2354, S.I. 2006/740, S.I. 2006/932, S.I. 2007/1932, S.I. 2008/1887, S.I. 2009/2060, S.I. 2010/431, S.I. 2011/3063, S.I. 2012/640 and S.I. 2012/2811.

(2) After regulation B5 (policeman's deferred pension) insert—

“Early payment of deferred pension

B5A.—(1) Subject to paragraphs (2) and (3), a regular policeman who is entitled to a deferred pension payable, in accordance with regulation B5(4), upon his attaining the age of 60, may elect for immediate payment of that pension:

Provided that no payment shall be made in respect of the period before the officer concerned attains the age of 55 years.

(2) An election under paragraph (1) shall be made by giving written notice to the police pension authority at least one month before the date on which the officer concerned wishes such payment to commence.

(3) Unless paragraph (4) applies, payment of the pension shall be subject to an actuarial reduction calculated by the police pension authority in accordance with tables prepared by the Scheme actuary.

(4) This paragraph applies where—

- (a) the regular policeman receives a compensation lump sum on voluntary retirement, in accordance with a determination of the Secretary of State made under regulation 14A of the Police Regulations 2003; and
- (b) a sum or sums equal to the value of the actuarial reduction are paid into the police pension fund in accordance with paragraphs (5) to (7) in order to buy out the actuarial reduction.

(5) Should the regular policeman so elect by giving notice in writing, the police pension authority shall pay into the police pension fund the whole or any part of the compensation lump sum that would otherwise be payable to the regular policeman.

(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 the additional amount required to do so.

(7) If the police pension authority decides not to pay the additional amount required to buy out the actuarial reduction, the regular policeman may pay to the police pension authority a sum equal to that additional amount, which the police pension authority shall pay into the police pension fund.

(8) Where a regular policeman who has made an election under paragraph (1) dies, any pension payable in respect of that policeman under Parts C or D shall be calculated as if no such election had been made.”.

Amendments to the Police Pensions Regulations 2006

3. The Police Pensions Regulations 2006(a) are amended as follows.

4. In regulation 6 (application of Regulations)—

- (a) in paragraph (2)—
 - (i) in sub-paragraph (a), at the end, insert “and”;
 - (ii) omit sub-paragraph (b);
- (b) in paragraph (4)—
 - (i) in sub-paragraph (b), omit “and”;
 - (ii) in sub-paragraph (c), at the end, insert “and”;
 - (iii) after sub-paragraph (c) insert—

(a) S.I. 2006/3415, as amended by S.I. 2007/1932, S.I. 2008/1887, S.I. 2009/2060, S.I. 2010/431, S.I. 2011/3063, S.I. 2012/640 and S.I. 2012/2811.

“(d) his election shall otherwise be cancelled in accordance with regulation 9(6), and he shall then become eligible for awards to be payable to or in respect of him under these Regulations, subject to paragraph 9 of Schedule 2.”.

5. In regulation 8 (eligibility for pension awards payable on the grounds of permanent disablement)—

(a) for paragraph (1)(b) substitute—

“(b) a regular police officer whose election under regulation 9(1) is cancelled in accordance with regulation 9(5) or (6).”;

(b) for paragraph (7)(b) substitute—

“(b) to whom this regulation applies by virtue of paragraph (1)(b) who was ineligible, under this regulation or regulation G7 of the 1987 Regulations, for pension awards payable on the ground of permanent disablement on the date of the election which is cancelled in accordance with regulation 9(5) or (6) of these Regulations,”;

(c) at the end insert—

“(9) Where this regulation applies to a regular police officer by virtue of paragraph (1)(b), any fee payable in respect of an examination or report shall be paid by the regular police officer concerned.

(10) Where a regular police officer to whom this regulation applies by virtue of paragraph (1)(b) wilfully or negligently fails to submit to an examination by a selected medical practitioner as set out in paragraph (2), paragraphs (3), (5), (6), (7) and (8) shall apply with the modification that the police pension authority, in making its determination under paragraph (3) or (7), shall apply such evidence and medical advice, and advice from the Scheme actuary, as it, in its discretion, thinks necessary.

(11) Where a police pension authority makes a determination under paragraph (3) or (7) following a failure of a regular police officer to submit to an examination such as is mentioned in paragraph (10), and the officer subsequently submits to an examination, the authority shall re-determine the matter by applying the opinion of the selected medical practitioner as set out in the practitioner’s report and advice from the Scheme actuary, and paragraphs (4), (5), (6), (8) and (9) shall apply in relation to the re-determination as if it was made under paragraph (3) or (7).”.

6. In regulation 9 (election not to pay pension contributions)—

(a) In paragraph (2), after “paragraph (3)” insert “and (3A)”;

(b) after paragraph (3) insert—

“(3A) In the case of a regular police officer to whom paragraph (3) does not apply and who has given notice under paragraph (1) within three months of a relevant event, his election under that paragraph shall be deemed to have taken effect on the date of that event.

(3B) A relevant event for the purposes of paragraph (3A) is—

(a) the automatic enrolment date;

(b) an automatic re-enrolment date;

(c) the regular police officer exercising the right to opt in afforded by section 7 of the Pensions Act in accordance with the arrangements prescribed by the Automatic Enrolment Regulations.”;

(c) in paragraph (4), after “paragraph (3)” insert “or (3A)”;

(d) in paragraph (5), omit all the words after “the receipt of such notice”;

(e) after paragraph (5) insert—

“(6) An election made by a regular police officer under paragraph (1) shall, if it has not been cancelled under paragraph (5), be cancelled on the automatic enrolment date or (if that date has passed) on the next automatic re-enrolment date, and shall cease to have effect as from the date on which an instalment of pay next falls due to him after the date of cancellation.

(7) A written notice given under paragraph (1) or (5) shall be signed by the regular police officer or, where the notice is in electronic format, it shall include a statement confirming that the notice is given by the regular police officer personally.

(8) In this regulation—

“automatic enrolment date” has the meaning given by section 3(7) of the Pensions Act;

“automatic re-enrolment date” means a date determined in accordance with regulation 12 of the Automatic Enrolment Regulations;

“the Automatic Enrolment Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(a);

“the Pensions Act” means the Pensions Act 2008(b).”

7. In Schedule 2 (application of Regulations to officers to whom regulation 6(2) and (3) applies), for paragraph 9(c) substitute—

“(c) to whom paragraph 3 applies and who—

(i) has made an election in accordance with paragraphs 4 and 5, or

(ii) has not made an election in accordance with those paragraphs or under regulation 6(8), but is entitled to reckon at least 30 years’ pensionable service under the 1987 Regulations at the date of retiring or otherwise ceasing to serve (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); or”.

Home Office
4th December 2012

Damian Green
Minister of State

We consent

David Evennett
Anne Milton

5th December 2012

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Police Pensions Regulations 1987 (“the 1987 Regulations”) and the Police Pensions Regulations 2006 (“the 2006 Regulations”) provide for two defined benefits pension schemes for members of police forces in England and Wales.

These Regulations amend the 1987 Regulations in order to implement (in part) recommendation 58 in the Independent Review of Police Officer and Staff Remuneration and Conditions: Part 1 Report(c) in relation to voluntary redundancy.

Regulation 2 of these Regulations amends the 1987 Regulations by inserting new provision allowing a police officer to elect to receive a deferred pension from the age of 55, rather than the current age of 60. A pension paid in these circumstances will be actuarially reduced to reflect the longer period over which it is paid. A police officer receiving a compensation lump sum on voluntary early retirement will be able to use the lump sum to buy out the actuarial reduction in

(a) S.I. 2010/772, as amended by S.I. 2012/215.

(b) 2008 c. 30.

(c) Cm. 8024.

the pension, and if the lump sum is insufficient to do so, the police pension authority or the police officer will be able to make up the shortfall. No such amendment is necessary in respect of the 2006 Regulations.

Further provision to implement the recommendation is made in amendments to the Police Regulations 2003^(a) and to the determinations made by the Secretary of State under those Regulations.

These Regulations also amend the 2006 Regulations so as to ensure compliance with the requirements prescribed by the Pensions Act 2008 and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (“the 2010 Regulations”) with regard to arrangements the employer must make in respect of automatic enrolment and re-enrolment of a job-holder in a qualifying scheme. The amendments also ensure the Scheme complies with other arrangements prescribed by the Pensions Act 2008 and the 2010 Regulations by which a jobholder or worker may join and leave a qualifying pension scheme.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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^(a) S.I. 2003/527.

STATUTORY INSTRUMENTS

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