

2009 No. 2060

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment) Regulations 2009

<i>Made</i> - - - -	<i>21st July 2009</i>
<i>Laid before Parliament</i>	<i>27th July 2009</i>
<i>Coming into force</i> - -	<i>1st September 2009</i>

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 that 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) Regulations 2009.

(2) These Regulations come into force on 1st September 2009 and, subject to paragraphs (3) and (4), have effect from 1st April 2007(d).

(3) In Schedule 1—

(a) paragraphs 3, 22 and 34, and

(b) paragraph 35 in so far as it inserts regulation 12B(5) into the Police Pension Fund Regulations 2007(e),

have effect from 1st September 2009.

(4) Schedule 2 has effect from 1st September 2009.

(a) 1976 c.35. Relevant 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) and section 1(1) of the Police and Firemen's Pensions Act 1997 (c. 52); 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.

(b) Formerly the Minister for the Civil Service: see S.I. 1981/1670.

(c) Section 61 of the Police Act 1996 provides for the continued existence of the Police Negotiating Board for the United Kingdom.

(d) Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

(e) S.I. 2007/1932.

(5) These Regulations extend to England and Wales.

Amendments to regulations

2.—(1) Part 1 of Schedule 1 (Amendments of the Police Pensions Regulations 1987^(a)) has effect.

(2) Part 2 of Schedule 1 (Amendments of the Police (Injury Benefit) Regulations 2006^(b)) has effect.

(3) Part 3 of Schedule 1 (Amendments of the Police Pensions Regulations 2006^(c)) has effect.

(4) Part 4 of Schedule 1 (Amendments of the Police Pension Fund Regulations 2007) has effect.

(5) Schedule 2 (Amendments of the Police Pensions Regulations 2006 relating to reckoning of service) has effect.

Home Office
21st July 2009

David Hanson
Minister of State

We consent

21st July 2009

Dave Watts
Tony Cunningham
Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

PART 1

Amendments of 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 (6), 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.”.

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

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

(a) S.I. 1987/257.
(b) S.I. 2006/932.
(c) S.I. 2006/3415.

(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 or 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) After paragraph (1)(aa) insert—

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

(3) 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) Regulation K4 (withdrawal of pension during service as a regular policeman) 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.”.

14.—(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;”.

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

(a) in paragraph (e) omit “and”; and

(b) at the end insert—

“and

(g) an employed constable of NPIA;”.

(5) In the definition of “parental leave” 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”.

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

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

(a) in paragraph (d) omit “and”; and

(b) at the end insert—

“and

(f) an employed constable of NPIA;”.

(8) In the definition of “sick leave” 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

Amendments of the Police (Injury Benefit) Regulations 2006

15. The Police (Injury Benefit) Regulations 2006 are amended as follows.

16. 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.”.

17. 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.”.

18.—(1) Regulation 39 (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.”.

19.—(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;”.

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

- (a) in paragraph (c) omit “and”;
- (b) at the end insert—
 - “and
 - (e) an employed constable of NPIA;”.

(4) In the definition of “regular police officer” or “regular policeman”—

- (a) in paragraph (c) omit “and”;
- (b) at the end insert—
 - “and
 - (e) an employed constable of NPIA;”.

PART 3

Amendments of the Police Pensions Regulations 2006

20. The Police Pensions Regulations 2006 are amended as follows.

21.—(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”.

(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.”.

22.—(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.”.

23.—(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.”.

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

(2) In paragraph (d) omit “or”.

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

“or

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

25.—(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”.
- 26.** In regulation 19(4) (compulsory retirement on account of age) at the end insert “or an employed constable of NPIA”.
- 27.** In regulation 20(3) (compulsory retirement on grounds of efficiency of the force) at the end insert “or an employed constable of NPIA”.
- 28.** In regulation 23 (pensionable pay) after “SOCA” insert “or an employed constable of NPIA”.
- 29.** 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”.
- 30.—**(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.”.
- 31.—**(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;”.
- (3) In the definition of “maternity leave” 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” 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”.
- (6) In the definition of “regular police officer” after “SOCA” insert “, an employed constable of NPIA”.
- (7) In the definition of “sick leave” 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 4

Amendments of the Police Pension Fund Regulations 2007

- 32.** The Police Pension Fund Regulations 2007 are amended as follows.
- 33.—**(1) Regulation 2 (interpretation) 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;”.

(3) In the definition of “police authority” at the end insert “and, in relation to an employed constable of NPIA, it means NPIA”.

(4) For the definition of “regular police officer” substitute—

““regular police officer” means a member of a police force, the commissioner of police for the City of London, an inspector of constabulary, a police officer engaged on relevant service, a specified employee of SOCA and an employed constable of NPIA;”.

34. In regulation 12A (application of regulations to SOCA), at the end insert—

“(4) Regulation 10 shall have effect as if after paragraph (3) there were inserted—

“(3A) Where the Secretary of State requires accounts relating to the police pension fund to be audited, they shall be audited by the Comptroller and Auditor General.””.

35. After regulation 12A insert—

“**12B.**—(1) In the application of these Regulations to NPIA as police authority in relation to an employed constable of NPIA, these Regulations shall have effect subject to the following modifications.

(2) References to the police fund shall be construed as references to the account established and maintained by NPIA and known as the income and expenditure account.

(3) Regulations 3(4) and 5(7) to (9) shall not apply.

(4) The reference in regulation 5(1) to 24.2% shall be read as a reference to 25.5%.

(5) Regulation 10 shall have effect as if after paragraph (3) there were inserted—

“(3A) Where the Secretary of State requires accounts relating to the police pension fund to be audited, they shall be audited by the Comptroller and Auditor General.””.

SCHEDULE 2

Amendments of the Police Pensions Regulations 2006 relating to reckoning of service

1. In relation to a regular police officer to whom the Police Pensions Regulations 2006 first applied on or after 1st September 2009, those Regulations are amended as follows.

2. 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)”.

3.—(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”.

4. 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.””.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions Regulations 1987, the Police (Injury Benefit) Regulations 2006, the Police Pensions Regulations 2006 and the Police Pension Fund Regulations 2007. These amendments make provision for such Regulations to apply to an employed constable of the National Policing Improvement Agency (“NPIA”). An employed constable of NPIA is member of staff of NPIA who is a constable and an employee of NPIA.

These Regulations also amend certain provisions of the Police Pensions Regulations 2006 which deal with the reckoning of service for the purposes of awards.

These Regulations have effect in accordance with regulation 1. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

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

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

STATUTORY INSTRUMENTS

2009 No. 2060

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment) Regulations 2009

£5.50