

**GUIDANCE ON MEDICAL APPEALS
UNDER THE POLICE PENSIONS REGULATIONS 1987 AND THE POLICE
(INJURY BENEFIT) REGULATIONS 2006**

SECTION 1

**THE POLICE PENSION AND INJURY BENEFIT SCHEMES IN ENGLAND
AND WALES**

The Police Pension Scheme 1987

The Police Pension Scheme is a statutory scheme with defined benefits based on an officer's salary on leaving the police. Its provisions are set out in the Police Pensions Regulations 1987, as amended. The Regulations are made and laid before Parliament by the Home Secretary under powers conferred by the Police Pensions Act 1976.

2. The 1987 Regulations apply to all regular police officers in England and Wales and Scotland who last joined the service before 6 April 2006, provided that they have not since transferred to the 2006 police pension scheme. The Police Service of Northern Ireland has basically the same scheme but based on separate regulations (the regulations are due to be consolidated on a UK-wide basis in 2009). Membership of the Police Pension Scheme is voluntary, although the compulsory retirement provisions apply to all officers. The scheme is contracted out of the State Earnings Related Pension Scheme (SERPS).

3. The scheme is administered locally by police authorities. Since many of the decisions under the Police Pensions Regulations are management ones concerned with the timing of retirement from the force and the conditions under which that takes place, many police authorities will delegate those functions to the Chief Constable or to the force's Human Resources Director.

4. The contribution rate for scheme members is 11%. This is a high figure in UK terms because of the early retirement age and level of benefits given the demanding and often dangerous nature of the work of police officers.

Features of the 1987 Scheme

Retirement Age

5. In ranks below assistant chief constable (or commander in the Metropolitan Police), an officer may retire with an immediate ordinary pension from age 50, provided he or she has at least 25 years' service. An officer may, however, retire with an immediate ordinary pension after 30 years' service irrespective of age - the earliest that this can normally happen is at age 48½.

Other Benefits

6. The other benefits of the scheme are as follows:-

- a retirement pension of 1/60th of average pensionable pay for each year of service up to 20, thereafter fast accrual of 2/60ths, up to a maximum of two thirds (40/60ths) of pensionable pay
- specific arrangements apply to the accrual of pension entitlements where officers have part-time service;
- if a police officer dies after completing 2 years' service a pension is payable to the

- widow(er) together with a pension for any dependent children.
- a death-in-service lump sum, for serving officers, of twice annual pensionable pay at date of death.
 - enhancement of pension with immediate payment and index linking in the event of medical retirement - see below:

Retirement on grounds of age

7. Compulsory retirement age (CRA) is relevant to medical decisions since the Police Negotiating Board Guidance lays down that, regardless of an officer's ages, he or she is not to be regarded as permanently disabled unless the disablement is assessed as likely to last at least until his or her CRA.

8. Until 1 October 2006 the CRAs for police officers depended on rank and force. On 1 October 2006 the Employment Equality (Age) Regulations 2006 came into force. These regulations mean that any CRA needed to be objectively justified. (For more information on CRAs and the changes, please see Home Office Circulars 30/2006 and 35/2006.)

9. Prior to 1 October 2006 the situation was as follows: the compulsory retirement age for all constables and sergeants was 55. Outside the Metropolitan Police it was 60 for the ranks of inspector to chief superintendent; and 65 for assistant chief constable, deputy chief constable and chief constable. In the Metropolitan Police it was 55 for all ranks up to and including chief superintendent, 57 for commanders; and 60 for assistant commissioners. There was no compulsory retirement age for a Metropolitan Police commissioner or deputy commissioner.

10. As of 1 October 2006 the compulsory retirement age for all forces in England and Wales and Scotland is 60 for constable to chief inspector and 65 for all higher ranks (i.e. the superintending and ACPO ranks).

11. When considering the question of permanent disablement, the CRA is only really used to aid in the determination of permanence in the case of officers who are a considerable way from their CRA. This means that the post-October CRAs should be used when looking at permanence.

Retirement on medical grounds

12. A police authority has the discretion to require an officer who is assessed as permanently disabled for police duty to retire on medical grounds. If the authority is considering whether an officer is permanently disabled it must refer the case to a duly qualified medical practitioner or a board of two or more practitioners selected by it to decide that issue. (The selected medical practitioner or board of such practitioners is hereafter referred to as the SMP.). The SMP's decision on the medical issue of permanent disablement is final subject to a medical appeal and internal review.

13. Where an officer is a member of the pension scheme the benefits on compulsory medical retirement range from a gratuity for officers with less than two years' pensionable service to a pension for those with 5 or more years' service. This is enhanced on a sliding scale according to length of service to compensate to some extent for the lost opportunity of serving until normal retirement age.

The Injury Benefit Scheme

14. The Injury Benefit Scheme is a statutory scheme with defined benefits based on an officer's salary on leaving the police. Its provisions are set out in the Police (Injury Benefit) Regulations 2006 (as amended). The Regulations are made and laid before Parliament by the Home Secretary under powers conferred by the Police Pensions Act 1976.

15. The Police (Injury Benefit) Regulations 2006 apply to all regular police officers in England and Wales. Scotland and the Police Service of Northern Ireland have separate regulations but basically the same provisions. Whereas ill-health retirement benefits under the Police Pension Scheme apply only to officers who are active members of the pension scheme, injury benefits are payable to any officer who qualifies for them. Like the Police Pension Scheme, the injury benefit scheme is administered locally by police authorities.

Injury award

16. A person who has ceased to serve as an officer and is permanently disabled as a result of an injury received in the execution of duty is eligible to receive an injury award unless the police authority consider that the injury was due to the officer's default. The police authority will refer the question of an injury award to the SMP. The issue of an injury award may be referred to the SMP either at the same time as the issue of permanent disablement or separately. The SMP's decision on the issues referred to him or her is final subject to a medical appeal.

17. An injury award consists of a lump sum gratuity and an injury pension. The gratuity ranges from 12.5% to 50% of average pensionable pay depending on the degree to which the officer's earning capacity in any occupation has been affected. The injury pension is calculated on the basis of a "minimum income guarantee" which varies from 15% to 85% of average pensionable pay depending on length of service and loss of earning capacity.

Disablement gratuity

18. If, within 12 months of an injury on duty, a person is totally and permanently disabled so that he or she will be unable to earn any money in any employment, that person will be entitled to a disablement gratuity under the provisions of the injury benefit scheme.

19. The disablement gratuity consists of a lump sum which is the lesser of (a) five times the annual rate of his or her pensionable pay on the last day of service or (b) four times his or her total remuneration during the 12 months ending with the last day of service, together with his or her total pension contributions within that 12-month period. The gratuity is reduced by the amount of any other gratuity payable under either Police (Injury Benefit) Regulations 2006 or the Police Pensions Regulations 1987 and takes account of damages or compensation recovered in respect of the disability.

Provisions common to both the police pension and injury benefit schemes

List of provisions dependent on a medical assessment

20. Although medical retirement and injury awards are the two most common provisions dependent on a medical assessment, there are others. A full list in brief, with just the relevant extracts from the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006 (with our emphasis), is given in the Annex to this section.

Medical Appeal

21. A police officer has a right of appeal to a board of medical referees against the decision of the SMP on any of these medical issues. The purpose of the appeal board is to determine a medical appeal in a fair, orderly and authoritative way, with both parties given the opportunity at the hearing to put their case fully and to answer each other's points. The decision of the appeal board is final subject to internal review.

22. It is important that these medical decisions are as accurate as possible given the reliance placed on them by both officers and managers.

Internal Review of a medical decision

23. Both the decision of the SMP, if no appeal has been heard, and the decision of the appeal board may be referred back to the medical authority which took it by agreement between the officer and the police authority. Such a procedure will normally be followed where there is a reasonable prospect that further consideration of the issues will resolve the matter without need for an appeal hearing in the case of an SMP's decision or need for Judicial Review in the case of an appeal board's decision. Where the medical authority which took the decision is unwilling or unable to review it, the officer and police authority may agree to refer the issue to another SMP or board, as the case may be.

ANNEX to Section 1

Police Pensions Regulations 1987

Provisions dependent on a medical assessment of permanent disablement

- A20. Compulsory retirement on grounds of disablement.

Every regular policeman may be required to retire on the date on which the police authority, having considered all the relevant circumstances, advice and information available to them, determine that he ought *to retire on the ground that he is permanently disabled for the performance of his duty.*

- B1. Early payment of a policeman's ordinary pension.

(5) Subject to the provisions of these Regulations, a regular policeman to whom this Regulation applies shall be entitled to an [immediate] ordinary pension [...] but, in the case of a person entitled to reckon less than 30 years' pensionable service, no payments shall be made on account of the pension in respect of the period (if any) after his retirement and before he has attained the age of 50 years *or, if he sooner becomes permanently disabled, before he becomes so disabled.*

- B3. Policeman's ill-health award.

(1) This Regulation shall apply to a regular policeman **who retires or has retired on the ground that he is or was permanently disabled.**

- B5. Early payment of a policeman's deferred pension.

(4) A deferred pension [...] shall be calculated [...] but no payment shall be made on account of the pension-

(a) in respect of the period before the regular policeman attains the age of 60 years *or, if he sooner becomes permanently disabled, before he becomes so disabled, or*

- H1 Reference of medical questions

(1) Subject as hereinafter provided, the question whether a person is entitled to any and, if so, what awards under these Regulations shall be determined in the first instance by the police authority.

(2) Where the police authority are considering whether a person is permanently disabled, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions-

- (a) whether the person concerned is disabled;
- (b) whether the disablement is likely to be permanent.

(3) The police authority, if they are considering the exercise of their powers under regulation K3 (reduction of pension in case of default), shall refer for decision to a duly qualified medical practitioner selected by them the question whether the person concerned has brought about or substantially contributed to the

disablement by his own default.

Miscellaneous other provisions involving medical referral

- K1. Cancellation of ill-health and injury pensions.

(1) As long as a person-

(a) is in receipt of an ill-health pension;

(b) would not, if he had continued to serve as a regular policeman instead of retiring with an ill-health pension. have been entitled to reckon 25 years' pensionable service, and

(c) if he had continued so to serve, could not have been required to retire on account of age,

the police authority may, if they wish to exercise the powers conferred by this Regulation, ***consider, at such intervals as they in their discretion think proper, whether his disability has ceased.***

- K3. Reduction of pension in case of default.

Where a member of a police force or a person who has been a member of a police force becomes permanently disabled and has ***brought about or substantially contributed to the disablement by his own default***, the police authority may reduce the amount of any ill-health or injury award payable to him by them by an amount not exceeding a half of that to which he would otherwise be entitled.

Police (Injury Benefit) Regulations 2006

Provisions dependent on a medical assessment that permanent disablement is the result of an injury in the execution of duty and a medical assessment of degree of disablement (loss of earning capacity)

- 11. Police officer's injury award.

(1) This regulation applies to a person who ceases or has ceased to be a member of a police force and is ***permanently disabled as a result of an injury received without his own default in the execution of his duty*** (in Schedule 3 referred to as the "relevant injury").

- 12. Disablement gratuity.

(1) This regulation applies to a person who—

(a) receives or received an injury without his own default in the execution of his duty,

(b) ceases or has ceased to be a member of a police force, and

(c) within 12 months of so receiving that injury, becomes or became totally and permanently disabled as a result of that injury.

- 30. Reference of medical questions

(1) Subject to the provisions of this Part, the question whether a person is entitled to any, and if so what, awards under these Regulations shall be determined in the first instance by the police authority.

(2) Subject to paragraph (3), where the police authority are considering whether a person is permanently disabled, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

(a) whether the person concerned is disabled;

(b) whether the disablement is likely to be permanent, except that, in a case where the said questions have been referred for decision to a duly qualified medical practitioner under regulation H1(2) of the 1987 Regulations, a final decision of a medical authority on the said questions under Part H of the 1987 Regulations shall be binding for the purposes of these Regulations; and, if they are further considering whether to grant an injury pension, shall so refer the following questions—

(c) whether the disablement is the result of an injury received in the execution of duty, and

(d) the degree of the person's disablement;

and, if they are considering whether to revise an injury pension, shall so refer question (d) above.

(3) Where the police authority are considering eligibility for an award under regulation 12, paragraph (2) shall have effect as if the questions to be referred by them to a duly qualified medical practitioner were the following—

(a) whether the person concerned is totally disabled;

(b) whether that total disablement is likely to be permanent;

(c) whether the disablement is the result of an injury received in the execution of duty; and

(d) the date on which the person became totally disabled.

(4) A police authority, if they are considering exercising their powers under regulation 38 (reduction of award in case of default), shall refer for decision to a duly qualified medical practitioner selected by them the question whether the person concerned has brought about or substantially contributed to the disablement by his own default.

Miscellaneous other provisions involving medical referral

- 37. Reassessment of injury pension.

— (1) Subject to the provisions of this Part, where an injury pension is payable under these Regulations, the police authority shall, at such intervals as may be suitable, ***consider whether the degree of the pensioner's disablement has altered***, and if after such consideration the police authority find that the degree of the pensioner's disablement has substantially altered, the pension shall be revised accordingly.

- 38. Reduction of pension in case of default.

...Where a member of a police force or a person who has been a member of a police force becomes permanently disabled and has ***brought about or substantially contributed to the disablement by his own default***, the police authority may reduce the amount of any injury award payable to him by them by an amount not exceeding a half of that to which he would otherwise be entitled: