

2003 No. 535

**POLICE, ENGLAND AND WALES
PENSIONS, ENGLAND AND WALES**

The Police Pensions (Amendment) (No. 2) Regulations 2003

Made - - - - - *6th March 2003*

Laid before Parliament *10th March 2003*

Coming into force *1st April 2003*

The Secretary of State, in exercise of the powers conferred on him by sections 1 and 6 of the Police Pensions Act 1976(a), with the consent of the Treasury(b) and after consultation with the Police Negotiating Board for the United Kingdom, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Pensions (Amendment) (No. 2) Regulations 2003 and shall come into force on 1st April 2003.

(2) These Regulations extend to England and Wales only.

Amendment of the Police Pensions Regulations 1987

2. The Police Pensions Regulations 1987(c) are amended in accordance with Schedule 1 to these Regulations.

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

3. The Police Pensions (Additional Voluntary Contributions) Regulations 1991(d) are amended in accordance with Schedule 2 to these Regulations.

Home Office
4th March 2003

John Denham
Minister of State

We consent to the making of these Regulations

John Heppell
Jim Fitzpatrick
6th March 2003 Two of the Lords Commissioners of Her Majesty's Treasury

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- (a) 1976 c.35. Section 1 is amended by section 2(3) of the Police Negotiating Board Act 1980 (c.10), 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). Functions under the Act as regards Scotland are transferred by S.I. 1999/1750, article 2 and Schedule 1.
- (b) Formerly the Minister for the Civil Service: *see* S.I. 1981/1670.
- (c) S.I. 1987/257, as amended by S.I. 1987/2215, 1988/1339, 1989/733, 1990/805, 1992/1343, 1992/2349, 1994/641, 1995/547, 1995/2020, 1996/867, 1997/2852, 1998/577, 2000/843, 2001/3888, 2002/3202, 2003/27.
- (d) S.I. 1991/1304, as amended by S.I. 2002/3202 and S.I. 2003/27.

AMENDMENT OF THE POLICE PENSIONS REGULATIONS 1987

1.—(1) After regulation A12(1) (disablement) insert—

“(1A) For the purposes 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 the words “a male or female member of the force, as the case may be,” substitute “a member of the force”.

(3) In regulation A12 after paragraph (4) insert—

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

2. In regulation A20 (compulsory retirement on grounds of disablement) for the words “the police authority determine” substitute “the police authority, having considered all the relevant circumstances, advice and information available to them, determine”.

3. In regulation H1 (reference of medical questions) 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) Where one or both of questions (c) and (d) in paragraph (2) are referred to a selected medical practitioner and paragraph (6) does not apply, the decision of that practitioner on the questions referred to him shall be expressed in the form of a certificate and shall, subject to regulations H2 and H3, be final.

(6) In any case where one or both of questions (a) and (b) in paragraph (2) 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.

(7) A copy of any such report shall be supplied to the person who is the subject of that report.”.

4.—(1) In regulation H2(1) (appeal to medical referee) for “on any question which involves the reference of questions under Regulation H1 to a selected medical practitioner” substitute “in any case in which Regulation H1(5) 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(6), 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 within a further 28 days of that notice being received (or such longer period as the police authority may allow) that person has supplied to the police authority a statement of the grounds of his appeal, the police authority shall notify the Secretary of State accordingly, and the Secretary of State shall appoint a medical referee to decide the appeal.”.

(4) In regulation H2(3)—

(a) after “the certificate” insert “or report”;

(b) after “a certificate” insert “or as the case may be a report”.

- 5.**—(1) In regulation H3 (further reference to medical authority) in each of paragraphs (1) and (2) after “certificate” insert “or report as the case may be”.
- (2) In regulation H3(2) delete “on fresh evidence”.
- (3) In regulation H3(3)—
- (a) after “medical practitioner” insert “or board of medical practitioners”;
- (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 Secretary of State of the appeal,”.
- 6.** In regulation H5(1) (appeal by a member of a home police force) after the words “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)”.
- 7.** In regulation H6(2) (appeal by overseas policeman, inspector of constabulary or central police officer) after the words “that granted” insert—
- “or by a decision of the Secretary of State as police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation A12(1A)”.
- 8.** In regulation M2(4)(a) (pension credit members: commutation: general provisions) for the word “rule”, in both places where it appears, substitute “regulation”.
- 9.** In regulation M3(4) (commutation of the pension credit benefit: small pensions and serious ill-health) for the word “rule” substitute “regulation”.
- 10.** In Schedule A (glossary of expressions) at the appropriate place, insert—
- ““infirmity” has the meaning assigned to it by regulation A12(5)”.

SCHEDULE 2

Regulation 3

AMENDMENT OF THE POLICE PENSIONS (ADDITIONAL VOLUNTARY CONTRIBUTIONS) REGULATIONS 1991

The regulation which was inserted by paragraph 3 of Schedule 2 to the Police Pensions (Pension Sharing) Regulations 2002**(b)** as regulation 10A (pension sharing on divorce or nullity of marriage) is renumbered regulation 10B.

(a) Part M was inserted by paragraph 12 of Schedule 1 to S.I. 2002/3202.

(b) S.I. 2002/3202; a further regulation 10A (outward transfers) was inserted into S.I. 1991/1304 by paragraph 5 of Schedule 2 to the Police Pensions (Amendment) Regulations 2003 (S.I. 2003/27).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the following Regulations as they have effect in England and Wales: the Police Pensions Regulations 1987 (“the 1987 Regulations”), which provide for the superannuation of members of police forces, and the Police Pensions (Additional Voluntary Contributions) Regulations 1991 (“the AVC Regulations”), which make provision for the payment of additional voluntary contributions by police officers to secure additional pension benefits.

Regulation 1 provides for the citation, commencement and extent of the Regulations.

Regulation 2 and Schedule 1 amend the procedure relating to retirement on grounds of ill-health in the 1987 Regulations.

Paragraph 1 of that Schedule amends the definition of permanent disablement to make it clear that disablement must have a recognised medical cause or must be the result of an injury, and that the question of whether a person is permanently disabled is to be assessed on the assumption that he will receive appropriate medical treatment.

Paragraph 3 provides that a police authority may refer medical questions to a board of doctors rather than to one individual doctor. Questions as to whether a person’s disablement is the result of an injury received in the execution of duty, and as to the degree of a person’s disablement, remain to be referred to a doctor who shall express his findings in a certificate. Questions as to whether a person is disabled and as to whether the disablement is likely to be permanent are to be referred to a doctor who shall express his findings in a report. If both categories of question are referred, the findings are to be expressed in a report. A person who is the subject of a medical report shall automatically be entitled to see a copy of it, rather than having to request it within a limited timetable.

Paragraph 4 enables a person who is dissatisfied with a medical report to appeal to an independent person appointed by the Secretary of State.

Paragraph 5 enables a police authority and a claimant by agreement to seek a reconsideration of a medical authority’s decision, without the need for fresh evidence. Sub-paragraph (4) provides that where a claimant has given notice of appeal under regulation H2, the police authority may, with the consent of the claimant, refer a decision back to the medical practitioner for reconsideration, rather than proceeding immediately to an appeal hearing by notifying the Secretary of State.

Paragraph 6 clarifies that a member of a home police force may appeal to the Crown Court against a decision of the police authority as to whether a refusal to accept medical treatment is reasonable. Paragraph 7 clarifies that an overseas policeman, an inspector of constabulary and a central police officer may appeal to an appeal tribunal appointed by the Secretary of State against a decision by the Secretary of State, acting as the police authority, as to whether a refusal to accept medical treatment is reasonable.

Paragraphs 8 and 9 correct errors introduced into the 1987 Regulations by S.I. 2002/3202.

Regulation 3 and Schedule 2 correct an error introduced into the AVC Regulations by S.I. 2003/27.

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