
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 380

PUBLIC SERVICE PENSIONS

The Police Pensions Amendment (Increased Pension Entitlement) (Scotland) Regulations 2019

Made - - - - 7th November 2019
Laid before the Scottish Parliament - - - - 11th November 2019
Coming into force - - 30th December 2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1 and 3 of the Police Pensions Act 1976(1), and all other powers enabling them to do so.

In accordance with section 1(1) of that Act they have consulted with the Police Negotiating Board for the United Kingdom(2).

Citation, commencement, effect and extent

1.—(1) These Regulations may be cited as the Police Pensions Amendment (Increased Pension Entitlement) (Scotland) Regulations 2019.

(2) These Regulations come into force on 30 December 2019 and, subject to paragraph (3), have effect from 8 April 2019(3).

(3) Regulation 2, in so far as required to give effect to regulation 4, and regulation 4 have effect from 12 November 1979 to 8 April 2019.

(4) These Regulations extend to Scotland only.

Amendment of the Police Pensions Regulations 1987

2. The Police Pensions Regulations 1987(4) are amended in accordance with regulations 3 to 6.

(1) 1976 c.35 (“the Act”). 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 of the Police Act 1996 (c.16) and section 1(1) of the Police and Firemen’s Pensions Act 1997 (c.52). These powers are extended by section 42 of the Welfare Reform and Pensions Act 1999 (c.30). The functions of the Secretary of State under the Act as regards Scotland are transferred to the Scottish Ministers by S.I. 1999/1750. The requirement for consent by the Minister for the Civil Service under section 1 of the Act was transferred to 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 and section 63 of the Scotland Act 1998 (c.46).

(2) Section 61 of the Police Act 1996 (c.16) contains provision relevant to the Police Negotiating Board for the United Kingdom.

(3) Retrospective effect is permitted by section 1(5) of the Act.

(4) S.I. 1987/257; relevant amendments were made by S.I. 1987/341, S.I. 1987/2215, S.I. 1988/1339, S.I. 1989/733, S.I. 1990/805, S.I. 1991/1517, S.I. 1992/1343, S.I. 1992/2349, S.I. 1994/641, S.I. 1996/867, S.I. 1997/1429, S.I. 1997/2852, S.I. 1998/577,

3. In regulation N1 (interpretation)—
- (a) in the definition of “the existing Orders”—
- (i) for “and” after “Order 2008” substitute “, ”,
- (ii) after “Order 2009” insert “, the Pensions Increase (Review) Order 2011(5), the Pensions Increase (Review) Order 2012(6), the Pensions Increase (Review) Order 2013(7), the Pensions Increase (Review) Order 2014(8), the Pensions Increase (Review) Order 2015(9), the Pensions Increase (Review) Order 2017(10), the Pensions Increase (Review) Order 2018(11)” and the Pensions Increase (Review) Order 2019(12)”,
- (b) after the definition of “pension authority”, insert—
- ““the reconciliation exercise” means the exercise at the instigation of HMRC carried out by SPPA from time to time to check for any discrepancy between the amount of legal entitlement to GMP payments of a pensioner member and the actual payments received by a pensioner member;”
- (c) in the definition of “relevant police authority” after “Regulations” insert “but on or after 8 August 2012 means the Scottish Police Authority”.
4. In regulation N2 (application of Part)—
- (a) after “5th April 2009” insert “or 7 April 2019”,
- (b) for “that date” substitute “either of those dates”.
5. In regulation N4 (authorisation of payment of GMP-related payments), for paragraph (2) substitute—
- “(2) Where a relevant police authority has paid GMP-related payments before 8 April 2019, the authority may not recover those payments on or after 8 April 2019.”.
6. In regulation N5 (increased Pension Entitlement)—
- (a) in paragraph (2) for “2009–10” substitute “2019–20”,
- (b) in paragraph (6)(a), for “2009–10” substitute “2019–20”,
- (c) in paragraph (6)(b)—
- (i) for “2009–10”, in each place it occurs, substitute “2019–20”,
- (ii) for “not entitled to a guaranteed minimum pension” substitute—
- “—
- (i) not entitled to a guaranteed minimum pension; or
- (ii) entitled to the original guaranteed minimum pension awarded prior to the reconciliation exercise in respect of the award”.

S.S.I. 2000/193, S.S.I. 2001/459, S.S.I. 2003/406, S.S.I. 2004/486, S.S.I. 2005/200, S.S.I. 2005/495, S.S.I. 2006/285, S.S.I. 2008/387 and 2009/185.

(5) S.I. 2011/827.
(6) S.I. 2012/782.
(7) S.I. 2013/604.
(8) S.I. 2014/668.
(9) S.I. 2015/671.
(10) S.I. 2017/417.
(11) S.I. 2018/333.
(12) S.I. 2019/546.

St Andrew's House,
Edinburgh
7th November 2019

KATE FORBES
Authorised to sign by the Scottish Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions Regulations 1987 (“the 1987 Regulations”) to authorise the payments made by police authorities between 12 November 1979 and 8 April 2019 of annual increases to certain persons who are entitled to a guaranteed minimum pension.

Section 5 of the Pensions (Increase) Act 1971 (“the 1971 Act”) requires pensions authorities to increase annually pensions to which that Act applies. The 1971 Act is modified by sections 59 and 59A of the Social Security Pensions Act 1975 (“the 1975 Act”). Pensions authorities pay annual increases on pensions in accordance with the annual Pensions (Increase) Review Orders (“the annual PIROs”) which are made under section 59 of the 1975 Act. The combined effect of section 59(5) of the 1975 Act, Directions by the Treasury made under section 59A of the 1975 Act and relevant provisions of the annual PIROs is that the amount of increase payable by a pensions authority under the annual PIROs is reduced by the amount equal to the rate of the GMP which is paid by the Department of Work and Pensions (“DWP”).

Contracting-out of the state second pension ended from 5 April 2016, with the introduction of the single tier state pension. Schemes were required to undertake a reconciliation exercise to check the contracting –out data held against that held by HMRC. This reconciliation exercise has been undertaken and any inconsistencies corrected. These regulations provide that going forward GMP related overpayments payments are converted to an Increased Pension Entitlement (“IPE”) and therefore become part of the members entitlement under the scheme.

Regulation N3 of the 1987 Regulations defines a GMP-related payment as a payment made by the police authority applying the annual PIROs as if no reduction fell to be made in relation to the person’s GMP.

Regulation N4 authorises the past payment of GMP-related payments. This provision has effect from 12 November 1979 until 8 April 2019. New paragraph (2) provides that where a police authority has made such payments to an affected pensioner, it may not recover them.

Amended regulation N5 sets out the entitlement to IPE. Although entitlement to IPE begins on 8 April 2019, the effect of the 1971 Act is that annual increases must apply to IPE from the beginning date of the pension (usually the day after the person’s date of retirement). IPE is therefore defined as the amount a pension would have to be at the beginning date of a pension in order for that amount, after annual increases have been applied under the annual PIROs, to equal the GMP-related payment for the tax year 2019-2020. The effect is that for the tax year 2019-20 the IPE that the affected pensioner will receive is equal to the GMP-related payment he or she would have received were the police authority to apply the 2009 PIRO as if no reduction fell to be made in relation to the person’s GMP. Thereafter, IPE will continue to be increased in line with the annual PIROs although future PIROs will no longer be applied as if no reduction fell to be made.