



The New Police Pension Scheme 2006

Home Office Notes of Guidance
for police authorities on the application
of the Police Pensions Regulations 2006

Document version history

Version	Date	Comments
1.0	14 November 2007	Baselined version. Covers the Police Pensions Regulations 2006 and amendments up to and including those which will be made by the Police Pensions (Amendment) Regulations 2007

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Introduction

These notes provide guidance to police authorities and pensions administrators on the interpretation of the Police Pensions Regulations 2006 (SI 2006 No. 3415). They must be read in conjunction with the Regulations and must not be used as a substitute. A brief description of each of the 97 regulations and five Schedules is included, but not every paragraph and sub-paragraph is covered in detail where a regulation is straightforward. More difficult or complex regulations are covered in detail and illustrated by examples where appropriate.

The guidance includes changes which will be made to the 2006 Regulations in respect of the Serious Organised Crime Agency (SOCA). At the time of writing (the beginning of November 2007), the regulations making these changes, namely the Police Pensions (Amendment) Regulations 2007, had not yet been made but were expected to be laid before Parliament in December 2007. The Home Office will confirm with forces and police authorities when the 2007 Regulations have been made.

The pension scheme as provided by the 2006 Regulations is known as the 'New Police Pension Scheme 2006', abbreviated to NPPS, and is registered under that name with HM Revenue and Customs (HMRC). However, although it is referred to as a pension scheme, it is technically an arrangement under the Police Pensions Act 1976. One consequence of this is that the phrase 'New Police Pension Scheme 2006' is not used anywhere in the Regulations. The pension scheme as provided by the Police Pensions Regulations 1987 (as amended) is known as the 'Police Pension Scheme 1987', abbreviated to PPS.

References in the Regulations to the scheme actuary are to be taken as references to Government Actuary's Department, who are the currently appointed scheme actuary for both PPS and NPPS. At various places reference is made to separate guidance and factors which have been published by Government Actuary's Department (GAD). These notes do not incorporate guidance published by GAD or detailed guidance on:

- the eligibility of unmarried partners other than civil partners to receive NPPS benefits. The Home Office has issued separate guidance for NPPS members and pensions administrators;
- the assessment of police officers for permanent disability, and the medical appeals procedures. Separate guidance will be issued by the Home Office;

Any guidance referred to but not included here is available on the Home Office police pensions website at police.homeoffice.gov.uk/human-resources/police-pensions.

Injury awards are outside the pension scheme arrangements and are provided under separate regulations, namely the Police (Injury Benefits) Regulations 2006 (SI 2006 No. 932).

This guidance will be amended and updated from time to time, taking account of any queries or difficulties that arise in the administration of the new scheme and of any relevant case law as it develops. Any comments or suggestions for improvement should be sent to the Police Pensions and Retirement Policy Section of the Police Finance and Pensions Unit in the Home Office. The contact for this purpose is Ian Moir (email iancharles.moir@homeoffice.gsi.gov.uk).

Home Office
14 November 2007

The Regulations

Part 1 General provisions (regulations 1-5)

Regulation 1 – Citation, commencement and extent

- 1.1 This regulation gives the title of the Regulations and provides that the majority come into effect on 6 April 2006. This means that NPPS came into being on that date. **Regulation 1** provides two exceptions to this backdating: **regulations 13(3)(b)** and **78(7)**, which relate to the payment of interest in certain circumstances, have effect from 1 February 2007. Note also that **regulations 19(2)–19(3)**, which provide for new compulsory retirement ages, have effect from 1 October 2006.
- 1.2 The Regulations apply only to England and Wales – they do not cover Scotland or Northern Ireland, which have their own regulations.

Regulation 2 – Meaning of certain expressions and references – general provision

- 1.3 This regulation governs the general interpretation of the Regulations and is straightforward. Specialised terms are defined in **Schedule 1**.

Regulation 3 – Meaning of certain expressions in relation to persons who are not members of a home police force

- 1.4 This regulation brings within the scope of the Regulations three categories of officer who would not otherwise be covered. These are:
- inspectors of constabulary;
 - specified employees of the Serious Organised Crime Agency (SOCA);
 - officers engaged on ‘relevant service’ as defined by section 97(1) of the Police Act 1996 (which covers police officers engaged on service outside their force, including overseas service on which a person is engaged with the consent of the appropriate authority).
- 1.5 For these officers, any reference in the Regulations to a police authority is construed as a reference to the Secretary of State.
- 1.6 A ‘specified employee of SOCA’ is defined in **Schedule 1** to the Regulations as follows:

- (a) an employee of SOCA who immediately before he or she last became an employee of SOCA was serving as the Director General of the National Crime Squad;
 - (b) an employee of SOCA who immediately before he or she last became an employee of SOCA was serving as a police member of the National Criminal Intelligence Service (NCIS);
 - (c) an employee of SOCA who immediately before he or she last became an employee of SOCA was serving as a police member of the National Crime Squad (NCS).
- 1.7 NCIS and NCS ceased to exist when SOCA came into being on 1 April 2006, so the Regulations only apply to an employee of SOCA if he or she joined SOCA from NCIS or NCS when it came into being on that date.
- 1.8 Section 97(1) of the Police Act 1996, which defines relevant service, is amended from time to time. The Regulations themselves do not provide a list of what constitutes relevant service.

Regulation 4 – Disablement

- 1.9 This regulation defines the meaning of ‘disablement’ for the purposes of the Regulations.
- 1.10 **Regulation 4(1)** provides that any reference to disablement means the person’s condition at the time that the question of disablement arises; and **regulation 4(2)** provides that in deciding whether disablement is likely to be permanent, the officer is assumed to be receiving normal appropriate medical treatment for his or her condition. It follows from **regulation 4(1)** that a medical judgement can only relate to the officer’s condition at the time of the medical examination and the prognosis going forward.
- 1.11 The question as to whether a person is disabled, for the purposes of the Regulations, is a matter for a duly qualified medical practitioner. The processes by which issues relating to disablement are determined, the consequences which follow and the appeal rights which apply, are considered in more detail in the notes on the relevant regulations – principally:
- **regulation 8 (Eligibility for pension awards payable on grounds of permanent disablement);**
 - **regulation 51 (Review and cancellation of pensions payable on the ground of permanent disablement);** and
 - **regulations 65-75 (Medical questions and appeals).**
- 1.12 ‘Appropriate medical treatment’ means any treatment that the police authority thinks is reasonable, taking into account whether the officer could reasonably refuse to accept it (**regulation 4(2)**).

1.13 **Regulations 4(3) and 4(5)** define disablement in more detail:

- 'Disablement' means inability, occasioned by infirmity of mind or body, to perform the ordinary duties of a member of the police force or, as the case may be, to engage in any regular employment otherwise than as a regular police officer, except that in relation to a child survivor or an adult survivor of a member of a police force it means inability, occasioned as aforesaid, to earn a living.
- 'Infirmity' means a disease, injury or medical condition, and includes a mental disorder, injury or condition.

1.14 Revised separate Home Office guidance on the assessment of permanent disablement is in preparation and will be published in late 2007 or early 2008.

1.15 If a former police officer has ceased to serve or has retired when he or she becomes disabled, and the exact date on which he or she became disabled cannot be precisely determined, it will be taken as the date on which the former officer makes a claim to the police authority (**regulation 4(4)**).

Regulation 5 – Transfers

1.16 This regulation defines the circumstances in which a police officer transfers from one force to another. Transfers involve no break in service. If there is a break in service then the officer ceases to serve as such. As would be expected, when an officer leaves a home police force to join another home police force as a regular police officer, he or she transfers from one force to another. This includes re-joining the police service at the end of a period of 'relevant service' (as defined by section 97(1) of the Police Act 1996) and, in the case of a specified employee of SOCA (see the notes on **regulation 3**), re-joining a home police force on leaving SOCA. It does not include moving from a home force to a Scottish force or to the Police Service of Northern Ireland or vice-versa. Such transfers are covered by **regulations 95 and 96**.

1.17 The relevance of this regulation is in determining the treatment of pensionable service under **regulation 12**.

Part 2 Eligibility for pension awards, pensionable service and retirement (regulations 6 - 22)

Regulation 6 – Application of Regulations

- 2.1 This rather complex regulation sets out the categories of officer to whom the Regulations apply and how the application of the Regulations is affected by an officer's previous service. In effect, it defines who is or may be a member of NPPS. In conjunction with **Schedules 2 and 3**, this regulation also sets out the transitional arrangements, including the 'options exercise', under which certain officers had or will have the opportunity to transfer their PPS rights to NPPS on relatively favourable terms.
- 2.2 The complexity of this regulation is primarily a result of the need to cover officers' various circumstances, of which there are many permutations. The basic position is that the Regulations (and hence NPPS) apply to new entrants to the service from 6 April 2006 and those officers who transferred to NPPS as part of the 'options exercise' which took place between 1 November 2006 – 31 January 2007. There are exceptions, but the numbers of officers to whom these apply will be very small.
- 2.3 Now that the main 'options exercise' has ended, much of this regulation is no longer applicable, but full details have been included for reference (e.g. in case of any subsequent dispute). The provisions continue to apply indefinitely to:
- officers rejoining the police service;
 - officers opting back in to the police pension scheme, having previously opted out;
 - officers seeking to transfer PPS pensionable service to NPPS.
- 2.4 The transitional provisions, which are complex, are summarised at **Annex A** to this guidance. The transitional provisions by definition will in the main have effect only for a limited period, except in the case of those re-joining the service. Very broadly, the structure works as follows (the order is not necessarily that followed in the Regulations):
- first, the Regulations define the categories of officer to whom the NPPS Regulations will apply;
 - the Regulations then define, as a subset of the above, the categories of officer who will be able to transfer their PPS service on the favourable terms set out in **Schedule 3**, either during the main three-month 'options exercise' or, in certain cases, within three months of re-joining the service;

- the Regulations also provide that officers holding deferred PPS rights who join NPPS will be able to transfer their PPS service on cash equivalent transfer value terms at any other time – this is also set out in **Schedule 3**;
- for officers who join NPPS but have PPS rights (either in payment or not), the Regulations provide that the maximum pensionable service that they may accrue in NPPS is limited by reference to their PPS service, as set out in **Schedule 2**;
- lastly, the Regulations protect the position of officers in the ‘interim period’ between 6 April 2006 and the end of the options exercise.

2.5 **Regulation 6(1)** provides that the Regulations apply to officers joining the police service on or after 6 April 2006, who will form the vast majority of the NPPS membership.

2.6 Other officers to whom the Regulations apply are:

- Officers who joined the police service before 6 April 2006 and left the police with less than 30 years’ pensionable service in PPS and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign¹, and who fall into one of the following five categories:
 - officers who left with no entitlement to a PPS award² (**regulation 6(2)(a)(i)**)
 - officers who left with an entitlement to a refund of PPS pension contributions (**regulation 6(2)(a)(ii)**)
 - officers who left with an entitlement to a PPS pension which is in payment (other than a deferred pension in early payment on account of permanent disablement) (**regulation 6(2)(a)(iii)**)
 - officers who left with an entitlement to a PPS ordinary pension, or a deferred pension, which is not in payment (**regulation 6(2)(a)(iv)**)
 - officers who left with an entitlement to an ill-health award (either a pension or a gratuity) under regulation B3 of the 1987 Regulations or in receipt of early payment of a deferred pension under regulation B5 of the 1987 Regulations (whether that pension came into payment on leaving the force or later) (**regulation 6(2)(a)(v)**).
- Officers who are in service before and on 6 April 2006 and who:
 - had opted out of PPS before 6 April 2006 and were still opted out on 6 April 2006 (**regulation 6(3)(c)(i)**) or
 - are active members of PPS on 6 April 2006 but subsequently elect to opt out (**regulation 6(3)(c)(ii)**)

¹ Regulation K1 of the 1987 Regulations relates to officers who retire on grounds of ill-health but recover and re-join the force – these officers re-join PPS on their return to police service.

² An injury award under regulation 11 of the Police (Injury Benefit) Regulations 2006 (formerly regulation B4 of the Police Pensions Regulations 1987) is not a PPS award.

- 2.7 As 'servicemen' (see **regulation 89**) qualify for awards under regulations B3 or B5(2) of the 1987 Regulations, by virtue of regulations I2 and I6 of those Regulations, 'servicemen' who qualify for awards are included automatically in **regulations 6(2)(a)(ii), (iii), (iv) or (v)** as the case may be.
- 2.8 **Regulation 6(4)** provides that if an officer has opted out of PPS under the circumstances mentioned in **regulation 6(3)** then he or she is regarded as having opted out of NPPS and that if he or she opts back in he or she must join NPPS. In summary, an officer joins NPPS on opting back in if he or she:
- had opted out of PPS before 6 April 2006 and had not opted back in by that date; or
 - opts out of PPS on or after 6 April 2006
- 2.9 The Regulations define three further categories, in addition to those described above:
- officers opting back in on or after 6 April 2006 who have a right to an ordinary PPS pension, or a deferred PPS pension, which is not in payment (**regulation 6(5)**);
 - officers paying PPS contributions on 6 April 2006 who continue to serve and pay contributions (or would have been paying contributions on that date but for their dismissal or requirement to resign and subsequent reinstatement following successful appeal) (**regulation 6(6)**);
 - officers opted out of PPS on 6 April 2006 who opt back in before the end of the main 'options exercise' (as extended by the police authority in exceptional cases) (**regulation 6(7)**).
- 2.10 The remainder of the regulation sets out consequential effects. These are essentially:
- when an officer is an active member of NPPS but also holds PPS rights, his or her maximum pensionable service in NPPS is not 35 years but is reduced by reference to his or her PPS rights (also covered in **Schedule 2**); and
 - certain officers have the right to transfer their PPS rights to NPPS on relatively favourable terms as part of the 'options exercise' already mentioned and outside this limited right there is a more general provision to transfer deferred PPS rights into NPPS on a cash equivalent transfer value basis (covered in **Schedule 3**).
- 2.11 **Regulation 6(8)** specifies which officers may elect to transfer their PPS rights to NPPS under the relatively favourable terms of the 'options exercise'. These are:

- officers who joined the police service before 6 April 2006 and left with an entitlement to a refund of PPS pension contributions and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(ii)**);
- officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to a PPS ordinary pension or a deferred pension which is not in payment and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(iv)**);
- officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to an ill-health award [either a pension or a gratuity] under PPS regulation B3 or in receipt of early payment of a deferred pension whether that pension came into payment on leaving the force or later and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(v)**);
- officers paying PPS contributions on 6 April 2006 who continue to serve (**regulation 6(6)**);
- officers opted out of PPS on 6 April 2006, who have a right to an ordinary PPS pension, or a deferred PPS pension, which is not in payment, who opt back in before the end of the main 'options exercise' (**regulation 6(5)** and **regulation 6(7)**); and
- officers re-joining the police service on or after 6 April 2006 under regulation K1 of the 1987 Regulations (**regulation 6(8)(c)**).

2.12 **Regulation 6(9)** provides that an officer who makes a transfer election is eligible for NPPS awards.

2.13 Further details are given in the notes on **Schedule 2** and **Schedule 3** and in **Annex A**. Note that, for officers rejoining the force, under paragraph 1 of **Schedule 3** the favourable options terms are only available when an officer first rejoins; otherwise **paragraph 8 of Schedule 3** applies (cash equivalent transfer value basis).

Regulation 7 – Pension contributions payable by regular police officers

2.14 This regulation determines the pension contributions that officers are to pay as a percentage of their pensionable pay (see **regulation 23**). The normal contribution

rate is 9.5%, but a reduced contribution rate of 6% is payable if the officer is not eligible for an ill-health pension or early payment of a deferred pension on grounds of permanent disablement (**regulation 7(1)**). Contributions are deducted from pay (**regulation 7(2)**).

- 2.15 Additional pension contributions may be payable under certain circumstances, such as where an officer is purchasing a period of unpaid sick leave (see **regulation 10**), or where an officer is buying added years (**regulations 56-60**).
- 2.16 Contributions are not payable if an officer has opted out of NPPS under **regulation 9 (regulation 7(3))**.

Regulation 8 - Eligibility for pension awards payable on the ground of permanent disablement³

- 2.17 This regulation enables the police authority to require certain entrants to the scheme to submit to a medical examination, in order to determine whether they need to be excluded from ill-health benefits in order to protect the police authority against the risk of disproportionately high pension costs. This will normally be considered as part of the recruitment process, before an officer joins, except in cases where an officer re-joins the police service or seeks to re-join NPPS after having opted out.
- 2.18 The circumstances in which a medical examination can be required (**regulation 8(1)**) are where a police officer:
- joins the force (other than by transferring from another force); or
 - seeks to cancel his or her election to opt out of NPPS (under **regulation 9**).
- 2.19 For this purpose, 'joins the force' includes re-joining the force (other than on cessation of disablement under **regulation 51**).
- 2.20 **Regulation 8(2)** provides that the medical examination is carried out by a duly qualified medical practitioner selected by the authority (the 'selected medical practitioner', referred to in the rest of this guidance as the SMP) in accordance with **regulation 69**. The medical examination is free of charge when the officer first joins the force or re-joins after retirement, but he or she must meet the cost if re-joining NPPS after opting out (under **regulation 9(5)(ii)**).
- 2.21 The police authority applies the opinion of the SMP and advice from the Scheme actuary (currently GAD) to determine whether the person presents a disproportionately high risk that he or she will retire on the ground of permanent disablement (**regulation 8(3)**).

³ Pension awards payable on the ground of permanent disablement in NPPS are: standard ill-health pension, enhanced top-up ill-health pension and early payment of deferred pension.

- 2.22 The police authority's decision is subject to appeal in accordance with **regulation 70 (regulation 8(4))**.
- 2.23 If, in the light of the medical examination and actuarial advice, the police authority determines that the risk is disproportionately high, then the officer will not be eligible for NPPS ill-health benefits (**regulation 8(6)**) and will pay a lower contribution rate (6% rather than the normal 9.5%). 'Disproportionately high' means a likely cost of more than 50% greater than normal (**regulation 8(5)**).
- 2.24 **Regulation 8(7)** provides that the police authority may determine the eligibility (for ill-health benefits) of a person who:
- re-joins the force having previously been ineligible, under either PPS or NPPS;
 - seeks to opt in to NPPS having opted out of PPS and having been ineligible under PPS.
- 2.25 If such a person is found to be eligible, then eligibility dates from the date of the police authority's determination, but only in respect of pensionable service from that date. Any ill-health pension is calculated using only such pensionable service (**regulation 8(8)**).
- 2.26 Note that an officer cannot be refused entry to NPPS on medical grounds. If the officer is eligible to join, he or she must be admitted. The medical examination is simply to determine whether or not the officer is eligible for ill-health benefits (he or she will always potentially qualify for a lump sum death grant).

Regulation 9 – Election not to pay pension contributions

- 2.27 This regulation enables an officer, at any time, to elect not to pay contributions to the NPPS. This is informally referred to as 'opting out' of the scheme. Elections not to pay contributions, and cancellation of elections, must be in writing (**regulations 9(1) and 9(5)**).
- 2.28 If the election is made within three months of appointment and a transfer value in has not been paid to the police authority, the effective date is backdated to the date of appointment (**regulation 9(3)**) and any pension contributions that have been paid by the officer must be repaid (**regulation 9(4)**). Otherwise, the election takes effect on the officer's next pay day (**regulation 9(2)**).
- 2.29 An officer who opts out in this way can opt back in by cancelling his or her election (**regulation 9(5)**). This, again, takes effect on the officer's next pay day. If an officer opts out a second time, he or she cannot re-join NPPS within the same period of service (**paragraph (i) of the proviso to regulation 9(5)**) and is in effect locked out of the scheme.
- 2.30 The police authority may require an officer who wants to opt back in to submit to a medical examination to assess his or her eligibility for pension awards payable

because of permanent disablement. The cost of the medical examination and report is met by the officer (**paragraph (ii) of the proviso to regulation 9(5)**). If the likely cost of providing a pension award payable on the ground of permanent disablement as if he or she had never joined is disproportionately high, then the officer will be able to opt back in but will not, subject to appeal, be eligible for such an award (**paragraph (iii) of the proviso to regulation 9(5)**).

- 2.31 An officer who was ineligible for an ill-health award on the date when he or she opted out remains ineligible on opting back in (**paragraph (iv) of the proviso to regulation 9(5)**).
- 2.32 Opting out will have a potentially significant impact on an officer's entitlement to NPPS benefits. These include:
- an officer who opts out with two years or more pensionable service will be entitled only to a deferred pension, which would generally only be payable from age 65;
 - no lump sum death grant is payable to an officer who dies in service having opted out;
 - an officer who has opted out will not be eligible for an ill-health pension if he or she is medically retired, although he or she would qualify for early payment of deferred pension if assessed as permanently disabled for all regular employment;
 - an officer who opts out a second time will not be able to opt back in during the same period of service.
- 2.33 It is recommended that police authorities should explain the consequences of opting out before the officer makes a final decision, if possible, but they must not give financial advice.
- 2.34 If an officer opts out of NPPS, he or she is under no obligation to make alternative pension arrangements. The police authority will have no involvement in any alternative arrangements that an officer might make.

Regulation 10 – Reckoning of pensionable service

- 2.35 Despite its title, this regulation is essentially concerned with service which is not pensionable unless an officer takes action to make it so⁴. Generally, for service to be pensionable, pension contributions must be paid in respect of it. The only exceptions to this general rule are the first 26 weeks of maternity leave and 'servicemen' whose service pay is less than their pensionable pay (see **regulation 94(2)**).

⁴ NPPS uses 'pensionable service' throughout as the basis for calculating benefits. There is no use of the term 'reckonable service' in the Regulations.

Leave which is covered by regulation 10

- 2.36 The regulation deals specifically with maternity leave, parental leave and sick leave. The exclusion of other periods of unpaid leave from pensionable service means, for example, that career breaks cannot count towards pensionable service. Note that paternity leave and adoption leave are not mentioned in the regulation, although this is subject to review and is likely to change.
- 2.37 The effect is as follows:
- **Maternity leave** – the first 26 weeks always count as pensionable service whether or not any pension contributions are paid (note that pension contributions are payable in the normal way on any pensionable pay received in this period). After the first 26 weeks, any unpaid maternity leave is not pensionable unless pension contributions are paid in accordance with the provisions explained in the rest of the notes about this regulation.
 - **Parental leave** - any unpaid parental leave is not pensionable unless pension contributions are paid in respect of it, in accordance with the provisions explained in the rest of the notes about this regulation.
 - **Sick leave** – any unpaid sick leave is not pensionable unless pension contributions are paid in respect of it, in accordance with the provisions explained in the rest of the notes about this regulation. There are restrictions on the amount of unpaid sick leave in respect of which pension contributions may be paid to make this into pensionable service. The period of sick leave in question must not exceed six months and the total sick leave purchased must not exceed twelve months (**regulation 10(3)**).
- 2.38 Any other period of unpaid leave cannot count as pensionable service (**regulation 10(1)(c)**). It follows that any periods of unpaid paternity and adoption leave cannot count as pensionable service, although as previously mentioned this is subject to review and is likely to change.
- 2.39 For any of the above periods of maternity, parental or sick leave to count as pensionable service (**regulation 10(2)(a)**):
- the officer must have been serving as a regular police officer immediately prior to the period of leave; and
 - the officer must not have been opted out of NPPS immediately before the commencement of the period of leave.
- 2.40 Under **regulation 10(2)(b)**, notional pensionable pay is taken to be the same as the pensionable pay actually payable to the officer immediately prior to the period of unpaid leave. This means that, for example:

- an officer who received a temporary promotion prior to his or her unpaid leave must pay contributions based on the increased pay;
 - an officer who moved to part-time service prior to his or her unpaid leave will pay contributions based on the part-time pay.
- 2.41 An officer must give notice in writing to the police authority that he or she wishes to pay pension contributions in respect of any of these periods of unpaid leave (**regulation 10(4)(a)**). The notice must be given within three months of return to duty (or by his or her last day of service, if this is earlier) and state the period of leave for which he or she wishes to make payment and how he or she wishes to make the payment. Payment may be made either by lump sum or by instalments.
- 2.42 If the officer dies in service within three months of returning to duty, he or she is deemed to have given notice to pay pension contributions by instalments in respect of that period of leave (**regulation 10(4)(a)**).

Calculation and payment of contributions

- 2.43 On receipt of the notice, the police authority must calculate the contributions which are due and notify the officer (**regulation 10(4)(b)**). Where contributions are paid in respect of any unpaid leave they are based on notional pensionable pay, which is taken to be the same as the pensionable pay actually payable to the officer immediately prior to the period of unpaid leave. Payment may be by lump sum or instalments as deductions from pay (**regulation 10(4)(c)**). Payment must be made within six months, or before the officer retires or ceases to serve if this is earlier, except that any lump sum paid within two months of retirement or ceasing to serve is to be treated as paid by the due date (**regulation 10(4)(d)**).
- 2.44 If the total payments have not been made by the due date other than because of the death of the officer, only a proportion of the unpaid leave is counted as pensionable service. The proportion is that which the sum actually paid bears to the sum which was due (**regulation 10(4)(e)**). This is subject to the proviso that if the officer dies before the due date he or she is credited with the full amount of pensionable service that he or she gave notice to purchase, irrespective of what payments (if any) have actually been made (**regulation 10(4)(e)**).
- 2.45 An officer who has made payments under this regulation is treated, for the purpose of pension awards, as having made pension contributions throughout the period of unpaid leave in question (**regulation 10(4)(f)**).
- 2.46 The calculation of pensionable service if the officer serves part-time is covered in **regulation 14**.

Regulation 11 – Current service

- 2.47 This regulation provides that a police officer's current period of service (since he or she was most recently appointed to the force) is pensionable service, if he or

she has paid pension contributions in respect of it. Any periods when he or she has opted out of NPPS (see **regulation 9**) are excluded.

2.48 The only times when no contributions are paid but service is nevertheless pensionable are:

- any unpaid period in the first 26 weeks of maternity leave; and
- any period when a ‘serviceman’ is on relevant service and his or her service pay is less than his or her pensionable pay (see **proviso to regulation 94(2)**).

2.49 The reckoning of pensionable service when an officer serves part-time is covered by **regulation 14**.

Regulation 12 – Previous service reckonable without payment

2.50 This regulation and **regulation 13** govern the treatment of previous service. Under **regulation 12(1)**, the following are reckonable as pensionable service:

- pensionable service in a previous force from which an officer has transferred;
- any pensionable service accrued up to the date of retirement because of permanent disablement, where the disablement has ceased and the officer has re-joined the force or joined another force (note that the payment of any ill-health pension will stop under **regulation 51(5)**);
- any pensionable service accrued up to the date of ceasing to serve with entitlement to a deferred pension which has not come into payment, where the officer has re-joined the force or joined another force (note that entitlement to the deferred pension ceases under **regulation 12(2)**);
- any pensionable service accrued up to the date of retirement with entitlement to a deferred pension which came into payment early (either on or after retirement) because of permanent disablement, where the disablement has ceased and the officer has re-joined the force or joined another force (note that the payment of the deferred pension will stop under **regulation 51(5)**).

2.51 If the officer had been purchasing added years by periodical contributions under **regulation 56**, then (under **paragraphs (i) – (iii) of the proviso to regulations 12(1)**):

- if he or she transferred from a previous force, only the added years actually purchased at the date of transfer are included in the transferred service (based on how these would have been valued if the officer had become entitled to a deferred pension immediately before the date of transfer);

- if he or she had re-joined the force or joined another force after retiring on grounds of ill-health because disablement has ceased, only the proportion of the added years that he or she actually purchased at the date of ill-health retirement plus the amount he or she would have purchased by the end of his or her period of retirement had the officer remained in service instead of having retired (see **regulations 60(5) and 60(8)**) are included in the transferred service;
 - if he or she previously ceased to serve and re-joins the force or joins another force having previously accrued deferred pension rights in NPPS, the added years taken into account in calculating the deferred rights are included in the transferred service.
- 2.52 The amalgamation of previous service under this regulation is mandatory. An officer cannot have two NPPS pensions unless he or she has re-joined the force after retirement on or after minimum pension age. This is subject to the caveat that an officer who transfers to NPPS does not have to consolidate his or her PPS service and could have retained deferred PPS benefits, in which case he or she will eventually have both a PPS and an NPPS pension.
- 2.53 If an officer is already in receipt of NPPS benefits on the basis of retirement on or after minimum pension age, he or she cannot consolidate the service on which these are based. If he or she has previously taken a transfer value from NPPS, he or she may have the opportunity to purchase service credit under **regulation 15**.
- 2.54 As mentioned in paragraph 2.50, any entitlement to a deferred pension is relinquished under **regulation 12(2)** if an officer re-joins the police service. The purpose of this provision is to make it quite clear that there can be no remaining entitlement to a separate award based on the pensionable service that has been transferred.
- 2.55 Any service during a leap year is counted as one year's service, i.e. 365 days and not 366 days (**regulation 12(3)**).

Regulation 13 – Previous service reckonable on payment

- 2.56 **Regulation 13** relates to the situation where the officer has received a repayment of pension contributions and notifies his or her intention to refund these to the police authority. The wording is quite complex, but the effect is that if an officer has given notice to repay a refund and makes the appropriate payment then his or her pensionable service is to be reinstated and combined with subsequent pensionable service in the calculation of benefits.
- 2.57 **Regulation 13(1)** provides that the relevant periods are reckonable as pensionable service, providing the officer has made the appropriate payment. **Regulation 13(2)** sets out the circumstances in which the regulation applies, namely where an officer ceased to serve without the payment of a pension or a

transfer value and without entitlement to a deferred pension and has re-joined his or her force or joined another force. The relevant period is any period of pensionable service reckonable at the time the officer ceased to serve.

- 2.58 Under **regulation 13(3)**, the appropriate payment is the same as the original award by repayment of pension contributions, increased at the rate of 5% annual compound interest from the date of receipt where the payment is made more than a year after receipt of such an award.
- 2.59 Under **regulation 13(4)**, the officer must notify the police authority in writing that he or she wishes to make the payment (repaying the refund of contributions) and he or she must write within six months of his or her joining or re-joining the force (or by his or her last day of service if earlier) unless the police authority exercises discretion to extend this time limit. If the officer dies within this period he or she is deemed to have given notice.
- 2.60 On receipt of the notice, the police authority must then calculate the amount which is due and write to the officer specifying the amount to be paid (**regulation 13(5)**). The officer's payments are to be made by regular instalments by deduction from pay and payments are to be completed within two years of the date of notification to the officer of the sum due, unless the police authority exercises discretion to allow a longer period to avoid financial hardship to the officer. The officer may at any time pay any outstanding amount by lump sum if he or she wishes (**regulation 13(6) and 13(7)**).
- 2.61 If the officer retires compulsorily on the ground of disablement or dies before all such payments have been made, he or she is deemed to have made all the payments and there is no liability to pay anything further (**regulation 13(8)**).
- 2.62 On the other hand, if he or she retires under other circumstances and an amount remains outstanding, the police authority is empowered to deduct any sum due from the officer's benefits (if he or she has not retired due to ill-health and these benefits are not simply a refund of contributions) (**regulation 13(9)**). The pensionable service to be reinstated will not be more than two years (contributions can only be refunded if there is less than two years' qualifying service) and it should therefore be possible for a police authority to complete the deduction of any unpaid amount from the officer's periodical pension (after tax) on retirement. The unpaid amount should not be taken from the tax-free lump sum.

Regulation 14 – Reckoning of part-time service

- 2.63 This regulation specifies how pensionable service is calculated if an officer serves part-time.
- 2.64 For each period of part-time service, the days of pensionable service are calculated by a formula based on the determined hours of part-time service in that period. The formula is recalculated whenever the fraction changes (i.e. whenever the number of determined hours changes).

- 2.65 The fraction is the total determined hours of part-time service, multiplied by seven, divided by the number of hours per week if the service had been on a full-time basis (i.e. 40 hours).

Example 1

An officer serves 39 weeks at 20 hours per week and then 13 weeks at 30 hours per week. The determined hours in this period are:

39 weeks at 20 hours – = 780
 Days of pensionable service = $(780 \times 7)/40 = 136.5$

13 weeks at 30 hours – = 390
 Days of pensionable service = $(390 \times 7)/40 = 68.25$

Total days of pensionable service = 204.75.

- 2.66 The number of days' service calculated in regulation 14(1) should be recorded exactly, to fractions of a day up to 4 decimal places, each time a calculation is made. The provision in **regulation 16(2)(b)**, whereby pensionable service is reckoned in years and completed days, should only be applied to the whole period of service when the time comes to calculate an award. At that point, any fraction of a day is rounded up to the nearest whole number.

Regulation 15 – Service reckonable by reason of transfer value

- 2.67 This regulation determines the calculation of pensionable service in NPPS to be purchased when a transfer value from another pension scheme is paid in. It applies to an officer who before joining the police was subject to former pension arrangements in respect of which a transfer value may be paid, and the appropriate payment has been made to the police authority (**regulation 15(1)**).
- 2.68 The calculation is in accordance with tables and guidance issued by Government Actuary's Department. If the transfer falls within public sector transfer ('Club') arrangements, the service is calculated in accordance with the rules applicable to such transfers (**regulation 15(2)**).
- 2.69 The regulation does not apply where an officer had a guaranteed minimum pension (GMP) in relation to the pension provided by the former arrangements (**regulation 15(3)**), since a transfer value cannot be guaranteed to meet the liability which is being taken on to pay a GMP. There are two exceptions: first, if the transfer is from a public sector 'Club' scheme; and secondly if, were the transfer value to be paid, such part of it as relates to benefit accrual before 6 April 1997 is at least as great as a specified minimum. That minimum is specified in **regulation 15(3)** as the product of the annual amount of GMP to which the officer

would be entitled if the transfer value to be paid and an appropriate factor (again, specified in **regulation 15(3)**) based on age.

- 2.70 Transfer Value Guidance for both Club and non-Club transfers into and out of NPPS and pension sharing on divorce in NPPS was issued by Government Actuary's Department in April 2007. This consolidates and replaces the GAD transfer value guidance previously issued in July 2006. The guidance is on the Home Office police pensions website, at the following link:
<http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/NPPS-transfer-guidance>.

Regulation 16 – Reckoning of service for purposes of awards

- 2.71 This regulation covers two separate points. First, it sets an absolute limit of 35 years on the total pensionable service that an officer may build up in NPPS (**regulation 16(1)**). Unlike some other public sector pension schemes, NPPS does not allow pensionable service to accrue without limit.
- 2.72 Secondly, it provides that, for the purpose of calculating awards, pensionable service is to be reckoned in completed years and a fraction of a year, the numerator of which is the number of completed days (and that a period of 365 days in a leap year is to count as a whole year) (**regulation 16(2)**). That is, pensionable service is reckoned in years and a whole number of days.

Regulation 17 – Retirement

- 2.73 This regulation defines 'retirement' for the purposes of NPPS. The definition is different from that used in the Police Regulations 2003. The intention of the regulation is to restrict 'retirement' to an event which gives immediate entitlement to NPPS pension benefits and which is therefore a 'benefit crystallisation event' in the terminology of HMRC and the Finance Act 2004. This approach is different from that which applies in PPS, where retirement includes leaving the service without, necessarily, any immediate entitlement to a PPS award.
- 2.74 Retirement does not include leaving the police service before the age of 55, except in cases of ill-health retirement or early payment of deferred pension on medical grounds. A consequence of this is that any officer who leaves the service, other than on ill-health grounds, before he or she is 55 can only be entitled to a deferred pension payable at 65. Even if an officer has accrued 35 years' pensionable service, if he or she ceases to serve before age 55 he or she can only be entitled to a deferred pension payable at 65.
- 2.75 Retirement includes (**regulation 17(1)**):
- voluntary retirement under **regulation 18**;
 - compulsory retirement on account of age under **regulation 19**;

- compulsory retirement on grounds of efficiency of the force under **regulation 20**;
- compulsory retirement on the ground of (permanent) disablement under **regulation 21**.

2.76 Retirement does not include (**regulation 17(1)**):

- leaving one force to transfer to another force;
- leaving a force to transfer to a Scottish force or to the Police Service of Northern Ireland;
- ceasing to serve before the age of 55 (except in the case of compulsory retirement on the grounds of disablement), which includes the termination of a fixed-term appointment, dismissal or being required to resign;
- retirement (in the meaning of the Police Act 1996) of a chief constable before he or she attains the age of 55.

2.77 Under **regulation 17(2)**, if a regular police officer is dismissed at the age of 55 or over having at least two years' qualifying service, this is deemed to be voluntary retirement under **regulation 18** with consequent entitlement to benefits.

2.78 **Regulation 17(3)** defines a 'qualifying service criterion', which includes service transferred in from another pension scheme under **regulation 15**. Under **regulation 17(4)**, two years' qualifying service' for the purposes of the qualifying service criterion, is as defined in section 71(7) of the Pension Schemes Act 1993, which states.

'(7) In subsection (1) '2 years' qualifying service' means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either—

- (a) in pensionable service under the scheme; or
 - (b) in service in employment which was contracted-out by reference to the scheme;
- or
- (c) in linked qualifying service under another scheme.'

2.79 'Linked qualifying service' is defined in section 179 of the 1993 Act, as amended by the Pensions Act 2004:

'179. —(1) Subject to subsections (2) to (4), for the purposes of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

- (a) under Chapter 4 or 5 of Part 4 or under the rules of a scheme applying to him/her in the earlier period of service—
 - (i) there was made a transfer of his or her accrued rights under that scheme (including any transfer credits allowed under the scheme) to another scheme

applying to him/her in the later period of service; or
 (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him/her in the later period of service; or
 (iii) a cash equivalent (within the meaning of Chapter 4 of Part 4) or cash transfer sum (within the meaning of Chapter 5 of that Part) was paid in respect of him to the trustees of or managers of another scheme applying to him in the later period of service; and
 (b) in consequence of the transfer of his or her accrued rights to the second scheme, there are (or were) allowed to him/her transfer credits under the rules of that other scheme.

(2) For any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.

(3) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.

(4) For the purposes of Chapter I of Part IV, as respects any case where the rules of the scheme provide—

(a) that an earner is not entitled to become a member unless he or she satisfies specified conditions, but
 (b) that, if he or she becomes a member, rights are to accrue to him/her in respect of periods of service before he or she satisfied any such conditions,
 regulations may provide for any such periods to be treated, in such cases and to such extent as may be prescribed, as linked qualifying service with later periods of service’

2.80 Essentially, qualifying service is actual calendar length of police service in respect of which contributions have been paid, plus any qualifying service associated with a transfer in of pensionable service from a previous scheme.

Regulation 18 – Voluntary retirement

2.81 This regulation sets out the conditions under which a police officer may retire voluntarily. These are:

- that the officer is at least 55 years old (**regulation 18(1)**); and
- that the officer has given written notice to the police authority of his or her intention to retire (**regulation 18(2)**).

2.82 The required period of notice depends on the officer’s rank, being one month before the intended date of retirement for most ranks but three months for ACPO ranks (Commander or above in London, and Assistant Chief Constable or above

elsewhere). The police authority have discretion to accept a shorter period of notice (**regulation 18(2)**).

- 2.83 **Regulation 18(3)** defines equivalent ranks, for the purposes of **regulation 18**, for inspectors and assistant inspectors of constabulary and officers engaged on relevant service⁵.
- 2.84 An officer who is suspended can retire under this regulation only with the consent of the chief officer of police (or of the police authority in the case of ACPO ranks) (**regulation 18(4)**).
- 2.85 There is no minimum service requirement for an officer to be able to retire voluntarily at age 55.

Regulation 19 – Compulsory retirement on account of age

- 2.86 This regulation sets out the ages at which a police officer is required to retire, according to his or her rank. These are the same as the ages used in PPS.
- 2.87 New compulsory retirement ages for PPS and NPPS were introduced with effect from 1 October 2006. The Employment Equality (Age) Regulations 2006 set a default retirement age of 65 (to be reviewed in 2011). This does not apply to police officers, although any compulsory retirement ages for the police service require objective justification. After consulting the Police Negotiating Board, the Home Office decided to retain the facility for management to retire officers on the grounds of age and set new compulsory retirement ages accordingly.
- 2.88 The compulsory retirement ages from 1 October 2006 (**regulation 19(2)**) are:
- 60 for a constable, sergeant, inspector or chief inspector; and
 - 65 for an officer with any higher rank.
- 2.89 For historical reasons, officers of the Metropolitan Police Service previously had lower compulsory retirement ages than those of other forces. It has been recognised that this anomaly can no longer be justified and the same compulsory retirement ages now apply to all forces.
- 2.90 Retirement may be postponed beyond these ages, by the police authority in the case of an officer with a rank above that of superintendent, or by the chief constable in the case of an officer with the rank of superintendent or below (**regulation 19(3)**). Note that the approach here to the ranks of superintendent and chief superintendent is different from that in the 1987 Regulations, where chief superintendent is within the definition of superintendent.

⁵ Relevant service is defined in section 97(1) of the Police Act 1996 and includes temporary service in HM Inspectorate of Constabulary, central service and service overseas.

- 2.91 Note that the new compulsory retirement ages have no effect on the age at which officers can retire with an immediate pension. The pension implications of the new compulsory retirement ages are explained fully in **Home Office Circular 35/2006** (PNB/Home Office Joint Guidance for Police Authorities on New Compulsory Retirement Ages and Retirement Policy).

Regulation 20 – Compulsory retirement on grounds of efficiency of the force

- 2.92 This regulation allows a police authority to decide to retire a police officer if his or her retention in the force would not, in their view, be in the general interests of efficiency. This only applies to the ranks up to chief superintendent and the officer must have 35 years' pensionable service (or would have if he or she had not opted out of NPPS) (**regulation 20(1)**). Retirement on these grounds may be required at age 55 or at any later date (**regulation 20(2)**).

Regulation 21 – Compulsory retirement on the ground of disablement

- 2.93 This regulation governs the conditions under which a police authority can require an officer to retire on medical grounds. The decision whether to retire or retain an officer who has been assessed as permanently disabled for the ordinary duties of a member of the force (covered in more detail in **regulation 71**) is at the discretion of the police authority. This regulation requires that the police authority must consider all relevant circumstances, advice and information available to them (**regulation 21(1)**).
- 2.94 A retirement is void if, on appeal against the SMP's opinion, the appeal board finds that the former officer is not permanently disabled (**regulation 21(1)**).
- 2.95 There are special provisions to cover the situation where the police officer is permanently disabled but continues to serve (**regulations 21(2)-21(4)**). The police authority may review the officer's position at their discretion to consider whether his or her disablement has ceased, significantly worsened or significantly improved and if they then decide that he or she ought to retire because he or she is permanently disabled for the performance of the ordinary duties of a member of the police force, the officer shall then be required to retire. The procedures involved in such a review, the role of the SMP, appeal rights and the next steps are considered in more detail in the notes on **regulations 69-75**.

Regulation 22 – Effective date of retirement

- 2.96 This regulation determines the date of retirement and hence the date from which benefit payments are due. Retirement is normally immediately following the last day of service or, if the officer is required to retire, the date on which he or she is required to retire.

Part 3 Pensionable pay and contributions (regulations 23 - 26)

Regulation 23 – Pensionable pay

- 3.1 This regulation determines which elements of pay are pensionable. It replicates the wording of the Police Pensions Regulation 1987 by essentially defining this as ‘pay to which [the officer] is or was entitled’. This position is acknowledged to be less than ideal and may be subject to review. The aim is to provide a definitive statement in the Regulations of those elements of pay which are pensionable. The NPPS Members’ Guide gives a little further explanation as follows:

‘Pensionable pay includes basic salary, London weighting, additional salary on temporary promotion and competence related threshold payments. Overtime pay, housing allowance and transitional rent allowance are not pensionable.’

Part-time officers’ additional hours

- 3.2 Until 1 July 2007, only a part-time officer’s determined hours were pensionable. This position was reviewed in the light of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, which require part-time workers to have the same entitlements to pensions on a pro rata basis as full-timers. From 1 July 2007 a part-time constable or sergeant’s additional hours are automatically pensionable. For this purpose, additional hours are defined as the hours paid at plain time that a part time officer works over and above their determined hours and up to forty hours in a relevant week⁶ (the normal hours of a full time officer of the same rank). This does not include any hours worked at an enhanced rate or those taken as time-off in lieu.
- 3.3 This change was backdated to 1 July 2000 or to a date 6 years before any claim received by a court or Employment Tribunal, whichever is the earlier. Serving and former officers were able to choose whether they wished to make any such previous additional service pensionable. This was not done automatically on their behalf and officers were required to pay contributions to make any previous service pensionable. Full guidance on the change and the action required by police authorities was given in **Home Office Circular 22/2007**.

Regulation 24 – Final pensionable pay

- 3.4 This regulation sets out the basis of the calculation of final pensionable pay (which in turn is used in the calculation of benefits). In summary, the regulation works as follows:

⁶ Relevant week as defined by Paragraph (3) (a) of the determination (Annex G) for Regulation 25 of Police Regulations 2003

- **regulation 24(1)** sets the periods to be examined and defines the last day;
- **regulation 24(2)** covers the special case where an officer opts back in within the last three years;
- **regulation 24(3)** relates to the calculation of the pension when it becomes payable in the case under **24(2)** for the service up to the point where the officer opted out;
- **regulation 24(4)** adjusts the pay in prior periods (in all cases) for inflation so that this can be compared to the pay in the final period to determine which is the greatest; the greatest is then used to calculate benefits (e.g. under **regulation 28** – calculation of ordinary pension)⁷.

3.5 Final pensionable pay is defined (in **regulation 24(1)**) in terms of average pensionable pay, which is in turn defined in **regulation 25**. Under **regulation 24(1)**, and subject to **regulations 24(2) – 24(4)**, final pensionable pay is the greatest of:

- average pensionable pay in the 12 months of service ending on the last day;
- average pensionable pay in each of the preceding two years, uprated for inflation by reference to the Pensions (Increase) Acts;
- average pensionable pay taken as an annual average in any three-year period in the seven years before that, uprated for inflation by reference to the Pensions (Increase) Acts. The end date of the three-year period must be an exact number of years before the last day – so, for example, if the last day is 31 December 2010 all of the three-year periods will end on 31 December.

3.6 In very broad terms, in most cases the methodology is to take account of the best earnings in the ten years prior to retirement. Earnings in years before the final year are uprated for inflation by reference to the Pensions (Increase) Acts.

Example 2 (*this replicates an example in the NPPS Members' Guide*)

An officer transferred her service from PPS to NPPS and retires at the end of 2007. She was given temporary promotion in 2006. Her pensionable pay, adjusted for inflation in line with **regulation 24(4)**, in the three years prior to her retirement has been:

2005	£37,000
2006	£45,000
2007	£40,000

Her final pensionable pay will be her 2006 pay, uprated for inflation.

⁷ Note that regulation 24(4) is in terms of enabling a comparison to be made in order to avoid double application of Pensions Increase when the pension comes into payment.

Earnings cap

3.7 There is no cap on final pensionable pay in NPPS.

Officers who opt out and re-join

3.8 If an officer has opted out of NPPS and re-joined within three years of retirement, there is a special provision in **regulations 24(2) and 24(3)** which requires two calculations of final pensionable pay:

- The first is the final pensionable pay at the date at which the officer opted out. This is then applied to the pensionable service up to the point of opting out in the calculation of benefits (**regulation 24(2)(a)**).
- The second is on the normal basis, but taking account only of the most recent period of pensionable service (that between the date of opting back in and the date of retirement). This final pensionable pay is then only applied to this period of service in the calculation of benefits (**regulation 24(2)(b)**).

3.9 So, for example, if an officer joins the force on 1 January 2000 and serves until retirement on 31 December 2010, but opts out of NPPS in the period 1 January 2006 – 31 December 2008, then:

- pension benefits based on his or her service in 2009 – 2010 are based on final pensionable pay at 31 December 2010; and
- pension benefits based on his or her service in 2000 – 2005 are based on final pensionable pay at 31 December 2005.

3.10 The application of these special provisions for an officer who opts back in close to retirement means that if he or she was in a relatively low rank when he or she opted out and a relatively high rank when he or she opted back in, only part of the pension is based on the recent higher earnings. This is an important policy issue, given that NPPS remains a final salary scheme rather than one which bases benefits on career average earnings.

3.11 Note that uprating for inflation for the purposes of determining the greatest amount of pay, under **regulation 24(4)**, applies to the calculation in the case of officers who opt out and re-join.

Officers not paying contributions on retirement

3.12 If the officer is not actually paying pension contributions at the date of retirement, the 'last day' of the final year is the later of the following:

- the last day of service in a period during which pension contributions were payable; or

- the last day on which a payment of pension contributions was made under **regulation 10(2)(b)** to buy back a period of unpaid maternity, parental or sick leave,

Career breaks

- 3.13 A 'career break' has now in effect been defined by a determination of the Secretary of State under the Police Regulations 2003 (**Annex OO to Home Office Circular 14/2007**). The 2006 Regulations will be amended to take career breaks into account.

Keeping records

- 3.14 In order to apply the methodology for calculating pensionable pay, police authorities need to maintain records of pensionable pay for all officers in NPPS going back ten years.
- 3.15 **Regulation 24** is the only NPPS regulation which refers to the two-part calculation if an officer opts back into NPPS within three years of retirement.

Example 3 – Calculation of final pensionable pay where officer has continuous pensionable service

An officer joins on 1 January 2000, retires 31 December 2010
[Note that the pensions increase percentages are illustrative only and purely to show the basis of calculation]

	Actual pensionable pay	Pension increase (%)	Cumulative inflation factor	Inflated pay	Three year average
2001	30,000	2.7	1.2945	38,836	
2002	32,000	2.5	1.2605	40,336	
2003	35,000	2.8	1.2297	43,041	40,738
2004	45,000	3.0	1.1963	53,831	45,736
2005	47,000	3.2	1.1614	54,586	50,486
2006	46,000	2.6	1.1254	51,768	53,395
2007	35,000	3.3	1.0969	38,391	48,249
2008	50,000	4.0	1.0618	53,092	
2009	52,000	2.1	1.0210	53,092	
2010	45,000	1.6	1.0000	45,000	

Final pensionable pay is £53,395, the average of the three years ended 31 Dec 2006, uprated for inflation.

Example 4 – Calculation of final pensionable pay where officer opts out and re-joins within three years of retirement

An officer joins on 1 January 2000, retires on 31 December 2010, but opts out 2006 - 2008

[Note that the pensions increase percentages are illustrative only and purely to show the basis of calculation]

	Actual pensionable pay	Pension increase (%)	Cumulative inflation factor	Inflated pay	Three year average
2001	30,000	2.7	1.2945	38,836	
2002	32,000	2.5	1.2605	40,336	
2003	35,000	2.8	1.2297	43,041	40,738
2004	45,000	3.0	1.1963	53,831	45,736
2005	47,000	3.2	1.1614	54,586	50,486
2006	0	2.6	1.1254	0	
2007	0	3.3	1.0969	0	
2008	0	4.0	1.0618	0	
2009	52,000	2.1	1.0210	53,092	
2010	45,000	1.6	1.0000	45,000	

Final pensionable pay for the period 2000 – 2005 is £54,586

Final pensionable pay for the period 2009 – 2010 is £53,092

Regulation 25 – Average pensionable pay

3.16 This regulation sets out the details of calculating average pensionable pay (which is then used to determine final pensionable pay under **regulation 24**). Average pensionable pay is based on full-time pay, even if the officer has only ever served part-time.

3.17 If the officer has less than one year's pensionable service in total, his or her average pensionable pay is the actual pensionable pay multiplied by the reciprocal of the fraction of the year in which the officer served (**regulation 25(1)**).

Example 5

An officer serves for four months only and receives actual pensionable pay of £9,000. His average pensionable pay is $£9,000 \times 12/4 = £27,000$.

[But note that this officer will only have one-third of a year's pensionable service]

- 3.18 Normally, average pensionable pay in any of the 12-month periods in **regulation 24** is the pensionable pay in respect of those periods, but:
- if the officer's pay in that period was reduced as a punishment, or because it was a period of leave which was unpaid or paid at a reduced rate (such as sick leave, maternity leave or parental leave), average pensionable pay is taken to be what the pay would have been before the reduction (**regulation 25(2)**);
 - if the officer took a period of unpaid sick leave, maternity leave or parental leave and paid pension contributions in respect of that period under **regulation 10(2)(b)**, average pensionable pay for that period is taken to be what the pay would have been if the leave had not been taken (**regulation 25(3)**);
 - if any part of the officer's service was part-time in the period, the average pensionable pay for the periods of part-time service is taken to be the full-time rate (**regulation 25(4)**).
- 3.19 Note that there are no special provisions for paternity or adoption leave, so by default the average pensionable pay for a full-time officer in such periods is the actual pensionable pay received and not the pay that the officer would have received if he or she had been on full-time pay throughout. The position with regard to paternity and adoption leave is under review and is likely to change.

Regulation 26 – Aggregate pension contributions for purposes of repayment

- 3.20 If an officer has less than two years' qualifying service, the only award to which he or she is entitled is a refund of aggregate pension contributions (unless he or she is disabled as a result of an injury received without default in the course of duty: see **regulation 29(3)(a)**). This regulation determines how the amount is to be calculated (**regulation 26(1)**).
- 3.21 First, the 'relevant period of service' is defined as that beginning on the date when the officer last joined the force and ending on his or her ceasing to serve, retiring or dying (**regulation 26(2)**). If the officer had opted out of NPPS, then the relevant period ends when he or she ceased to contribute.
- 3.22 The aggregate pension contributions are then normally the pension contributions paid in respect of that period by the officer, including any to buy back unpaid maternity, parental or sick leave (**regulation 26(3)(a)**), or to buy additional pensionable service (**regulation 26(3)(f)**).
- 3.23 The following are also included in the calculation:
- any contributions paid to buy back previous pensionable service (**regulation 26(3)(b)**);

- any contributions paid to a previous police authority, if he or she transferred to the police authority (**regulation 26(3)(c)**);
 - where a transfer value was paid in, any amount that would have been payable as a refund of contributions from the previous pension scheme (**regulation 26(3)(d)**);
 - where the officer previously retired on the grounds of ill-health, his or her disablement ceased and he or she re-joined the force, any amount that would have been payable as a refund of contributions at the time of the ill-health retirement (**regulation 26(3)(e)**);
 - all payments made to purchase added years under **regulation 56** (**regulation 26(3)(f)**).
- 3.24 If the officer has a pension debit (under a pension sharing order arising out of divorce proceedings), any aggregate pension contributions are to be reduced as determined by guidance from the Scheme actuary (**regulation 26(4)**). Guidance on pension sharing on divorce in NPPS was issued by Government Actuary's Department in April 2007. The guidance is on the Home Office police pensions website, at the following link:
<http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/NPPS-transfer-guidance>.
- 3.25 This regulation is normally only relevant if the officer has less than two years' qualifying service (e.g. for a refund of contributions under **regulation 34**).

Part 4 Pension awards (regulations 27 - 55)

Regulations 27-28 – Police officer’s ordinary pension and calculation of ordinary pension

- 4.1 These two regulations specify which officers are entitled to an ordinary pension and standard lump sum (**regulation 27**) and how the pension and lump sum are to be calculated (**regulation 28**).
- 4.2 Under **regulation 27(1)**, an ordinary pension is payable only to an officer who fulfils the qualifying service criterion, has not opted out of NPPS and who retires under **regulations 18, 19 or 20**. That is, to an officer who retires voluntarily on or after age 55 or who is subject to compulsory retirement on grounds of age or efficiency of the force.
- 4.3 Note that, as things stand, an officer ineligible for ill-health benefits who is subject to compulsory retirement on the ground of disablement under **regulation 21** would not be eligible for an ordinary pension. The Regulations will be amended so that such an officer will be entitled to a deferred pension if he or she is aged under 55 and to an ordinary pension if aged 55 or over. In the meantime, any police authority proposing to retire such an officer under **regulation 21** should first approach the Home Office for advice.
- 4.4 The ordinary pension is one-seventieth of final pensionable pay multiplied by the years of pensionable service, plus a lump sum of four times the initial annual pension (**regulation 28(1)**).

Example 6 (*this replicates an example in the NPPS Members’ Guide*)

An officer’s final pensionable pay is £30,000 and her pensionable service is 21 years.

Her pension = $\frac{\pounds 30,000 \times 21}{70}$ = £9,000 per year (index linked after the first year)

Her lump sum = $\frac{\pounds 30,000 \times 21 \times 4}{70}$ = £36,000 (tax free)

Example 7 (this replicates an example in the NPPS Members' Guide)

A part-time officer has worked for 20 years, 10 years of which were full-time and 10 years half time: i.e. with 15 years' pensionable service. He can retire with an immediate pension on reaching age 55.

His final pensionable pay is £35,000 and pensionable service is 15 years.

His pension = $\frac{£35,000 \times 15}{70} = £7,500$ per year (index linked after the first year)

His lump sum = $\frac{£35,000 \times 15 \times 4}{70} = £30,000$ (tax free)

- 4.5 If the officer has already received a lump sum payment, because he or she previously retired on grounds of ill-health or received early payment of a deferred pension because of permanent disablement (and that pension has terminated under **regulation 51**), then the retirement lump sum is reduced by the previous lump sum inflated by reference to the Pensions Increase Acts (proviso to **regulation 28(1)**).
- 4.6 Where an officer has previously received more than one lump sum payment (because he or she previously retired on grounds of ill-health or received early payment of a deferred pension because of permanent disablement), then the retirement lump sum is reduced by what the most recent lump sum would have been had it not been reduced under **regulation 28(1) or (2) (regulation 28(2))**.

Ill-health pensions: general remarks

- 4.7 Even if an officer is permanently disabled, the police authority is not obliged to grant ill-health retirement. Consideration should always be given to the possibility of an officer continuing to serve if a suitable role is available, taking account of his or her overall capabilities.
- 4.8 **Part 4 (Pension awards)** (specifically **regulations 29-31**) covers the awards which are payable when an officer retires on ill-health grounds. The procedures involved, the role of the SMP, next steps and appeal rights are covered in **Part 7 (Medical questions and appeals)**.
- 4.9 Ill-health pensions can be paid from any age below 55 and are index-linked for inflation immediately under the Pensions (Increase) Acts. An officer is able to buy back any periods of unpaid leave at the point of ill-health retirement under the conditions set out in **regulation 10(4)**.

Regulation 29 – Police officer’s ill-health pension

- 4.10 This regulation provides for the payment of a pension, commonly referred to as an ill-health pension, to an officer who has been medically assessed as permanently disabled and who has been required to retire under **regulation 21** (compulsory retirement on the ground of disablement). Note that this regulation says nothing about the procedures involved in assessing whether an officer is permanently disabled, the role of the SMP or appeal rights, which are covered in **regulations 69-75**.
- 4.11 For an ill-health pension to be payable (**regulation 29(1)**):
- the officer must not have been opted out of NPPS at the date of ill-health retirement, and
 - the officer must not be ineligible for NPPS benefits payable on the ground of permanent disablement (see **regulation 8**); and
 - the officer must be under the age of 55 (otherwise he or she would receive an ordinary pension under **regulation 27**).
- 4.12 Under the **proviso to regulation 29**, the regulation does not apply to the following, who are therefore ineligible for an ill-health pension:
- an officer who was opted out of NPPS at the time of retirement;
 - an officer who, under **regulation 8**, is ineligible for a pension award payable on the ground of permanent disablement;
 - an officer aged 55 or over at the time of retirement, who is entitled to an ordinary pension under **regulation 27** instead of an ill-health pension.
- 4.13 An officer opted out of NPPS who is subject to compulsory retirement on ground of disablement under **regulation 21** would be entitled to a deferred pension under **regulation 32**, if he or she had retained benefits in NPPS, rather than an ill-health pension under **regulation 29**.
- 4.14 There are two types of ill-health pension in NPPS:
- a **standard ill-health pension**; and
 - an **enhanced top-up ill-health pension**, which is payable in addition to the standard ill-health pension if the officer is entitled to it.
- 4.15 **Regulation 29(3)** specifies the criteria for a **standard ill-health pension**. The officer must fulfil the qualifying service criterion in **regulation 17(3)** (basically, have at least two years’ qualifying service at the date of retirement), or be

disabled as a result of an injury received without his or her default in the execution of his or her duty and, in either case, be permanently disabled for the ordinary duties of a police officer (but not for other regular employment). A standard ill-health pension is calculated in accordance with **regulation 30**.

- 4.16 **Regulation 29(4)** specifies the criteria for an **enhanced top-up ill-health pension**. The officer must fulfil the qualifying service criterion in **regulation 17(3)** or be disabled as a result of an injury received without his or her default in the execution of his or her duty and, in either case, be permanently disabled both for the ordinary duties of a police officer and for other regular employment. An enhanced top-up ill-health pension is calculated in accordance with **regulation 31**.
- 4.17 **Regulation 29(4)** also provides that the ill-health award for an officer who is permanently disabled both for the ordinary duties of a police officer and for other regular employment is a standard ill-health pension plus an enhanced top-up ill-health pension. The enhanced top-up ill-health pension is thus an additional pension payable on top of a standard ill-health pension, although in practice it will probably be referred to as the whole pension payable to an officer who is permanently disabled for all regular employment.
- 4.18 'Regular employment' means employment for an annual average of at least 30 hours per week (see **Schedule 1** to the Regulations).

Regulation 30 – Calculation of standard ill-health pension

- 4.19 A **standard ill-health pension** is calculated exactly as if the officer had been entitled to an ordinary pension at the date of retirement, based on his or her pensionable service and final pensionable pay as under **regulation 28**. There is no enhancement of pensionable service, the assumption being that the officer should be able to obtain other work outside the police service.

Example 8 - Calculation of standard ill-health pension (this replicates an example in the *NPPS Members' Guide*)

An officer retires from NPPS on being disabled for the ordinary duties of a member of the force at age 35 with 10 years' pensionable service. She earns £28,000 per year (final pensionable pay). Her ill-health pension and lump sum are based on 10 years' pensionable service, and are payable immediately without reduction:

$$\text{Her pension} = \frac{\text{£}28,000 \times 10}{70} = \text{£}4,000 \text{ per year (index linked immediately)}$$

$$\text{Her lump sum} = \frac{\text{£}28,000 \times 10 \times 4}{70} = \text{£}16,000 \text{ (tax free)}$$

Regulation 31 – Calculation of enhanced top-up ill-health pension

- 4.20 An **enhanced top-up ill-health pension** is more complicated. It is in the form of an annual pension payable for life, together with a lump-sum payment, paid as a top up to the standard ill-health pension. It is calculated by deducting the annual sum and lump-sum payment payable as a standard ill-health pension from the annual sum and lump sum as calculated with the enhancements described below (**regulations 31(1)** and **31(2)**). The reason for this arrangement is that, for the purposes of tax legislation, the standard and enhanced top-up ill-health pensions must in effect be two separate pensions to allow the top-up to be terminated if the officer recovers sufficiently to engage in some regular employment other than in the police.
- 4.21 For an enhanced top-up ill-health pension, the pensionable service is enhanced up to a maximum of half the prospective service from the date of retirement to age 55 or to the point at which the officer would have built up a maximum pension of 35 /70ths, whichever is the earlier (**regulations 31(3)** and **31(4)**). (This regulation does not make specific reference to the maximum pension limit, but it nevertheless applies by virtue of **regulation 16(1)**). Specifically:
- if the officer has less than five years' pensionable service, the pensionable service is multiplied by four, or half the prospective service as above is added to his or her actual pensionable service, whichever gives the lesser total pensionable service;
 - if the officer has five or more years' pensionable service, the pensionable service is increased by half the prospective service as above.
- 4.22 The enhanced top-up ill-health pension and lump sum is then the total award based on enhanced service less the standard ill-health pension and lump sum.
- 4.23 If any part of the officer's service has been part-time (**regulations 31(5)** and **31(6)**):
- pensionable service for the purposes of determining the method of calculation of the enhancement only (i.e. determining whether the officer has five years' service and whether **regulation 31(3)** or **31(4)** applies) is taken to be what the pensionable service would have been if the officer had served full-time throughout;
 - the starting point for calculating the amount of enhancement is the officer's actual pensionable service;
 - prospective service is not full-time but part-time based on the actual pattern of service, the applicable fraction being the total pensionable service prior to retirement divided by what his or her total pensionable service prior to retirement would have been if he or she had served full-time throughout.

- 4.24 If the officer has served part-time and would have received a larger ill-health pension if he or she had retired earlier, then the larger pension is to be paid instead (**regulation 31(7)**). This 'underpin' protects the position of an officer whose full-time equivalent rate of pay had reduced shortly before his or her ill-health retirement and could increase the enhanced top-up ill-health pension and lump sum of such an officer.

Example 9 - Calculation of enhanced top-up ill-health pension (this replicates an example in the NPPS Members' Guide)

An officer retires from NPPS on being disabled for any regular employment at age 30 with 3 years' pensionable service. He earns £28,000 per year (final pensionable pay). His standard ill-health pension and enhanced top-up ill-health pension and lump sum combined are based on 12 years' pensionable service, being four times his actual pensionable service.

$$\text{His pension} = \frac{\pounds 28,000 \times 12}{70} = \pounds 4,800 \text{ per year (index linked immediately)}$$

$$\text{His lump sum} = \frac{\pounds 28,000 \times 12 \times 4}{70} = \pounds 19,200 \text{ (tax free)}$$

Example 10 – Calculation of enhanced top-up ill-health pension (this replicates an example in the NPPS Members' Guide)

An officer retires from NPPS on being disabled for any regular employment at age 35 with 5 years' pensionable service. She earns £35,000 per year (final pensionable pay). Her standard ill-health pension and enhanced top-up ill-health pension and lump sum combined are based on 15 years' pensionable service, the enhancement being half of her prospective service to age 55 (half of 20 years).

$$\text{Her pension} = \frac{\pounds 35,000 \times 15}{70} = \pounds 7,500 \text{ per year (index linked immediately)}$$

$$\text{Her lump sum} = \frac{\pounds 35,000 \times 15 \times 4}{70} = \pounds 30,000 \text{ (tax free)}$$

Example 11 - Calculation of enhanced ill-health pension for officer with some part-time service

An officer retires from NPPS on being disabled for any regular employment at age 35. He has 5 years' service in the police but not all have been full-time – his actual service has been:

- Years 1 and 2 – full-time (40 hours per week)
- Year 3 – three-quarters time (30 hours per week)
- Years 4 and 5 – half-time (20 hours per week)

His pensionable service is therefore 3.75 years.

He would have been able to serve for 20 years to age 55, but as he has only accrued 3.75 years' pensionable service in his 5-year career (75%), his service is enhanced by 10 years x 75% = 7.5 years. His total pensionable service becomes:

$$3.75 \text{ (actual pensionable service)} + 7.5 \text{ (enhancement)} = 11.25 \text{ years}$$

His actual earnings in his last year are £17,500, being half of the full-time rate of £35,000.

$$\text{His pension} = \frac{\pounds 35,000 \times 11.25}{70} = \pounds 5,625 \text{ per year (index linked immediately)}$$

$$\text{His lump sum} = \frac{\pounds 35,000 \times 11.25 \times 4}{70} = \pounds 22,500 \text{ (tax free)}$$

(This assumes that his final pensionable pay is the pay in his final year. If this had not been the case, it would be necessary to check whether the 'underpin' in **regulation 31(7)** would have applied, to see if he would have received a larger pension if he had retired at the end of year 2 or the end of year 3).

Regulation 32 – Police officer's deferred pension

- 4.25 This regulation gives a deferred pension right to an officer who ceases to serve otherwise than on retirement under **regulations 18, 19, 20 or 21**, or who opts out of NPPS, provided that he or she fulfils the qualifying service criterion (has at least two years' qualifying service). To be eligible for a deferred pension, the officer must not transfer his or her NPPS rights to another pension scheme, or be entitled to receive an NPPS pension (**regulations 32(1)** and **32(2)**).
- 4.26 Note that one effect of **regulation 32(1)** is that a deferred pension is not payable to an officer ineligible for ill-health benefits who is subject to compulsory retirement on the ground of disablement under **regulation 21**. As mentioned in paragraph 4.3, the Regulations will be amended so that such an officer will be entitled to a deferred pension if he or she is aged under 55 and to an ordinary

pension if aged 55 or over. In the meantime, any police authority proposing to retire such an officer under **regulation 21** should first approach the Home Office for advice.

- 4.27 If the officer opts out of NPPS and re-joins, his or her entitlement to a deferred pension based on his or her previous service is relinquished (**regulation 32(3)**) and replaced by a new entitlement based on total service.
- 4.28 A deferred pension is payable at age 65 unless the officer is eligible for ill-health awards, has left the force otherwise than on dismissal or being required to resign and becomes permanently disabled for any regular full-time employment and is not ineligible for an award on the ground of permanent disablement, in which case it is paid immediately (**regulation 32(4)**) (where the officer has been dismissed or required to resign the police authority may exercise discretion to pay – see **regulation 54**).
- 4.29 A deferred pension and lump sum is calculated in the same way as an ordinary pension (**regulation 32(5)**). Deferred pensions are increased for inflation up to the date of payment under the Pensions Increase Act. This forms part of general pension legislation and there is no specific wording in the Regulations.

Example 12 (*this replicates an example in the NPPS Members' Guide*)

An officer leaves the police service with 10 years' pensionable service and a final pensionable pay of £28,000. Her pension entitlement when she leaves is $\frac{£28,000 \times 10}{70} = £4,000$ per year, payable from age 65.

By the time that she is 65, her deferred pension has increased by inflation factors under the Pensions Increase Acts by 10% to £4,400, and this is the amount that will actually be paid to her at age 65.

Thus her deferred lump sum paid at age 65 will be $£4,400 \times 4 = £17,600$.

Regulation 33 – Early payment of deferred pension subject to actuarial reduction

- 4.30 This regulation allows an officer who has ceased to serve and who is entitled to receive a deferred pension at age 65 to request that it be paid early with actuarial reduction. The earliest that a deferred pension can be paid is at age 55 (**regulation 33(1)**). This is a new feature in NPPS, which is not available in PPS.
- 4.31 To request early payment under **regulation 33**, the officer must write to the police authority at least one month before he or she wishes the pension payments to commence (**regulation 33(2)**). If insufficient notice is given, the police authority is recommended to commence payments one month after the date of receipt if earlier payment is impracticable.

- 4.32 The reduction required is as advised from time to time by the scheme actuary (**regulation 33(3)**) but is likely to be severe (perhaps as much as 5% for each year that the officer is below 65) and so this option is unlikely to be attractive. The lump sum, being four times the pension, is also reduced. The reduction in the officer's pension is permanent and cannot subsequently be reversed. The reduction applies only to the officer's pension: survivor pensions are based on the officer's unreduced entitlement (**regulation 33(4)**).

Regulation 34 – Repayment of aggregate pension contributions

- 4.33 This regulation provides that an officer is entitled to a refund of pension contributions if he or she retires or ceases to serve or opts out of NPPS (unless he or she opted out within 3 months of joining), providing that:
- he or she has not taken a transfer value under **regulation 78**;
 - he or she is not entitled to an ordinary, ill-health or deferred NPPS pension.
- 4.34 The effect of the second condition is that this regulation only applies to those who retire, cease to serve or opt out of NPPS with less than 2 years' qualifying service. Note that the regulation applies to those who opt out with more than 3 months but less than 2 years' service, but not to those who opt out within 3 months of joining (i.e. those to whom **regulation 9(3)** applies and who are therefore entitled to a refund of contributions under **regulation 9(4)** rather than under this regulation).
- 4.35 The amount refunded is the aggregate pension contributions calculated under **regulation 26**. Note that the refund is to be paid immediately: not to do so would contravene general pensions legislation.

Regulations 35 – Deductions from awards under regulation 9(4) or 34

- 4.36 **Regulation 35** allows the police authority to deduct any tax which is due on any award under **regulation 34** or **regulation 9(4)** (repayment of pension contributions where the officer opts out within three months of joining). Section 205 of the Finance Act 2004 sets the tax rate at 20% up to £10,800 and 40% on any amount above that.

Regulation 36 – Pension debit members – personal awards

- 4.37 This regulation provides for the reduction of pension benefits where the officer has a pension debit (arising from pension sharing on divorce – such members are referred to as pension debit members). The regulation applies to a pension debit member who is entitled to:
- an ordinary pension; or

- an ill-health pension; or
 - a deferred pension; or
 - a repayment of aggregate pension contributions.
- 4.38 The reduction is calculated in accordance with tables or other guidance provided by the scheme actuary. Guidance on pension sharing on divorce in NPPS was issued by Government Actuary's Department in April 2007. The guidance is on the Home Office police pensions website, at the following link:
<http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/NPPS-transfer-guidance>.
- 4.39 Note that under paragraph (b) of the proviso to **paragraph 6 of Schedule 3**, if a PPS pension debit member transfers to NPPS the PPS pension debit is multiplied by the conversion factor of 105% and is then treated as a pension debit under **regulation 36**. But the pension credit member would remain entitled to a pension under PPS and so it would come into payment from age 60.
- 4.40 Pension sharing and pension credit members are covered in **Part 6**.

Regulation 37 – Exchange of lump sum for additional periodical payments

- 4.41 This regulation gives an officer an option to exchange all or part of his or her lump sum on retirement to provide an increased annual pension for the officer (**regulations 37(1) and 37(2)**) (but not for survivor pensions - see **regulation 37(5)**). Exchange can be applied to an ordinary pension or a deferred pension but not to an ill-health pension or to a deferred pension paid early on grounds of ill-health (**regulation 37(1)**).
- 4.42 Notice of exchange must be given in writing before the intended date of retirement, but no sooner than four months before (**regulation 37(3)**). For a deferred pension, this time limit applies to the date when the deferred benefits come into payment (**regulation 37(1)**). In all cases, notice must be given before the pension comes into payment so that the correct rate of pension is paid from the outset (it cannot subsequently be reduced). The notice must specify the amount of lump sum to be exchanged, which can be the whole amount.
- 4.43 On receipt of the notice, the police authority will withhold the whole or specified part of the lump sum and will make additional pension payments to the retired officer. The additional payments are the actuarial equivalent of the surrendered portion of the pension, based on tables provided by the scheme actuary.
- 4.44 The NPPS 'inverse commutation' factors are set out below. The annual amount of additional pension in NPPS is the lump sum being sacrificed divided by the factor.

This approach is only applicable for retirements at age 55 or above, because in NPPS all earlier retirement will be on grounds of ill-health.

NPPS Exchange of lump sum table

Age next birthday when pension becomes payable (see Note 2)	Factor	
	Men	Women
55	14.90	17.05
56	14.80	16.85
57	14.65	16.60
58	14.50	16.25
59	14.25	16.00
60	13.90	15.75
61	13.55	15.50
62	13.20	15.20
63	13.00	15.00
64	12.70	14.70
65	12.30	14.30

Notes to the table

1. The table is prepared by the Government Actuary's Department, and is subject to periodic review. It takes account of the fact that, in general, women live longer than men.
2. If an officer is required to retire on reaching a particular age, the age next birthday should be taken as that age. If an officer becomes entitled to payment of a deferred pension on reaching the age of 65, the age next birthday should be taken as 65. If an officer becomes entitled to an ordinary pension on reaching the age of 55 years the age next birthday should be taken as 55.
3. The annual amount of additional pension in NPPS is the lump sum being sacrificed divided by the factor.

4.45 It is suggested that police authorities notify officers of the relevant exchange factor at the same time as informing them of the pension benefits that will be paid on retirement. This will bring the option to their attention and may avoid a need for subsequent communication.

Example 13

An officer aged 57 at retirement (so aged 58 next birthday), has final pensionable pay of £30,000 and 21 years' pensionable service. So his pension is £9,000 per year and his lump sum is £36,000. The officer wishes to exchange £20,000 of the lump sum for annual pension.

The amount of extra annual pension = $\frac{£20,000}{14.5} = £1,379$ per year

- 4.46 Once the officer's pension is in payment, the additional element is treated in exactly the same way as the normal pension, e.g. in terms of the application of pensions increases for inflation.
- 4.47 On the death of the officer, any survivor benefits are based on what the officer's pension would have been before any exchange. It follows that police authorities need to maintain a record of the underlying normal pension as well as the amount actually in payment.

Regulation 38 – Commutation of small pension for lump sum

- 4.48 This regulation sets out the circumstances in which a police authority may commute a small pension to a lump sum (sometimes referred to as 'trivial commutation'), if the recipient gives consent. It applies both to officers' and survivors' pensions. The lump sum is of an amount which GAD advises represents the capital value of the pension. The regulation largely replicates other legislation relating to pensions generally, but is included for completeness. A 'small' pension for these purposes is one which does not exceed the small pensions commutation maximum (**regulation 38(1)**), as defined in **regulation 38(4)**.
- 4.49 If the relevant pension payable to an officer is one which cannot be less than the officer's guaranteed minimum pension, that officer must have reached State Pension age (**regulation 38(1)(b)**). 'State Pension age' is not defined further and will be the State Pension age applicable to the officer at the time.
- 4.50 **Regulation 38(2)** provides that multiple pensions may only be commuted under this regulation if they do not in total exceed the amount that may be commuted under the requirements that apply in each case. **Regulation 38(3)** provides that the payment of a lump sum under this regulation discharges the police authority from all liability in respect of the pension.
- 4.51 **Regulation 38(4)** specifies the provisions under which commutation under **regulation 38** is permitted. These are the relevant provisions of:

- The Occupational Pension Schemes (Contracting Out) Regulations 1996, regulations 19,20 and 60;
- The Occupational Pension Scheme (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997, regulation (2);
- The Pension Sharing (Pension Credit Benefit) Regulations 2000, regulation 3(2)(b);
- The Finance Act 2004, Schedule 29 paragraph 7.

4.52 Note that:

- in respect of an officer's pension, the payment of a 'trivial commutation lump sum' under section 166 of the Finance Act 2004 can only be made if, on the date of payment or on a date nominated by the pension scheme member, the total value of the member's pension rights does not exceed 1% of the standard lifetime allowance on that date (see paragraph 7 of Schedule 29 to the 2004 Act) and the member has reached age 60 but has not reached age 75;
- in respect of a survivor's pension, the payment of a 'trivial commutation lump sum death benefit' under section 168 of the Finance Act 2004 can only be made if the officer is aged under 75 at the date of death, the payment is made before he or she would have reached the age of 75, and the amount does not exceed 1% of the standard lifetime allowance at the date of payment (see paragraph 20 of Schedule 29 to the 2004 Act).

4.53 Trivial commutation tables and guidance will be published shortly, probably in December 2007. Any cases which arise in the meantime should be referred to the Home Office for advice.

Regulations 39 - 40 – Survivors' pensions

4.54 These regulations determine whether a pension will be payable to a survivor – i.e. a spouse, a civil partner, a nominated unmarried partner or a child) - if a police officer dies.

4.55 **Regulation 39 (Survivors' pensions – general provisions)** sets out the conditions that must be satisfied at the date of the officer's death for any survivor pension to be payable. One of the following must apply:

- the officer is receiving an NPPS pension; or
- the officer has ceased to serve and holds deferred pension rights in NPPS (and has not transferred these to another scheme); or

- the officer is serving, has not opted out of NPPS and has at least two years' qualifying service; or
- the officer is serving and has opted out of NPPS but has retained deferred pension rights in NPPS.

4.56 **Regulation 40 (Survivors)** defines a survivor, for the purposes of qualification for a survivor pension. A survivor is (**regulation 40(1) and 40(2)**):

- an adult, as follows:
 - spouse, or
 - civil partner (as registered under the Civil Partnership Act 2004), or
 - other adult partner (unmarried partner of either sex who is not a civil partner), subject to the completion of documentation and other conditions;
- a child or children, as follows:
 - natural child (including a child conceived before the officer's death and born afterwards by an adult survivor as defined above)
 - step-child
 - adopted child
 - any other child who was dependent on the officer at the date of the officer's death, either financially dependent or dependent because the child is disabled.

4.57 NPPS thus differs from PPS in providing pensions for unmarried partners and for unrelated children. **Regulations 40(2) – 40(4)** set out the conditions which must be satisfied before a pension can be paid to a surviving unmarried partner. The Home Office has issued separate detailed guidance on unmarried partner pensions (March 2006, revised December 2006).

Regulation 41 – Calculation of adult survivors' pensions

4.58 This regulation calculates the pension to be paid to an adult survivor, as follows:

- if the officer's pension was in payment, the survivor pension is half the officer's pension (**regulation 41(2)**);
- if the officer held retained deferred NPPS pension rights (which includes a case where the officer had opted out but was still serving), the survivor pension is half of what the officer's pension would have been if it had come into payment immediately before his or her death (**regulation 41(2)**);
- if the officer was still serving and had not opted out of NPPS, the survivor pension is half of what the officer's pension would have been if the officer had been entitled to a standard ill-health pension and an enhanced top-up ill-health pension immediately before his or her death (**regulation 41(3)**).

- 4.59 Any reduction in the officer's pension due to actuarial reduction under **regulation 33(4)** and any increase in the officer's pension due to exchange of lump sum under **regulation 37(5)** is disregarded for this purpose (**regulation 41(1)**).
- 4.60 An adult survivor pension is based on the pension payable (or assumed to be payable) to the officer at the time; the officer's pension is not first increased for inflation under the Pensions (Increase) Acts (**regulation 41(5)**).
- 4.61 An adult survivor pension is payable for life, irrespective of whether the survivor remarries or forms a new partnership. There is no associated lump sum.
- 4.62 There are three circumstances where an adult survivor pension is or may be reduced:
- where the police officer was a pension debit member (as a result of pension sharing on divorce), the survivor's pension is based on the officer's reduced pension rights (**regulation 41(4)**)
 - where the adult survivor was more than 12 years younger than the officer at his or her date of death, the survivor pension is reduced by 2.5% for each year or part year over 12 years, subject to a maximum reduction of 50% (**regulation 41(6)**)
 - where the adult survivor is a spouse (or civil partner) and the marriage (or registration) took place less than six months before the officer's death, the police authority has discretion to withhold the pension (**regulation 41(7)**).

Example 14

An officer dies on her 55th birthday, when her adult survivor is aged 40 years and 6 months. As the survivor is more than 12 years younger, the survivor pension is reduced by $2.5\% \times (15-12) \text{ years} = 7.5\%$.

This reduction is mandatory and the police authority has no discretion.

- 4.63 Police authorities are recommended to give very careful consideration before exercising discretion to withhold a survivor pension from a recently-married spouse or recently registered civil partner. The intention in giving a police authority such discretion is to guard against 'deathbed marriages', which appear to have been contracted purely to give a pension to the new spouse or civil partner. Unmarried partners do not fall within the scope of the discretion, because of the need for such cases to meet the various conditions set out in **regulation 40(2)**, and if a spouse or civil partner had been nominated as an unmarried partner under **regulation 40(2)** prior to the marriage or registration, withdrawal of the survivor pension is unlikely to be appropriate.

- 4.64 Adult survivor pensions are increased for inflation under the Pensions (Increase) Acts (**regulation 41(8)**).

Regulation 42 – Calculation of child survivors’ pensions

- 4.65 This regulation calculates the pension to be paid to a child survivor. The child's pension is half of the adult survivor pension, unless there are three or more children to whom a pension is payable, in which case half of the adult survivor pension is divided equally between them (**regulation 42(1)**). One effect is that if there are three or more surviving children in receipt of a pension, and one of them ceases to be entitled (e.g. because of age), the pension payable to the remaining children will increase.
- 4.66 Where the police officer was a pension debit member (as a result of pension sharing on divorce), any reduction required by section 31 of the Welfare Reform and Pensions Act 1999 is disregarded for the purposes of calculating a child's pension (**regulation 42(2)**).
- 4.67 If the child has earnings from employment or is being paid for full-time vocational training, and the remuneration exceeds the income support level for a single person aged 18-24 (as set out in the Income Support (General) Regulations 1987, as updated), the child's pension is reduced by the excess (**regulations 42(3) - 42(5)**). If the excess is more than the child's pension, the pension stops.
- 4.68 A child's pension is only payable for life if the child was (in the opinion of the police authority) dependent the officer because of permanent disablement at the date of the officer's death. Otherwise the child's pension must stop at age 19, unless he or she is in full-time education on a course of at least one year's duration, in which case it will cease at the end of the course or when the child is 23, whichever is the earlier (**regulation 42(6)**)
- 4.69 These restrictions result from the definition of 'dependant' in the Finance Act 2004, (Schedule 28, regulation 15). It follows that if a child becomes disabled whilst he or she is in receipt of a child's pension, the pension cannot then be paid for life.
- 4.70 Children's pensions are increased for inflation under the Pensions (Increase) Acts (**regulation 42(7)**) – see **regulation 50**.

Example 15

An officer retired with an NPPS ill-health pension and has three dependent children under the age of 19. His ill-health pension is £18,000 per year and so an adult survivor's pension would be £9,000 per year.

If he were to die, each of his children would receive a pension of $£9,000/3 = £3,000$ per year. If one child were to reach age 19, without entering into full-time education, then he or she would stop receiving a pension and the pension payable to the other two children would be increased to £4,500 ($£9,000/2$) each per year.

Regulation 43 – Guaranteed minimum pension for the purposes of the Pension Schemes Act 1993

- 4.71 This regulation relates to guaranteed minimum pension (GMP) rights. These derive from service or employment in the period 6 April 1978 to 5 April 1997, so this regulation can only apply if a police officer has accrued GMP rights in previous service or employment and has transferred these into NPPS by transfer value as part of previous pension rights. The regulation essentially provides that if the officer reaches state pensionable age and his or her NPPS pension rights are less than his or her guaranteed minimum pension, the guaranteed minimum must be paid. 'State pensionable age' is defined in **regulation 43(7)**, for the purposes of this regulation only, as 65 for a man and 60 for a woman. These ages will continue to apply for the purposes of this regulation regardless of any change in the state pensionable age for other purposes, unless and until the regulation itself is amended⁸.
- 4.72 The regulation is the updated equivalent of regulation J1 of the Police Pensions Regulations 1987.

Regulation 44 – Death gratuities - dependants

- 4.73 This regulation relates to one set of circumstances only – the discretion given to a police authority to pay a gratuity to a dependant if an officer is either receiving a pension or entitled to a deferred pension (irrespective of whether or not it is in payment) and dies either:
- in service, from an injury received without default in the execution of duty; or
 - within two years of becoming entitled to his or her pension.

⁸ In accordance with section 13(1) of the Pension Schemes Act 1993, the GMP payment age for females must stay at 60 even after 2010 when the age for payment of women's state pension rises above 60.

- 4.74 The gratuity may be paid to any person dependent on the officer at the date of death, but must not be more than the officer's aggregate pension contributions (as calculated under **regulation 26**).
- 4.75 Unlike some other pension schemes, NPPS does not give a five-year pension guarantee, so this regulation gives some discretion for additional payment in the case of death shortly after retirement.

Regulation 45 – Death gratuity - estate

4.76 This regulation provides, in broad terms, that where an officer dies and:

- is receiving a pension; or
- is entitled to a deferred pension (irrespective of whether or not it is in payment); or
- dies in service

and the overall benefit entitlement is small, a death gratuity is paid to his or her estate to bring the value of the total benefits up to the officer's aggregate pension contributions.

4.77 The regulation states that if the total of

- any payments made or due to the officer under **regulation 27** (ordinary pension) or **regulation 29** (ill-health pension); and
- the actuarial value of any pension or allowance granted in respect of the officer's death; and
- the actuarial value of any pension credit held by the officer; and
- any dependant's death gratuity granted under **regulation 44**

is less than the aggregate pension contributions (as calculated under **regulation 26**), then the police authority must pay to the officer's estate a gratuity equal to the difference.

Regulation 46 – Lump sum death grant

4.78 This regulation provides that if a regular police officer who has not opted out of NPPS dies in service, a lump sum death grant is payable (**regulation 46(1)**). It is payable irrespective of whether a death gratuity or adult survivor pension is payable (**regulation 46(2)**).

- 4.79 The grant is three times the deceased officer's pensionable pay expressed as an annual rate either at the date of death, or if he or she was absent from duty without pay at that time, immediately before the absence began (**regulation 46(3)**). 'Pensionable pay expressed as an annual rate' means, for an officer who serves part-time, three times his or her actual pay (not three times the pay that he or she would receive if he or she served full-time).

Example 16 (*this replicates an example in the NPPS Members' Guide*)

An officer's full-time equivalent pay is £30,000 per year, but she serves half-time and so her annual pensionable pay is £15,000 a year.

If she were to die in service whilst she is a member of the scheme, the lump sum death grant payable in respect of her death would be £45,000.

- 4.80 Under **regulations 46(4)** and **46(5)**, if the deceased officer leaves a surviving spouse or civil partner, the grant must be paid to that person unless the officer and the spouse (or civil partner) were separated by an order of court and the officer was not required to contribute (and was not in fact contributing) to the support of the spouse (or civil partner) or a child of the spouse (or civil partner). If there is a surviving spouse or civil partner, then in most cases any nomination made by the officer under **regulation 47** therefore has no effect.
- 4.81 If there is no qualifying surviving spouse or civil partner, the police authority has discretion to pay the grant to:
- an unmarried partner nominated under **regulation 40(2)(a)** or, if there is no such person, to
 - a person nominated under **regulation 47** or, if there is no such person, to
 - the officer's legal personal representative (i.e. to his or her estate).
- 4.82 It follows that if there is a properly nominated unmarried partner and the partnership still exists at the date of death, any nomination made by the officer under **regulation 47** has no effect.
- 4.83 The reason for the authority's discretion, in the case of a lump sum paid to an unmarried partner, some other nominated person or the member's estate, relates solely to the question of inheritance tax, which would not be payable by a spouse. The expectation is that if an unmarried partner has submitted a claim, and the police authority has accepted it, then the lump sum death grant would be paid to that partner in addition to an adult survivor's pension. Similarly, if there is a valid nomination under **regulation 47**, the lump sum death grant would be paid to the nominated person if there is no surviving spouse, civil partner or unmarried partner to whom a survivor pension is to be paid. If there are none of these, then the lump sum death grant would be paid to the estate.

Regulation 47 – Nomination for lump sum death grant

- 4.84 This regulation allows an officer to nominate a person for the receipt of any lump sum death grant payable under **regulation 46**. This is a new facility, which is not available in PPS.
- 4.85 There is no restriction on who may be nominated. Under the Interpretation Act 1978, unless the contrary intention appears, the word ‘person’ in legislation includes a body of persons corporate or unincorporate. There is no contrary intention, so the meaning of ‘person’ in this context is quite wide. We understand, however, that another public sector pension scheme has experienced problems when scheme members have nominated organisations such as cats’ homes or donkey sanctuaries which do not necessarily have corporate status. The position will be kept under review in the light of experience.
- 4.86 A nomination must be signed by the officer and sent to the police authority for the force in which he or she serves at that time, or by which his or her pension was or would be payable (e.g. if he or she has ceased to serve – although a lump sum death grant would not then be payable unless he or she re-joins the force and becomes again an active member of NPPS) (**regulation 47(2)(a)**). The nomination must be sent before any NPPS award has come into payment (with the exception of any pension credit rights). The police authority must write to the officer notifying receipt of the nomination.
- 4.87 A standard Home Office form is available for this nomination and is recommended. The form was issued on 3 April 2006 and is also available on the police pensions website. A nomination in any other form is valid, provided it meets the requirements of **regulation 47**.
- 4.88 It is the officer’s responsibility to keep any nomination up to date, including the address of any nominated person. Police authorities are advised to remind officers of this on a regular basis (e.g. by means of a note on annual benefit statements). A nomination may be revoked by the officer at any time by giving written notice to the police authority (**regulation 47(2)(b)**).
- 4.89 A nomination for the payment of lump sum death grant under this regulation is completely separate from the nomination of an unmarried partner for the receipt of survivor benefits under **regulation 40(2)(a)**.
- 4.90 If the officer is married or in a civil partnership at the date of death, or there is an unmarried partner to whom a pension will be paid under **regulation 40(2)(a)**, then a nomination under this regulation will have no effect (see the notes to **regulation 46**). This does not prevent an officer who is married, in a civil partnership or with an unmarried partner from nominating someone other than his or her spouse or partner. Such a nomination would have effect, for example, if both the officer and his or her spouse or partner were to die at the same time in an accident.
- 4.91 The application of the nomination is governed by **regulation 46**.

Regulation 48 – Pension debit members – awards on death

4.92 This regulation ensures that when an officer who is a pension debit member dies, any death gratuity under **regulations 44 or 45** or lump sum death grant under **regulation 46** is calculated by reference to the officer's reduced pension rights. Pension debits arise under pension sharing on divorce (see **regulations 61-64**).

Regulation 49 – Prevention of duplication

4.93 This regulation provides that if a person is entitled to receive more than one award as the result of the death of an officer, based on the same period of pensionable service, then only one award is to be paid. This is to be the largest, unless the survivor directs otherwise (**regulation 49(1)**). The awards in question are:

- an NPPS survivor pension; or
- an award under regulations 6, 13, 14, 17, 18, 20 or 21 of the Police (Injury Benefit) Regulations 2006.

4.94 Note that this does not prevent a person from being entitled to receive more than one pension if the awards are calculated by reference to different periods of pensionable service (**regulation 49(2)**).

Regulation 50 – Increase of awards by reference to the Pensions (Increase) Acts

4.95 This regulation ensures that all NPPS pensions are increased for inflation in accordance with the Pensions (Increase) Acts. This is necessary since those Acts might not refer directly to some survivor awards. The regulation replicates regulation E9 of the Police Pensions Regulations 1987. The rates are notified to police authorities by the Home Office.

Regulation 51 – Review and cancellation of pensions payable on the ground of permanent disablement

4.96 This lengthy regulation gives discretion to police authorities to review the payment of ill-health pensions (including deferred pensions paid early due to ill-health) in certain circumstances. The intention is that, if the pensioner's medical condition has changed significantly, the police authority should have a mechanism in NPPS to vary the overall ill-health pension, given that there are two levels of ill-health pension (standard or enhanced top-up, based on the extent of disability).

4.97 The interpretation of various aspects of this regulation is likely to be complex and police authorities must refer to separate Home Office guidance on the assessment of medical conditions and on the procedures for medical review. Guidance on ill-health procedures is contained in **Home Office Circular 21/2003** (The Police Pension Scheme: better management of ill-health). Revised guidance on the

assessment of disablement is in preparation and will be issued in late 2007 or early 2008.

- 4.98 **Regulations 51(1) and 51(2)** limit the police authority's discretion to carry out a review to the following cases:
- officers receiving a standard ill-health pension and aged under 55 - which may be reviewed at any time
 - officers receiving an enhanced top-up ill-health pension, or a deferred pension paid early due to ill-health, who are aged under 65 – which may be reviewed at intervals of no shorter than five years.
- 4.99 The review is to consider whether the officer's disablement has:
- ceased; or
 - significantly worsened (if the officer is receiving a standard ill-health pension); or
 - significantly improved (if the officer is receiving an enhanced top-up ill-health pension or a deferred pension paid early).
- 4.100 **Regulations 51(3)–51(4)** provide that if the officer is aged under 55 and his or her disablement for the ordinary duties of a member of the police force has ceased, the police authority may give the officer notice that he or she may re-join the force at his or her former rank within a period of not less than three months. If the officer re-joins the force, then the ill-health pension or early payment of deferred pension ceases at that point (**regulation 51(5)**). If the officer does not offer to re-join, the ill-health pension ceases at the end of the period of notice (**regulation 51(6)**). If the officer does not re-join after being given notice that he or she may do so, and is not entitled to a deferred pension, and the ill-health pension that he or she received (plus the actuarial value of his or her guaranteed minimum pension, if there is one) is less than his or her aggregate pension contributions, then the police authority must pay the difference to the officer (**regulation 51(12)**).
- 4.101 **Regulation 51(5)** also applies if an officer whose disablement ceases voluntarily joins a force other than the one from which he or she retired. Payment of the ill-health pension ceases on his or her joining the force.
- 4.102 **Regulation 51(7)** gives discretion to the police authority to terminate payment of an ill-health pension if the pensioner is under 55 and wilfully or negligently persists in refusing appropriate medical treatment, where his or her disablement for the ordinary duties of a member of the police force would have been expected to have ceased if he or she had received that treatment. The pension can only be terminated if the pensioner wilfully or negligently persists in failing to receive the appropriate treatment after having received both:

- written notice from the SMP that his or her disablement would have been expected to have ceased if he or she had received the appropriate treatment; and
 - written notice from the police authority that in their opinion his or her failure to receive the treatment was attributable to wilfulness or negligence and notifying him/her of the authority's powers under the regulation.
- 4.103 In this context, 'appropriate medical treatment' does not include treatment that it is reasonable for the person to refuse (in the opinion of the police authority). Under **regulation 66** there is a right of appeal to the Crown Court against the decision of the police authority as to whether a refusal to accept medical treatment is reasonable.
- 4.104 For an officer under 65 receiving an enhanced ill-health pension, if it is found that his or her disablement for any regular employment has ceased, the entitlement to an enhanced top-up ill-health pension ceases but the standard ill-health pension remains payable under **regulation 51(8)(c)** (unless he or she has been invited to re-join the force under **regulation 51(3)**).
- 4.105 For an officer under 65 receiving a deferred pension paid early due to ill-health, if it is found that his or her disablement for any regular employment has ceased, early payment of the deferred pension must cease (**regulation 51(8)(d)**).
- 4.106 For an officer receiving a standard ill-health pension, if a claim is made within 5 years of the date of retirement and it is found that his or her condition has worsened, such that he or she has become disabled for any regular full-time employment, then the officer becomes entitled to an enhanced top-up ill-health pension calculated under **regulation 31** from the date that the disablement worsened (or if the police authority initiated the review, the date on which they referred the matter for decision under **regulation 71(2)**) (**regulations 51(9) – 51(11)**). No additional lump sum is payable. The 5-year time limit does not apply if the officer is suffering from a progressive medical condition as specified in the list in **Schedule 4**, which may be amended from time to time.
- 4.107 Where payment of an ill-health pension (or early payment of a deferred pension) is terminated under this regulation, then the person retains any lump-sum payment (**regulation 51(13)**). This is subject to the proviso to **regulation 28(1)(b)** and to **regulation 28(2)** (reduction of lump sum by amount of a previous lump sum: see the notes to **regulation 28**).

Regulation 52 – Withdrawal of pension during service as a regular police officer

- 4.108 This regulation allows a police authority to reduce the pension paid to an officer who re-joins any police force after retirement. This is commonly known as 'abatement'. A survivor pension or a pension credit pension cannot be reduced in this way.

- 4.109 Home Office guidance is that the pension should be reduced if the new pay plus pension is greater than the officer's pay before retirement, so that the amount of (new pay plus reduced pension) is no greater than previous pay. For these purposes, 'pay' does not include allowances.
- 4.110 If the new pay is higher than the previous pay, the pension should be reduced to nil. Any reduction is only temporary – the pension must come back into full payment when the officer ceases to serve.
- 4.111 In the unlikely case that a re-joining officer is receiving both a PPS pension and an NPPS pension, Home Office guidance is that police authorities should take account of both pensions in considering whether to make a reduction.

Regulation 53 – Reduction of pension in case of default

- 4.112 This regulation allows a police authority to reduce the pension payable to an officer who becomes permanently disabled as a result of his or her own default, by up to half of the pension. An ill-health pension or a deferred pension paid early due to ill health may be reduced. This is subject to the following conditions:
- a standard ill-health pension cannot be reduced if the pensioner is 55 or over;
 - a deferred pension cannot be reduced if the pensioner is 65 or over;
 - if, as a result of such a reduction, the pension paid at 65 is less than the deferred pension would have been if the officer had ceased to serve instead of retiring, the pension must then be increased to that amount.
- 4.113 Any reduction must be effected before the pension comes into payment. A reduction to a member pension in payment would contravene tax legislation.

Regulation 54 – Withdrawal of early payment of deferred pension

- 4.114 This regulation provides that if an officer is dismissed or is required to resign and is or becomes permanently disabled for any regular employment, any deferred pension cannot be paid early unless the police authority exercises discretion to do so.

Regulation 55 – Forfeiture of pension

- 4.115 This regulation allows a police authority to determine that a pension payable to a person who has been convicted of specified serious crimes is to be forfeited (wholly or partly and permanently or temporarily) (**regulation 55(2)**). The pensions which may be forfeit (**regulation 55(1)**) are:
- an officer's pension;

- a survivor's pension (when the survivor committed an offence after the member's death);
- a pension credit pension.

4.116 The offences are:

- treason (**regulation 55(3)**);
- offences under the Official Secrets Act resulting in sentencing of at least ten years' imprisonment (**regulation 55(3)**);
- offences committed in connection with police service that are certified by the Secretary of State to be gravely injurious to the State or liable to lead to a serious loss of confidence in the public service (**regulation 55(4)**).

4.117 It is this last category which is most likely to arise – forfeiture requires both conviction for the offence and certification by the Secretary of State.

4.118 Under **regulation 55(5)**, the police authority has discretion to restore all or part of the forfeited pension, or to apply all or part of the pension for the benefit of any adult or child survivor. The police authority may exercise this discretion at any time. The primary intention of this provision – which is new to England and Wales but has been in force in Scotland for some time – is that innocent parties should not necessarily be made to suffer as a result of forfeiture, although the discretion applies to a former officer's pension as well as that of any survivor. A similar change is being made to forfeiture in PPS, to bring it into line.

4.119 More detailed guidance on forfeiture is contained in **Home Office Circular 26/2006**. Note that the policy on forfeiture and the procedures to be followed is the responsibility of the Police Integrity Team of the Policing Powers and Protection Unit, rather than the Police Pensions Team.

Part 5 Purchase of increased benefits (regulations 56 - 60)

- 5.1 These regulations, which comprise the whole of Part 5, allow an officer to elect to purchase additional pensionable service in NPPS by making additional contributions. This is informally referred to as buying 'added years'. The officer can select his or her planned date of retirement (provided that this is no earlier than his or her 55th birthday and no later than the date that he or she would be required to retire on grounds of age under **regulation 19(2)**, on the basis that he or she remains in the same rank) and the number of added years to be purchased by that date, up to a maximum of five added years (or, if less, the number of added years which would give total of 35 years' pensionable service at the planned date of retirement, under the assumption that the officer serves full-time from the date of election to the planned date of retirement).
- 5.2 The additional contributions may be paid either by lump sum, in certain circumstances (although the officer needs to be aware of any limitations on the tax relief available – see **Annex B** to this guidance), or otherwise by instalments. If payment is by instalments, the percentage of pay deducted in pension contributions is increased up to the planned date of retirement.
- 5.3 The intention is that, once the officer has decided to make additional contributions by instalments, he or she should be committed to this and not allowed to change his or her mind except in very limited circumstances. Even if circumstances change so that the officer expects to continue to serve beyond the planned retirement date, the officer must continue to pay additional contributions even though these may bring no benefit (**regulation 57(3)**). If the officer gets into financial difficulties as a result of his or her election to pay additional contributions, he or she should approach the police authority, who have the discretion to suspend the payment of additional contributions for such period as they think fit (**regulation 57(3)**). This will affect the reckoning of his or her increased benefits under **regulation 60**.

Election to purchase increased benefits (regulation 56)

- 5.4 The method by which the officer notifies the police authority of his or her intention to purchase added years is by making an election (at any time) under **regulation 56(2)**. The election must be in writing and must specify (**regulation 56(3)**):
- the number of added years the officer wishes to purchase;
 - his or her planned date of retirement for this purpose (no earlier than the date on which the officer reaches 55 or later than his or her compulsory retirement age);
 - whether the payment of additional contributions is to be by lump sum or by instalments.

5.5 The purchase of added years is restricted as follows:

- the total purchased cannot exceed five years (**regulation 56(4)**)
- they must not cause the officer's total potential pensionable service at the planned date of retirement to exceed 35 years (**regulation 56(4)**)
- they cannot be used to replace pension rights lost as a result of a pension debit, if the officer would not have been able to purchase the added years if there were no pension sharing order (**regulation 56(5)**) – although the tax legislation now gives potential freedom for pension debit rights to be rebuilt, the NPPS Regulations have been maintained in line with the Police Pensions Regulations 1987 and do not allow this.

Acceptance and effect of elections (regulation 57)

5.6 Before accepting an election to pay by instalments, the police authority may require the officer to have a medical examination (at his or her own expense) to be satisfied of his or her good health (**regulation 57(1)**). This is because, if an officer retires on ill-health grounds or dies in service, he or she can often be entitled to reckon all of the added years rather than just those that have been bought up to that point (see the section on the reckoning of added benefits under **regulation 60**). If there is no medical examination, the election is accepted when the police authority receives it.

5.7 An election to buy added years by periodical contributions takes effect from the date the payments commence (**regulation 57(2)**). An election is irrevocable, except that the police authority may consent to the discontinuation of payments if they are satisfied that the payments are causing financial hardship (**regulation 57(3)**). An officer who has not retired by his or her intended date remains liable to make the payments up to the retirement date at the time of his or her election, notwithstanding that he or she might derive no benefit (**regulation 57(4)**).

5.8 The amount of the lump sum or additional contributions to be paid is calculated by the police authority from tables provided by the Scheme actuary (**regulations 58(1) and 59(3)**). Government Actuary's Department issued revised guidance on the purchase of increased benefits in NPPS on 23 May 2007. This replaced earlier guidance issued in August 2006. The guidance is available on the police pensions pages of the Home Office website, at the following link:
<http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/npps-added-years-tables>.

Lump sum payments (regulation 58)

5.9 An officer who elects to pay by lump sum must do so within 12 months of date when he or she last began to serve (**regulation 58(1)**). Payment must be made within 3 months of the date of the election, otherwise the election is deemed never to have been made (**regulation 58(2)**). Note that a sum held in another pension

scheme cannot be used to purchase added years by lump sum in NPPS (**regulation 58(3)**).

Payment by periodical contributions (**regulation 59**)

- 5.10 The liability to pay instalments of additional contributions begins on the officer's next birthday after the election takes effect (**regulation 59(1)**) and ends on the earliest of the following:
- the officer's planned retirement date as per his election;
 - the officer's opting out of NPPS;
 - the officer's retirement (for whatever reason);
 - the officer's ceasing to serve.
- 5.11 However, if the officer has retired on the grounds of ill-health but the disablement ceases and he or she re-joins the force under **regulation 51**, the additional contributions will again become payable (**regulation 59(7)**).
- 5.12 Instalments of additional contributions are deducted from pay (**regulation 59(2)**). Contributions are calculated by the police authority in accordance with tables prepared by the Scheme actuary (**regulation 59(3)**).
- 5.13 If an officer serves part-time at the point at which he or she elects to purchase added years, he or she may choose (**regulation 59(3)**) either to:
- have the additional contributions calculated as if he or she were full-time (which might be described as purchasing full added years); or
 - have the additional contributions calculated in accordance with **regulation 59(6)** - i.e. at the same percentage of pay as if he or she were full-time, but as a consequence have additional benefits based on service calculated by the formula in **regulation 14(1)** (see **regulation 60(13)**) (which might be described as purchasing part added years).
- 5.14 The second option is described more fully on the section which follows on **regulation 60**. The first option ensures that the added years to be purchased are purchased in full. The second options may be more affordable in that it ensures that the officer only pays a fixed proportion of his or her pay in added contributions.
- 5.15 If an officer is paying additional contributions and moves from full-time to part-time service, he or she is able (**regulation 59(4)**) either to:
- continue to pay additional contributions on his or her full-time equivalent pay (the default position); or to

- vary the election, in order to pay contributions at the same percentage of pay as if he or she were in full-time service (the officer must vary the election within three months of the date of change in order to do this).
- 5.16 Variation of an election as described above is made by giving written notice to the police authority (**regulation 59(5)**). If the officer's part-time hours subsequently change, there is no further opportunity to vary the election.
- 5.17 As with payment by lump sum, a sum held in another pension scheme cannot be used to purchase added years by instalments in NPPS (**regulation 59(8)**).

Reckoning of increased benefits (regulation 60)

- 5.18 **Regulation 60** specifies the way in which added years which have been purchased or are in the process of being purchased are reckoned, for the purposes of calculating any NPPS award. The length and complexity of the regulation is due to the need to provide for the various circumstances in which payment might be interrupted.
- 5.19 **Regulations 60(1) – 60(4)** provide for an officer to be entitled to reckon the added years that he or she elected to purchase if he or she pays all of the lump sum or all of the additional contributions that are due and retires on the planned date.
- 5.20 **Regulations 60(5) – 60(7)** cover the situation in which an officer has commenced payment of periodical payments (i.e. has made at least one payment) and dies in service or retires on ill-health grounds under **regulation 29**. In these circumstances the officer will be entitled to reckon all of the added years that he or she elected to purchase unless:
- payments of additional contributions had been discontinued because of financial hardship (at any time – not necessarily at the date of ill-health retirement or death), or
 - the officer was part-time and had elected to pay contributions at the same percentage of pensionable pay as if he were in full-time service as provided by **regulation 59(6)**.
- 5.21 If either of these applies, then the officer is entitled to reckon only a proportion of the added years (**regulation 60(6)**). The proportion is calculated (**regulation 60(7)**) by multiplying the number of added years specified in the notice of election (AY) by the factor (PM/PD), where:
- PM is the aggregate length of the periods during which periodical contributions were made; and
 - PD is the time between the date the election took effect and the date the officer died or retired.

Example 17

An officer aged 40 elects to purchase three added years at his planned date of retirement at 55. After making additional contributions for 5 years, he stops paying with the agreement of the police authority because of his financial hardship. He actually retires on ill-health grounds at age 50.

So in this case AY = 3, PM = 5 and PD = 10 (the length of time between age 40 when the election took effect and 50 when the officer retired). So the officer is entitled to reckon $(3 \times 5/10) = 1.5$ added years.

5.22 **Regulations 60(8) - 60(9)** cover the situation in which an officer retires on the grounds of ill-health and either:

- his or her standard ill-health pension is terminated under **regulation 51**; or
- both his or her enhanced top-up ill-health pension and standard ill-health pension are terminated under **regulation 51**

because his or her disability has ceased.

5.23 In these circumstances then (regardless of whether or not the officer re-joins the police service), for the period ending on the date of his or her ill-health retirement the proportion of contributions which he or she is deemed to have made is determined using the formula in **regulation 60(9)**. This is calculated by multiplying the length of time between the date of retirement on ill-health grounds and the date on which entitlement ceased (PN) by the factor (PM/PD), where PM and PD have the same meaning as previously explained in relation to **regulation 60(7)**.

Example 18

An officer aged 35 elects to purchase four added years at her planned date of retirement at 55. However, she retires on ill-health grounds at age 41 having paid only half the contributions due, for an aggregate of 3 years, during the 6 years until her ill-health retirement.

So in this case $AY = 4$, $PM = 3$, $PD = 6$ and $PN = 4$. The initial calculation under **regulation 60(7)** is $(4 \times 3/6) = 2$ added years. She receives an immediate ill-health pension based on pensionable service including these 2 added years.

As she approaches age 45 her disability ceases and she is invited to re-join the force, so her ill-health pension ceases at age 45. The police authority will need to calculate the proportion of periodical contributions which she is deemed to have made during her period of ill-health retirement using the formula $(PN \times PM)/PD$ in **regulation 60(9)**, which in this case results in 2 years of contributions, PN being 4 (the duration of the period of ill-health retirement).

If she does rejoin the force at that point she must resume payment of additional contributions under **regulation 59(7)**.

Alternatively, were the officer to leave the service again immediately afterwards, the total added years credited would be calculated under **regulation 60(10)(d)** using the formula in **regulation 60(12)**, i.e. $AY \times (PM/PE)$ where:

$AY = 4$ (the added years originally elected to purchase)

$PM = 5$ (being 3 years during which additional contributions were paid before her ill-health retirement plus 2 years for which contributions are deemed to have been paid during the period of her ill-health retirement)

$PE = 20$ (the time between the date the election took effect and the officer's planned date of retirement as specified in the notice of election).

The formula equates to $4 \times (5/20) = 1$ added year. Consequently, her deferred pension entitlement will be based on pensionable service including only 1 added year.

5.24 **Regulation 60(10)** covers the following four situations:

- payment of additional contributions was discontinued for a period because of financial hardship, regardless of whether they were discontinued at the date of retirement specified in the notice of election;
- a part-time officer elected (under **regulation 59(6)**) to pay contributions at the same percentage of pensionable pay as if he were in full-time service (subject to **regulation 60(13)**);
- payment of additional contributions ceased because the officer opted out of NPPS;

- payment of additional contributions ceased because the officer retired or otherwise ceased to serve (before his or her planned date of retirement).

5.25 In any of these circumstances, the officer is entitled to reckon a proportion of the number of added years specified in the notice of election (**regulation 60(11)**). The proportion is calculated (**regulation 60(12)**) by multiplying the number of added years specified in the notice of election (AY) by the factor (PM/PE), where PM has the meaning already explained and PE is the time between the date the election took effect and the officer's planned date of retirement as specified in the notice of election.

Example 19

An officer aged 35 elects to purchase 4 added years at his planned date of retirement at 55. After making additional contributions for 10 years he opts out of NPPS.

So in this case $AY = 4$, $PM = 10$ and $PE = 20$ (the length of time between age 35 when the election took effect and the planned retirement date at age 55). So the officer is entitled to reckon $(4 \times 10/20) = 2$ added years.

5.26 Lastly, **regulation 60(13)** provides that the number of days for which an officer is deemed to have paid additional contributions during a period of part-time service, if he or she elected to pay additional contributions at the same percentage of his or her pensionable pay as if he or she were in full-time service, is calculated by the fraction in **regulation 14(1)**. That is, $(A \times 7)/B$, where A is the total number of determined hours of part-time service and B is the number of hours if the service during that period were on a full-time basis.

Example 20

An officer is appointed to the police service at age 25 and elects to purchase 4 added years at her planned retirement date of age 55, which results in an additional contribution rate of 8%. After serving full-time for 5 years she then takes up a half-time appointment and at that point she varies her election so that she continues to pay an additional 8% of salary. After 12 years she reverts to full-time (and continues to pay an additional 8% as she has no further option to vary her election). Her 30 years of police service have therefore been 18 years full-time and 12 years half-time.

So in this case PM is calculated by adding the 18 years of full-time service to the period obtained by applying the fraction in **regulation 14(1)** to the 12 years of half-time service. The 12 years of half-time service equates to $(12 \times 20 \times 365/7) = 12,514$ hours. So $(A \times 7)/B = (12,514 \times 7)/40 = 2,190$ days = 6 years. So $PM = 18 + 6 = 24$ years.

In this case $AY = 4$ and $PE = 30$. So the officer is entitled to reckon $4 \times (24/30) = 3.2$ added years.

Part 6 Pension sharing: pension credit members (regulations 61 - 64)

- 6.1 These regulations, which comprise the whole of **Part 6**, cover the administration of pension credits. Pension credits in NPPS arise when an officer is subject to a pension sharing order. Under such an order the officer's pension rights are reduced (he or she becomes subject to a pension debit and becomes a pension debit member) and his or her former spouse gains NPPS pension rights as a 'pension credit member'. Pension credit pensions are separate from any other NPPS benefits.
- 6.2 The regulations in **Part 6** are similar to those in the Police Pensions Regulations 1987, without the regulations relating to AVCs (as there is no AVC scheme linked to NPPS).
- 6.3 Pension sharing is governed by the Welfare Reform and Pensions Act 1999.
- 6.4 Note that pension credit, pension credit members, pension debit and pension debit members are also mentioned elsewhere in the Regulations as follows:
- Pension credit
 - **regulation 38(2)(c)** (Commutation of small pension for lump sum)
 - **regulation 45(2)(c)** (Death gratuity – estate)
 - **regulation 47(2)(a)** (Nomination for lump sum death grant)
 - **regulation 52(2)** (Withdrawal of pension during service as a regular police officer)
 - **regulation 55(1)(c)** (Forfeiture of pension)
 - **regulation 76** (Interpretation)
 - **regulation 79** (Prohibition on accepting or paying transfer values for pension credit rights)
 - **regulation 81(2)** (Authorities responsible for payment of awards)
 - **regulation 83(1)** (Payment of awards otherwise than to beneficiary and application of payments)
 - Pension debit
 - **regulation 26(4)** (Aggregate pension contributions for purposes of repayment)
 - **regulation 36** (Pension debit members – personal awards)
 - **regulation 41(4)** (Calculation of adult survivors' pensions)
 - **regulation 42(2)** (Calculation of child survivors' pensions)
 - **regulation 48** (Pension debit members – awards on death)
 - **regulation 56(5)** (Election to purchase increased benefits)
 - **regulation 76** (Interpretation)
 - **regulation 77(2)(c)** (Certificates of pensionable service)
 - **regulation 78(8)** (Transfer values payable on leaving the police service or ceasing to make pension contributions)

- 6.5 Note in particular that under **regulation 56(5)** pension debit members cannot make up the debit by purchasing any added years which he or she would not have been able to purchase had the pension sharing order not been made (see the notes on **regulation 56**).
- 6.6 **Regulation 61 (Pension credit member's entitlement to pension)** provides that a pension credit member is entitled to a pension, which becomes payable when he or she reaches normal benefit age (which will always be 65 for a pension credit member, subject to the limited possibility of earlier commutation under **regulation 62**) or when the pension sharing order takes effect, if later (**regulation 61(1) and 61(2)**). A pension credit member's pension is an annual sum payable for life plus a standard lump sum of four times the pension (**regulation 61(3)**).
- 6.7 Note that under **regulation 61(4)**, no lump sum is payable if the pension credit is a 'disqualifying pension credit' under the Finance Act 2004. Under HMRC guidance, a pension credit is disqualifying if it is derived from a pension in payment. If the pension credit arose from the pension credit member's former spouse or former civil partner's benefit that had not yet come into payment at that time, it is not disqualifying. For these purposes it does not matter whether or not the member's former spouse's or former civil partner's benefits come into payment after that pension credit is created. Any such cases should be referred to GAD for advice on what the annual pension should be, in the absence of a lump sum.
- 6.8 The purpose behind this exclusion is to ensure that where a pension in payment is split through a pension sharing order, the ex-spouse or former civil partner who is provided with the pension credit will not be able to take a tax-free pension commencement lump sum from the benefit rights that are acquired. This is to prevent a tax-free lump sum being paid twice from a single source of tax relieved pension saving.
- 6.9 The amount of the pension is such that its actuarial value is equal to the member's pension credit and is calculated in line with guidance provided by the scheme actuary (**regulation 61(5)**). Guidance on pension sharing on divorce in NPPS was issued by Government Actuary's Department in April 2007. The guidance is on the Home Office police pensions website, at the following link:
<http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/NPPS-transfer-guidance>.
- 6.10 **Regulation 62 (Commutation of the pension credit benefit on the ground of serious ill-health)** provides that if the pension credit member becomes seriously ill before he or she is 65, the police authority may commute the whole of the pension credit entitlement to a lump sum of five times the annual pension payable at 65 (calculated in line with guidance provided by the Scheme actuary) (**regulation 62(1)**). In NPPS this right is unique to pension credit members. The payment is a 'serious ill-health lump sum' under section 166 of the Finance Act 2004.

- 6.11 Where such a lump sum payment is made, the police authority is discharged from all liability in respect of benefits payable to the pension credit member (**regulation 62(2)**).
- 6.12 'Serious ill-health', for the purposes of this regulation, means ill-health giving rise to a life expectancy of less than one year from the date on which commutation is applied for (**regulation 62(3)**). The police authority must be satisfied, based on written confirmation from a medical practitioner, that this criterion is met.
- 6.13 **Regulation 63 (Death grants where pension credit member dies before pension credit benefits payable)** provides that, if a pension credit member dies before benefits become payable, a lump sum death grant of three times the annual pension payable at age 65 is payable (**regulation 63(1)**). This is paid to a surviving spouse or civil partner (if such a person exists and was not separated at the date of death and the pension credit member was not contributing to his or her support or that of his or her child) or otherwise, at the discretion of the police authority, to the pension credit member's estate (**regulations 63(2) and 63(3)**). (See also the remarks under **regulation 46** about the exercise of discretion in the context of the payment of a lump sum death grant.)
- 6.14 **Regulation 64 (Application of general regulations)** specifies which provisions apply to pension credit members. Apart from these provisions, the Regulations do not apply to pension credit members except where specified (**regulation 64(1)(a)**). Refer to the list at the beginning of the notes on Part 6 for the regulations which specifically apply to pension credit members.
- 6.15 In the application of the general regulations to pension credit members, the benefits payable to pension credit members are not aggregated for any purpose with any other benefits payable to them (e.g. if a pension credit member is also a former officer with an entitlement to an NPPS pension in his or her own right) (**regulation 64(1)(b)**), and the benefits payable to pension credit members deriving from one pension debit member are not aggregated with those deriving from any other pension debit member (**regulation 64(1)(c)**).
- 6.16 The general regulations which apply to pension credit members under **regulation 64** are **regulation 66** (appeal by a member of a home police force) and **regulation 68** (limitations on appeals) (**regulation 64(2)**). This essentially gives an appeal right to the Crown Court in an area where the police authority has no express power to exercise discretion.

Part 7 Medical questions and appeals (regulations 65 - 75)

7.1 Apart from **regulation 65**, the whole of **Part 7** deals with medical questions and appeals. The following appeal rights are provided for (and are considered in more detail under the relevant regulation):

- Appeals concerning the size of awards, reasonableness of refusal to accept medical treatment and the reduction of pension in case of default or forfeiture, which are to the Crown Court in the case of a member of a home force (**regulation 66**) or to a special tribunal in the case of an inspector of constabulary or officer on relevant service (**regulation 67**).
- Appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement, which are considered by another medical practitioner (**regulation 70**)
- Medical appeals against certain decisions of the SMP, which are heard by a medical appeal board (**regulation 72**).

Regulation 65 – Eligibility for awards - general

7.2 This regulation provides that the starting point in relation to all pension awards is that it is for the police authority to decide whether a person is entitled to any award and if so at what level. Such a decision must, of course, be taken in accordance with the relevant regulation(s).

7.3 It follows from **regulation 65** that any dispute about an award, including one under the provisions of the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996, should generally be pursued initially with the force pensions administrator acting on behalf of the police authority. An appellant would nevertheless still need to be aware of any general time limits applicable to appeals to the Crown Court.

7.4 Officers are encouraged to approach the police authority in the first instance by the NPPS Members' Guide which states that:

'In general, you should try to resolve a problem with the police authority in the first instance. If you fail to reach a satisfactory resolution, you may then wish to consider some of the other avenues..... Note, however, that the time limit for approaching the courts runs from the date of the decision which is the subject of the appeal and is not extended to take account of attempts at resolution with the authority.'

Regulations 66-68 – Appeals

7.5 These regulations govern appeals, both medical and non-medical, to the Crown Court (in the case of an officer) or to a tribunal appointed by the Secretary of State

(in the case of an inspector of constabulary or an officer on 'relevant service'). Note that there are separate provisions for appeals to the police authority under **regulations 70 and 72** in relation to specific medical issues.

- 7.6 **Regulation 66 (Appeal by member of a home police force)** provides that a police officer, or a person claiming an award in respect of an officer, may appeal against:
- a refusal by a police authority to grant an award or to make a larger award than granted;
 - a decision by a police authority that refusal to accept medical treatment is not reasonable (in relation to **regulation 4**);
 - a decision by a police authority to reduce an ill-health award because of the officer's own default (under **regulation 53**);
 - the forfeiture by a police authority of an award (under **regulation 55**).
- 7.7 The appeal right of a member of a home police force (or a person claiming an award in respect of him or her) is to the Crown Court. The appeal right is subject to **regulation 68**. The Regulations do not deal with the time limits or procedures for such appeals, which are governed by Crown Court rules. Any appeal must be lodged at the Crown Court within 21 days of the decision which is the subject of the appeal.
- 7.8 **Regulation 67 (Appeal by inspector of constabulary or police officer engaged on relevant service)** provides similar appeal rights for an inspector of constabulary or an officer on 'relevant service' under section 97(1) of the Police Act 1996 (or a person claiming an award in respect of him/her). The appeal right is to the Secretary of State under **regulation 67**. In this case, the appeal must be in writing specifying the grounds for appeal. Arrangements for the appointment of a tribunal under **regulation 67(3)** are made in consultation with the Ministry of Justice. Appeals requiring the appointment of such a tribunal are very rare.
- 7.9 **Regulation 68 (Limitation on appeals)** states that no appeal under **regulations 66 and 67** (i.e. to the Crown Court or to a tribunal, as the case may be) is possible against a decision by the police authority where they are given express discretionary powers in the Regulations. The circumstances in which the police authority is given express discretion in the Regulations are as follows (although not all would necessarily give rise to an appeal):
- discretion to extend 6-month period of notice for transfers in (**regulation 13(4)**);
 - discretion to accept shorter period of notice of retirement (**regulation 18(2)**);
 - discretion as to timing of review of permanent disablement (**regulation 21(3)**);

- discretion to accept period of cohabitation of less than two years for purposes of unmarried partner's pension (**regulation 40(3)**);
- discretion to withhold adult survivor's pension where marriage or formation of civil partnership took place less than 6 months preceding an officer's death (**regulation 41(7)**);
- discretion to grant death gratuity (**regulation 44(2)**);
- discretion in respect of payment of lump sum death grant (**regulation 46(4)**);
- discretion as to timing of review of ill-health pension (**regulation 51(2)**);
- discretion as to withdrawal of pension during service as a regular officer (**regulation 52(1)**);
- discretion not withhold early payment of deferred pension to permanently disabled officer who was dismissed or required to resign (**regulation 54**);
- discretion to restore all or part of forfeited pension (**regulation 55(5)**);
- discretion as to payment of lump sum death grant where pension credit member dies (**regulation 63(2)**);
- discretion as to evidence and medical advice on which to make a determination where a person refuses to be medically examined (**regulation 75**);
- discretion as to intervals at which a pension can be paid (**regulation 82(3)**);
- discretion to pay award to person having primary care of a beneficiary (**regulation 83(5)**);
- discretion to extend options exercise period in exceptional circumstances in individual cases (**paragraph 1 of Schedule 3**).

7.10 Although these are the areas where the police authority is expressly given discretion, there are other areas where the police authority will in effect exercise discretion in making a decision. These include:

- extending beyond the normal compulsory retirement age the time at which an ACPO rank officer is required to retire (**regulation 19(3)**);
- requiring an officer to retire in grounds of efficiency of the force (**regulation 20(2)**);

- specifying the period of suspension of payment of additional pension contributions in cases of financial hardship (**regulation 57(3)**)
 - extending the period during which an officer may request a transfer value (**regulation 78(2)(e)**);
 - specifying the period in which an officer may repay a refund of pension contributions (**regulation 78(6)**)
 - retaining all or part of an award to meet a loss resulting from fraud, theft or negligence by an officer (**regulation 83(6)**).
- 7.11 In practice, where a police authority exercises some form of discretion and there is no appeal process specifically laid down in the Regulations, the appropriate avenue for questioning such a decision (assuming the internal dispute resolution procedures have been exhausted) is likely to be by judicial review rather than appeal to the Crown Court.
- 7.12 **Regulation 68(2)** also states that any final decision of a medical authority under **regulation 73** is binding. This is subject to the provision in **regulation 73(2)** which allows a court or tribunal to refer a question back to a medical authority for decision.

Regulations 69-70 – Decisions on eligibility for pension awards payable on the ground of permanent disablement

- 7.13 These regulations relate to the determination of whether an officer is eligible for an ill-health pension under **regulation 8** and the appeal rights that are available.
- 7.14 **Regulation 69 (Reference to selected medical practitioner – eligibility for pension awards payable on the ground of permanent disablement)** covers cases which are formally referred to the SMP by the police authority, for the purposes of determining eligibility. It provides that in such cases the SMP must report on the likelihood and likely timing of the officer becoming permanently disabled for the performance of the ordinary duties of a member of the police force (**regulation 69(1)**). Such a report is final, subject to an appeal under **regulation 70 (regulation 69(1))**. A copy of any such report is made available to the person who is its subject (**regulation 69(2)**).
- 7.15 **Regulation 70 (Appeals against decisions on eligibility for pension awards payable on the ground of permanent disablement)** covers appeal rights. As explained in relation to **regulation 8**, once the police authority has the report from the SMP that report is considered alongside GAD advice to ascertain whether the likely cost of providing the officer with benefits under the Regulations is disproportionately high. If the risk is not disproportionately high, no appeal right arises (although the member is still entitled to a copy of the SMP's report).

- 7.16 If the risk is disproportionately high, then the member may appeal against the SMP's report. There is no appeal against the police authority's decision which results from applying the SMP's report to the GAD advice.
- 7.17 Notice of appeal must be given within 28 days of receipt of the police authority's decision (as opposed to receipt of the SMP's report). Any appeal must be supported by evidence that a registered medical practitioner disagrees with the SMP's opinion. Such evidence must be provided within two months' of receipt of the police authority's decision (or such longer period as the police authority may allow) (**regulation 70(1)**).
- 7.18 In the event of an appeal, the police authority must ask the SMP to reconsider his or her report in the light of the appellant's evidence. If the SMP's view changes, he or she must produce a revised report (**regulation 70(2)**). This is final, unless the appellant remains dissatisfied with the SMP's opinion (**regulation 70(3)**).
- 7.19 If the appellant remains dissatisfied with the SMP's opinion, the police authority must arrange for a third registered medical practitioner to examine the person. This third medical practitioner must be acceptable to the SMP and to the appellant's practitioner, although if there is a failure to agree, the police authority may appoint such third medical practitioner as they consider appropriate (**regulations 70(3) and 70(4)**).
- 7.20 The third medical practitioner must supply the police authority and the appellant with a written statement of his or her opinion. If this disagrees with any part of the SMP's report, it must be in the form of a revised report on the likelihood and likely timing of the appellant becoming permanently disabled for the performance of his or her duty. Such a report is final (**regulation 70(4)**).

Regulations 71-75 – Medical questions: permanent disablement

- 7.21 These five regulations govern the assessment of whether an officer is permanently disabled, the procedures to be followed and the appeal procedures that are available.
- 7.22 This is a complex area in which the Home Office has issued separate and detailed guidance to which reference should be made. The following is only a brief summary of what the regulations say. The main guidance is contained in **Home Office Circular 21/2003** (The Police Pension Scheme: better management of ill-health). Revised guidance on the assessment of disablement is in preparation and will be issued in late 2007 or early 2008.
- 7.23 **Regulation 71 (Reference of medical questions – permanent disablement)** sets out the questions which the police authority must refer to the SMP, depending on the point being considered. The police authority may decide to refer these questions to a board of qualified medical practitioners instead of a single SMP if they wish (**regulation 71(6)**). The points under consideration and the questions to be referred are summarised in the table on the next page.

Point under consideration	Regulation	Questions to be referred to SMP
Whether a person is permanently disabled	71(1)	<ul style="list-style-type: none"> • Whether the person is disabled for the performance of the ordinary duties of a member of the police force. • Whether any such disablement is likely to be permanent; • Whether the person is also disabled for engaging in any regular employment (other than as a regular police officer). • Whether any such disablement is likely to be permanent.
Whether the disablement of a person who is permanently disabled for the performance of the duties of a member of the police force, but who continues to serve as such, has ceased, significantly worsened or significantly improved.	71(2) 21(2)	<ul style="list-style-type: none"> • Whether the person continues to be disabled for the performance of the duties of a member of the police force; <u>and if so-</u> • Whether the person is also disabled for engaging in any regular employment; <u>and if so -</u> • Whether any such (further) disablement is likely to be permanent.
Whether the disablement of a person under 55 who is in receipt of a standard ill-health pension, has ceased, significantly worsened or significantly improved.	71(2) 51(1)(a)	<ul style="list-style-type: none"> • Whether the person continues to be disabled for the performance of the duties of a member of the police force; <u>and if so -</u> • Whether the person is also disabled for engaging in any regular employment; <u>and if so -</u> • Whether any such (further) disablement is likely to be permanent.
Whether the disablement of a person under 65 who is in receipt of an enhanced top-up ill-health pension , or a deferred pension paid early because of disablement for engaging in any regular employment has ceased or significantly improved	71(3) 51(1)(b)	<ul style="list-style-type: none"> • Whether the person continues to be disabled for engaging in any regular employment; <u>and if not-</u> • Whether the person continues to be disabled for the performance of the ordinary duties of a member of the police force.
Whether a person has brought about or substantially contributed to disablement by his or her own default (in cases where the police authority is considering whether to reduce a pension because of default).	71(5)	<ul style="list-style-type: none"> • Whether the person has brought about or substantially contributed to the disablement by his or her own default.

7.24 **Regulation 71(4)** provides that the question of permanence does not arise where the SMP decides that disablement continues in a case under **regulation 21(2)** (permanently disabled officer aged less than 55 who continues to serve), **regulation 51(1)(a)** (officer aged less than 65 in receipt of standard ill-health pension) or **regulation 51(1)(b)** (officer aged less than 65 in receipt of enhanced top-up ill-health pension or deferred pension paid early on ground of permanent disablement).

7.25 The decision of the SMP (or board) is in the form of a report (copied to the person who is the subject of it (**regulation 71(9)**) and is final, subject to appeal to the medical appeal board under **regulation 72** or further reference to a medical authority under **regulation 73 (regulation 71(7))**.

7.26 Lastly, where the SMP is of the opinion that:

- disablement for the performance of the ordinary duties of a member of the police force would have been expected to have ceased if the person had received normal appropriate medical treatment; and
- the person was not receiving or had not received such treatment

then the SMP must inform the person in writing of the opinion and inform the police authority in his or her report (**regulation 71(8)**).

7.27 It is important that officers should be made aware of their appeal rights as considered below and in particular the time limits for making appeals. It is recommended that police authorities should inform officers of their right of appeal against the decision in the SMP's report when the report is sent to them.

7.28 **Regulation 72 (Appeal to board of medical referees)** provides for a person to appeal to the board of medical referees (commonly referred to as the medical appeal board), if he or she is dissatisfied with a decision in an SMP's report made under **regulation 71** (the appeal board does not consider appeals under **regulation 70** against decisions on eligibility for ill-health awards). The person must give notice of appeal within 28 days of receiving a copy of the report (unless the police authority allows a longer period) (**regulation 72(1)**) and provide a statement of the grounds of appeal within a further 28 days of receipt of the notice by the police authority (unless the police authority allows a longer period) (**regulation 72(2)**). The procedure and costs of appeals are considered in **regulation 74**. Detailed Home Office guidance on appeals is available on the website at http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/PMAB_Guidance/.

7.29 The decision of the appeal board, if it disagrees with the SMP on any point, is final (**regulation 72(3)**) subject to the **regulation 73**.

7.30 **Regulation 73 (Further reference to medical authority)** provides for a decision to be referred back to the SMP or the medical appeal board for reconsideration,

under two sets of circumstances. First, if the affected person and the police authority agree that this should be done, then the SMP or the appeal board, as the case may be, if necessary issues a fresh report (**regulation 73(1)**). This report is final, subject to:

- any further reconsideration under **regulation 73(1)** if both parties agree;
- an appeal which had been notified before referral of the decision under **regulation 73(1)**, and which the claimant requests should be referred to an appeal board after all because he or she is not satisfied with the outcome of the reconsideration (which derives from regulation 73(1)(b) and the approach set out in the Home Office guidance on medical appeals).

7.31 Secondly, under **regulation 73(2)**, a court or tribunal hearing an appeal under **regulation 66** or **67** respectively may refer a decision back to the SMP or the medical appeal board for reconsideration where they consider that the evidence before the SMP or board was inaccurate or inadequate.

7.32 **Regulation 73(3)** provides for the situation in which an SMP or medical appeal board to whom a decision has been referred back, under this regulation, is unable or unwilling to act. In these circumstances, the decision may be referred to an alternative SMP or board agreed by the claimant and the police authority.

7.33 **Regulation 73(4)** defines a ‘medical authority who has given a final decision’, for the purposes of this regulation, as:

- the SMP, if no appeal to the appeal board has been made by the closing date (or if notice of an appeal has been made but not yet notified to the Secretary of State);
- the appeal board, if there has been an appeal.

7.34 As already mentioned, **regulation 74 (Procedure and costs on appeals under regulation 72)** sets out the procedure for appeals to the medical board and for apportioning costs. In summary, the regulation provides that:

- Notice of appeal and statement of grounds must be in writing (**regulation 74(1)**).
- Appeals and statements of grounds must be copied to the Home Secretary⁹ (**regulation 74(2)**).
- The appeal board consists of three medical practitioners appointed by the Home Secretary¹⁰, one of whom is a specialist in the medical condition

⁹ Addressed to the Police Pensions and Retirement Policy Section, Home Office, 6th Floor, Fry Building, 2 Marsham Street, London SW1P 4DF.

relevant to the appeal and one of whom is appointed chairman (**regulation 74(3)**).

- The appeal board must set a time a place for hearing the appeal, with at least two months' notice to the appellant and the police authority (or less than two months if both parties agree) (**regulation 74(4)**).
- The appellant and the police authority must inform the appeal board whether they intend to be represented at the hearing, giving at least 35 days, notice (**regulation 74(5)**).
- The appellant and the police authority must submit written evidence to the board and the other party at least 35 days before the hearing; and the other party may respond in writing at least 7 days before the hearing (**regulation 74(6)**).
- The SMP (or an alternative medical practitioner appointed by the police authority) and a medical practitioner appointed by the appellant may attend any hearing as observers (**regulation 74(7)**).
- The appeal board must provide the police authority, the appellant and the Home Secretary with a written statement of its decision and, where it disagrees with any part of the SMP's report, a revised report (**regulation 74(8)**).
- The board members are entitled to fees and allowances, normally payable by the police authority (**regulation 74(9)**).
- Each party to the appeal pays its own expenses, except that in certain circumstances the appeal board may require the police authority or the appellant to pay the other party's costs if they cause a hearing to be cancelled at short notice. The appeal board may also require an appellant to pay towards the costs of an appeal if they report that in their opinion the appeal was frivolous or vexatious (**regulation 74(10)**).

7.35 Full guidance on this regulation and the appeals process is at http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/PMAB_Guidance/.

7.36 **Regulation 75 (Refusal to be medically examined)** provides for what happens if a person 'wilfully or negligently' fails to submit to medical examination. Except in cases of appeal to the board, the police authority may reach a determination based on such evidence and medical advice as they think necessary. In appeal cases, the appeal is deemed to be withdrawn. In the case of refusal to be medically examined by the SMP, the decision whether it was wilful or negligent is

¹⁰ In practice the board members are appointed by the contractors who administer the appeal boards on behalf of the Home Secretary

made by the police authority. In the case of an appeal, this decision is made by the appeal board. This regulation does not apply to determinations of eligibility for ill-health awards under **regulation 69**.

Part 8 Transfer values, payment etc (regulations 76 - 85)

Regulation 76 – Interpretation [in relation to transfer values, payment etc.]

- 8.1 This regulation defines ‘police authority’ and ‘the relevant police authority’ for the purposes of Part 8. The police authority in relation to a regular police officer is the force in which the officer serves or in which he or she last served. The term ‘relevant police authority’ applies to a pension credit member and is the police authority in which the associated pension debit member is serving or last served at the time the pension sharing order takes effect. This is normally the date on which the decree absolute (in the case of a marriage) or the final order of dissolution (in the cases of a civil partnership) is granted. This is not the same as the date on which the pension credit comes into payment, which is when the ex-spouse or ex-civil partner reaches age 65, or immediately if the ex-spouse or ex-civil partner is over age 65 when the order is made.

Regulation 77 – Certificates of pensionable service

- 8.2 This regulation governs the transfer of pensionable service when an officer transfers from one force to another or is otherwise entitled to reckon previous service in a force (**regulation 77(1)**). The old force provides a certificate of pensionable service to the new force and no transfer value is payable.
- 8.3 The certificate must state (**regulation 77(2)**):
- the amount of pensionable service that the officer is entitled to reckon from his or her previous service (which would include any service reckonable by reason of an earlier transfer value); and
 - whether or not the officer had been opted out of NPPS at the date of transfer; and
 - if the officer is a pension debit member, the percentage by which his or her future benefits are to be reduced.
- 8.4 The information listed at the three bullet points above is the minimum required by the regulation. The certificate is a useful means of recording other information which is relevant to the officer’s service in general and pension arrangements in particular – including, for example, whether or not an unmarried partner declaration or lump sum death grant nomination is in force. A suggested form of certificate is at **Annex C**. This includes all the information which it is recommended should be recorded and passed on when an officer transfers from one force to another. It also acts as a check list for accompanying documentation. The information does not necessarily have to be in the exact format of the model: much of the information relating to the officer’s service record, for example, will in practice be provided by computer print-out.

- 8.5 When the new police authority accepts the certificate, the officer loses any entitlement to an award from the old police authority (**regulation 77(3)**). The new police authority must give the officer a copy of the certificate, together with an explanation that he or she no longer has an entitlement to an award from the old authority (**regulation 77(4)**). The transferred service is then added to the officer's current service by virtue of **regulation 12(1)**.
- 8.6 The circumstances which constitute a transfer between forces are determined by **regulation 5**.

Regulation 78 – Transfer values payable on leaving the police service or ceasing to make pension contributions

- 8.7 This regulation governs the payment of transfer values from NPPS to other pension schemes when officers choose to transfer their pension benefits to another scheme. This is most likely to happen when an officer leaves the police service, but a transfer value will also be payable if an officer opts out of NPPS and transfers his or her police pension benefits to a personal pension plan.
- 8.8 The transfer value is calculated in accordance with guidance from the scheme actuary (**regulation 78(4)**) or in accordance with public sector transfer rules (**regulation 78(5)**), as appropriate. Transfer Value Guidance for both Club and non-Club transfers into and out of NPPS and pension sharing on divorce in NPPS was issued by Government Actuary's Department in April 2007. This consolidates and replaces the GAD transfer value guidance previously issued in July 2006. The guidance is on the Home Office police pensions website, at the following link: <http://police.homeoffice.gov.uk/news-and-publications/publication/human-resources/NPPS-transfer-guidance>.
- 8.9 To request a transfer value the officer must, before reaching age 64, either cease to serve or opt out (or have opted out) of NPPS (**regulation 78(1)**). In either case, the officer must satisfy the following conditions:
- he or she must join a new public service pension scheme or registered pension scheme or qualifying recognised overseas pension scheme (**regulation 78(2)(a)**);
 - he or she must satisfy the three month condition under section 101AA(2) of the Pension Schemes Act 1993 (**regulation 78(2)(b)**), namely:

‘The period of the member’s pensionable service under the scheme, taken together with—

(a) any previous period of his pensionable service under the scheme, and

(b) any period throughout which he was employed in linked qualifying service under another scheme, amounts to at least three months.’;

- he or she must not be in receipt of an NPPS pension under Part 4 of the Regulations and must not have received a refund of pension contributions (subject to the note below) (**regulations 78(2)(c) and 78(2)(d)**);
- he or she must give written notice to the police authority on or before his or her 64th birthday, or later if the police authority allow (**regulation 78(2)(e)**).

Example 21 (*this replicates an example in the NPPS Members' Guide*)

An officer leaves the police service to move to the private sector. He has 15 years' pensionable service in NPPS and is informed by his new employer that he will be able to transfer this to his new employer's pension scheme. He knows that if he takes no action, he will be entitled to a police pension of 15/70 of his final salary and an associated lump sum, when he is 65, which will be increased for inflation from the time at which he leaves the police service to his 65th birthday. The police authority, on request, will calculate the cash equivalent transfer value of his police pension rights and provide this information to his new employer. The new employer will be able to tell the officer what pension benefits this will buy in their pension scheme. The officer is then free to choose whether or not to transfer his police pension rights. This will be his own decision and the police authority cannot advise him as to what he should do. To transfer his police pension rights, he must give written notice to the police authority.

- 8.10 A 'qualifying recognised overseas pension scheme' is defined under section 169 of the Finance Act 2004 as, basically, a scheme that has undertaken to provide information to HMRC and that HMRC has agreed to recognise. HMRC will be able to confirm whether or not a specific overseas pension scheme is a qualifying recognised overseas pension scheme.
- 8.11 The officer can withdraw the notice only if the police authority have not already agreed with a third party to pay a transfer value (**regulation 78(3)**).
- 8.12 The police authority must pay the transfer value within 12 months of receiving the notice or before the officer is 65 if this is earlier (**regulation 78(4)**). In the unusual circumstance that court proceedings which could result in pension forfeiture have commenced against the officer (and the court proceedings started less than 12 months after the officer ceased to make pension contributions), the payment of a transfer value may be delayed until the proceedings have concluded (but it must then be paid within three months).
- 8.13 Where an officer has received a refund of contributions for a period of service and has refunded this, plus interest, to the police authority within the time limit of 6 months, or 12 months if the new pension arrangements are a public service pension scheme (or a longer period if the police authority allow), he or she will become eligible for a transfer value in respect of that period (**regulation 78(6)**). Interest of 5% per year is payable where payment is made more than a year after receipt of the award (**regulation 78(7)**).

- 8.14 If the officer is a pension debit member (as a result of pension sharing on divorce) the transfer value is reduced by the actuarial value of the pension debit (**regulation 78(8)**).

Regulation 79 – Prohibition on accepting or paying transfer values for pension credit rights

- 8.15 This regulation prohibits the acceptance or payment of a transfer value in respect of any NPPS pension credit rights. Such rights must remain in NPPS.

Regulation 80 – Mis-sold pensions

- 8.16 This regulation allows for the reinstatement of pensionable service to an officer who transferred police pension rights to a personal pension plan as a result of pension mis-selling. It replicates regulation F11 of the Police Pensions Regulations 1987.
- 8.17 It is unlikely that many, if any, such cases will now arise but the provision enables an officer who has transferred to NPPS to consolidate reinstated pensionable service with the rest of his or her pensionable service. .

Regulation 81 – Authorities responsible for payment of awards

- 8.18 This regulation states that NPPS awards are to be paid by the police authority. Pension credit pensions are paid by the ‘relevant police authority’ as defined by **regulation 76(b)**), which is the authority in which the pension debit member is serving at the time the pension sharing order takes effect (or in which the pension debit member last served, if he or she has ceased to serve).

Regulation 82 – Payment and duration of awards

- 8.19 This regulation governs the payment and duration of NPPS awards. Generally, pensions are payable in respect of each month from the date of an officer’s retirement and survivor pensions are payable from the death of the officer.
- 8.20 An officer’s pension is payable (**regulation 82(1)**) in respect of each month from the date of retirement, subject to:
- restrictions on the early payment of deferred pensions under **regulations 32 and 33**;
 - guaranteed minimum pension rights (**regulation 43**);
 - revision to or withdrawal or forfeiture of awards (**regulations 51-55**).
- 8.21 A survivor’s pension is payable in respect of each month from the date of the death of the officer (**regulation 82(2)**), subject to:

- restrictions on the duration of children’s pensions under **regulation 42**;
 - guaranteed minimum pension rights (**regulation 43**);
 - revision or withdrawal or forfeiture of awards (**regulations 51-55**).
- 8.22 If a posthumous child qualifies for a survivor pension, it is not payable until the child is born (**regulation 82(2)**).
- 8.23 If a police officer dies during a period in which he or she has already received his or her pension, any survivor pensions are not payable until the end of that period (**regulation 82(2)**).
- 8.24 Pensions are to be paid in advance ‘at such reasonable intervals as the police authority may in their discretion determine’ (**regulation 82(3)**). This is subject to the proviso that payment may be delayed pending the determination of any question as to the liability of the police authority in respect of the pension. Under the Finance Act 2004 pensions must be paid at least annually. Under **regulation 82(3)** pensions are payable for life, subject to the regulations and in particular to:
- limitation on payment of child survivors’ pensions (**regulation 42(6)(b) and (c)**);
 - guaranteed minimum pension (**regulation 43**);
 - revision and withdrawal or forfeiture of awards (**regulations 51-55**).
- 8.25 If a person dies after receiving a pension paid in advance, none of the pension is recoverable (**regulation 82(4)**).
- 8.26 The payment of a gratuity, lump sum or refund may be delayed pending the determination of any question about whether the police authority is liable to pay it (**regulation 82(5)(a)**).
- 8.27 Otherwise, the payment of a gratuity, lump sum or refund is to be made as soon as the entitlement arises. Retirement lump sums must be paid within three months of retirement (**regulation 82(5)**). The police authority have discretion to pay a gratuity in instalments if they decide that this would be to the beneficiary’s advantage (**regulation 82(5)(b)**).
- 8.28 Reference should also be made to **regulation 38** if the pension is small – it may be possible to commute it to a lump sum if the recipient agrees.

Regulation 83 – Payment of awards otherwise than to beneficiary and application of payments

8.29 Any award is generally only payable to the beneficiary, i.e. the person entitled to it and to whom it is payable (**regulations 83(1) and (2)**). This regulation sets out the exceptional circumstances in which a payment may be made to another person. These circumstances are:

- where the beneficiary is a minor (under 18), the payment may be made to another person (determined by the police authority), who must use it for the benefit of the minor and in accordance with any directions of the police authority (**regulation 83(3)**);
- where a sum of £5,000 or less is due on account of an award, on the death of the beneficiary, the sum can be paid directly to the beneficiaries of the deceased's estate without probate (**regulation 83(4)**);
- where the beneficiary is incapable of managing his or her affairs (e.g. because of mental disorder), the payment may be made wholly or partly to another person caring for the beneficiary (or otherwise determined by the police authority), who must use it for the benefit of the beneficiary and in accordance with any directions of the police authority. Where the police authority do not make payment wholly to another person, they have an obligation to apply the payment (or the remaining part of it) as they think fit for the benefit of the beneficiary or his or her dependants (**regulation 83(5)**).

8.30 **Regulations 83(6)-83(7)** allow a police authority to withhold all or part of an NPPS award if a loss has occurred as a result of fraud, theft or negligence by the police officer in respect of whom the award is payable. The amount retained cannot be more than the lower of the loss or the actuarial value of the award. If a police authority does this, it must give the officer a certificate of the amount retained and the effect on the award. Where an officer has pensionable service from another pension scheme as well as NPPS pensionable service, only the proportion of (police pension service to total pensionable service) of the total award can be retained.

Regulations 84 and 85

8.31 These two regulations allow the police authority to pay the lifetime allowance charge on a person's behalf and pay any tax due. The lifetime allowance is a limit on the amount of pension someone can receive over their lifetime without losing the tax privileged status on their pension (see **Annex D**).

8.32 **Regulation 84 (Payment on behalf of officers of lifetime allowance charge)** specifies the circumstances in which the police authority may comply with a request by an officer to pay on his behalf any amount payable by way of the lifetime allowance charge. The conditions which must be met are (**regulation 84(1)**):

- (a) a benefit crystallisation event (see **Annex D**) occurs in relation to the officer;
and

- (b) the officer and the police authority are jointly and severally liable in relation to the event.
- 8.33 The request must be made in writing before the crystallisation event occurs (**regulation 84(2)**) and the police authority may comply with the request only if the officer pays the authority the amount in question on or before the date on which the event occurs (**regulation 84(3)**).
- 8.34 **Regulation 85 (Reduction of benefits where lifetime allowance payable)** specifies the circumstances in which the benefits payable to an officer shall be reduced to reflect an amount of tax paid by a police authority, where no request has been made under **regulation 84** or such a request cannot be complied with. The regulation applies if:
- (a) a benefit crystallisation event occurs in relation to the officer; and;
- (b) the officer and the police authority are jointly and severally liable in relation to the event; and
- (c) the officer has not made a request under **regulation 84** or, if he has, the police authority cannot comply with because the condition at **regulation 84(3)** is not met.
- 8.35 If the regulation applies, then (**regulation 85(2)**):
- (a) the police authority pays any of the tax payable on the crystallisation event;
- (b) the benefits payable to the officer, or a transfer payment, are reduced to reflect the amount of tax; and
- (c) the amount of the reduction is determined in accordance with guidance from the Home Office and consistent with normal actuarial practice.
- 8.36 No such guidance as is mentioned in **regulation 85(2)(c)** has yet been issued. Any pensions administrator with such a case should approach the Home Office for advice.

Part 9 Special cases (regulations 86 - 97)

Regulation 86 – Alterations in police areas

- 9.1 This regulation determines how NPPS is to be administered after police authorities are combined or after an authority is divided.
- 9.2 If authorities are combined, the successor authority becomes responsible (**regulation 86(1)**). If an authority is divided, subsequent responsibility depends on whatever is set out in the dividing order (**regulation 86(2)**).

Regulation 87 – Chief officers of police affected by alterations in police areas

- 9.3 This regulation protects chief officers of police when forces are combined.
- 9.4 If the chief officer loses office and he or she is 55 or over, he or she is deemed to have retired (with consequent entitlement to benefits). If the chief officer loses office and he or she is under 55, he or she is deemed to have ceased to serve (potentially giving rise to deferred pension rights).
- 9.5 Section 100 of the Police Act 1996 provides that if the chief officer is reduced in rank, the Regulations continue to apply as though he or she continues to be a chief officer of police, unless he or she elects otherwise in writing.

Regulations 88-94 – Servicemen

- 9.6 These seven regulations relate to ‘servicemen’, i.e. a police officer, male or female, who undertakes service in the reserve forces. The regulations determine the treatment of ‘servicemen’ in NPPS, which is essentially the same as their treatment in the Police Pensions Regulations 1987. The general intention is that periods of relevant service are treated like police service.
- 9.7 **Regulation 88 (Interpretation)** defines who is a ‘serviceman’ for the purposes of the Regulations. A ‘serviceman’ is a person who, immediately before undertaking a period of relevant service in the armed forces, was a regular police officer.
- 9.8 ‘Relevant service in the armed forces’ relates to police officers who are also members of the volunteer reserve forces, and comprises periods of military service and short periods of military training in the reserve forces. The typical training time commitment for a reservist is one evening a week and about 30 full days each year, made up of an annual period of 15 days’ continuous training (often referred to as an annual camp) and other training at weekends. The volunteer reserve forces, under section 1(2) of the Reserve Forces Act 1996, are currently:
- the Royal Fleet Reserve and the Royal Naval Reserve

- the Royal Marines Reserve
 - the Army Reserve and the Territorial Army
 - the Air Forces Reserve and the Royal Auxiliary Air Force.
- 9.9 **Regulation 89 (Awards to servicemen)** entitles a serviceman who, at the end of his relevant service is permanently disabled for the performance of the ordinary duties of a member of the police force, to a standard ill-health pension under **regulation 29** (or to a repayment of aggregate pension contributions under **regulation 34** if he or she does not meet the qualifying service criterion).
- 9.10 **Regulation 90 (Survivors' awards on death of servicemen)** provides that if a serviceman with two years' qualifying service dies in service in the reserve forces or when in receipt of an ill-health pension, survivor benefits are payable under **regulation 39**.
- 9.11 **Regulation 91 (Prevention of duplication)** applies the prevention of duplication under **regulation 49**.
- 9.12 **Regulation 92 (Application of regulations 44, 45 and 46)** provides that:
- a serviceman who dies from an injury received during his relevant service and whilst in receipt of a pension or entitled to a deferred pension - **regulation 44 (death gratuities - dependants)** applies as though he had been a regular police officer who died as a result of an injury received in the execution of duty;
 - a serviceman who dies during his relevant service - **regulations 45 (death gratuity – estate)** and **46 (lump sum death grant)** apply as though he had been a regular police officer.
- 9.13 **Regulation 93 (Servicemen who do not resume service in their former force)** provides that a serviceman who does not resume service in his or her former force within a month of ending his relevant service will be treated as having ceased to serve in the police at the date that his or her relevant service ended.
- 9.14 Under **regulation 94 (Pensionable service and pension contributions)**, a serviceman's relevant service counts as pensionable service in his or her former force if he pays pension contributions in respect of it. This requirement to pay contributions is removed if his or her service pay is less than his or her pensionable pay (see proviso to **regulation 94(2)**).
- 9.15 Finally, if the serviceman was purchasing added years by instalments of additional contributions (see **regulation 59**), this liability continues during his period of relevant service (**regulation 94(3)**).

Regulations 95-96 - Former members of a Scottish police force or the Police Service of Northern Ireland

- 9.16 The Police Pensions Regulations 2006 apply only to England and Wales. Special provisions are needed to ensure that continuity of pensions cover is given to officers moving to and from other parts of the UK.
- 9.17 The two regulations govern the reckoning of service on transfer to or from a Scottish force or the Police Service of Northern Ireland (PSNI). Note that the regulations do not entirely resolve the issue of transfers to and from PSNI by officers who are members of PPS and who wish to remain in PPS. 'Batching' arrangements will remain in force for such transfers, pending consolidation of UK-wide pensions regulations. Any police authority which is aware of an officer transferring to or from PSNI should contact Karen Todd, Head of Pensions Branch in the PSNI at Karen.todd@psni.pnn.police.uk (tel. 028 9070 0369).
- 9.18 **Regulation 95 (Former members of a Scottish police force or the Police Service of Northern Ireland)** basically states that when such an officer transfers to a force in England or Wales, his or her pensionable service arising from service in Scotland or Northern Ireland is to be reckonable as pensionable service in a home police force.
- 9.19 **Regulation 96 (Transfer of a regular police officer to a Scottish police force or the Police Service of Northern Ireland)** basically states that when an officer transfers from a force in England or Wales to Scotland or Northern Ireland, his or her pensionable service will also transfer and he or she will no longer be entitled to an award under the Regulations.

Regulation 97 – Amendment of the Police (Injury Benefit) Regulations 2006

- 9.20 This regulation simply gives effect to the amendments to the Injury Benefit Regulations at **Schedule 5**. In their original form the Injury Benefit Regulations referred only to the Police Pensions Regulations 1987. **Schedule 5** adds references to the Police Pensions Regulations 2006.

Schedule 1 Glossary of expressions

S1.1 The expressions and their definitions are largely self-explanatory. Note that the definition of qualifying service in NPPS is in terms of the 'qualifying service criterion' set out at **regulation 17**.

Schedule 2 Application of Regulations to officers to whom regulations 6(2) and 6(3) apply

S2.1 **Schedule 2** sets out the details of arrangements under NPPS for those who have served before 6 April 2006 and who either re-join the service on or after that date or who resume paying contributions on or after that date. **Schedule 2:**

- confirms that officers who re-join the service or the scheme are members of NPPS; and
- sets out how their continuing entitlements under the old scheme interact with those under the new.

S2.2 A key function of **Schedule 2** is to limit the maximum pension benefits in NPPS for those officers who also hold pension rights in PPS (i.e. who have joined NPPS but have not transferred their PPS benefits). This is achieved by limiting maximum pensionable service in NPPS to 35 years less the equivalent pensionable service of the current pension scheme rights.

S2.3 **Schedule 2** sets out the application of the Regulations to officers to whom **regulations 6(2) and 6(3) (Application of Regulations)** apply.

S2.4 The following officers may elect to transfer their PPS benefits to NPPS:

- under **Schedule 2 paragraph 4** Officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service in PPS with an entitlement to a PPS ordinary pension which is not in payment or a deferred pension which is not in payment and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(iv)**);
- under **Schedule 2 paragraph 4** Officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service in PPS with an entitlement to an ill-health award or with a deferred pension in payment early due to ill-health and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(v)**);
- under **Schedule 2 paragraph 6** - Officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to a refund of PPS pension contributions and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(ii)**) and who repay the refund to the police authority.

- S2.5 **Schedule 2 paragraph 8** states that re-joiners (under **regulation 6(2)**) are eligible for NPPS awards, if they pay NPPS contributions and subject to the remainder of **Schedule 2**.
- S2.6 **Schedule 2 paragraph 9** limits the maximum pensionable service in NPPS to 35 years, less PPS service expressed in terms of its NPPS equivalent (i.e. multiplied by the appropriate conversion factor) for the following:
- officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to a PPS pension which is in payment (other than an ill-health pension or a deferred pension in early payment on account of permanent disablement) and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(iii)**) (**paragraph 9(b)**);
 - officers who are in service before and on 6 April and who:
 - had opted out of PPS before 6 April 2006 and were still opted out on 6 April 2006 (**regulation 6(3)(c)(i)**) or
 - are active members of PPS on 6 April 2006 but subsequently elect to opt out (**regulation 6(3)(c)(ii)**)
 and who opt back in but do not elect to transfer their PPS rights (**paragraph 9(d)**).
- S2.7 **Paragraphs 9(a) and 9(c) of Schedule 2** are flawed and will be amended. The effect will be to limit the maximum pensionable service in NPPS to 35 years less the NPPS equivalent of PPS service in the case of officers who re-join having left with entitlement to a refund of PPS contributions but who have not re-paid the refund and who elect not to transfer their PPS rights to NPPS; and in the case of officers who re-join having left with entitlement to a PPS ordinary or deferred pension which is not in payment, or to an ill-health award or a deferred pension in payment early due to ill-health, and who elect not to transfer their PPS rights to NPPS. Note that the maximum pensionable service in NPPS for officers who do transfer their PPS service is 35, under **regulation 16**.
- S2.8 The conversion factors are set out in a table and range from 84% to 7/6 (approximately 116.67%).
- S2.9 Note that PPS service for this purpose includes any 'additional sixtieths' purchased, which are always converted at the rate of 88% (see **paragraph 9(f)**).
- S2.10 Note also that the first two columns in the table of factors in Schedule 3 are headed 'If under age 55' and 'If aged 55 or above'. The operative date for the age of an officer for these purposes, which is not defined explicitly, is the date when the officer starts paying contributions under the new scheme, either on the date of re-joining the force or on the date the cancellation of an election to opt out takes

effect¹¹. Examples of PPS service conversion are given in the notes on **Schedule 3**.

S2.11 **Schedule 2 paragraph 11** ensures that the calculation of final pensionable pay for NPPS benefits only takes account of the period during which such an officer is a member of NPPS.

S2.12 **Schedule 2 paragraph 12** ensures that re-joiners who are active members of NPPS cannot be active members of PPS.

S2.13 **Schedule 2 paragraph 13** applies to officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to an ill-health award under PPS regulation B3 or in receipt of a deferred pension under PPS regulation B5 due to permanent disablement and who re-join the force on or after 6 April 2006 other than under PPS regulation K1 or a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(v)**). It states that **regulation 51** (review and cancellation of pensions payable on the ground of permanent disablement) applies as though the PPS ill-health pension was an NPPS standard ill-health pension; and if part of the PPS ill-health pension had been commuted for a lump sum, **regulation 28** (which provides for reduction of the standard NPPS lump sum if the officer had previously received a lump sum) applies to the PPS lump sum.

S2.14 **Schedule 2 paragraph 14** provides that for the purposes of **Schedule 2**, retirement with an entitlement to a PPS award includes ceasing to serve with an entitlement to a PPS award (and so includes officers with deferred PPS rights).

¹¹ This interpretation is derived from the last two lines in paragraph 4(a) of regulation 16 as inserted by paragraph 9 of Schedule 2.

Schedule 3 Transfer elections under regulation 6(8)

S3.1 **Schedule 3** governs the transfer of pension benefits from PPS to NPPS. Officers serving on 6 April 2006 had the right to transfer their PPS service to NPPS on favourable terms during a three-month period between 1 November 2006 – 31 January 2007 (or for such longer periods as the police authority allowed in individual cases). Officers who re-join the police service for the first time on or after 6 April 2006 will have the same right, with a three-month period to decide which commences on the date of re-joining¹².

S3.2 There is also a general right to transfer rights to a deferred PPS pension to NPPS at any other time on a cash equivalent transfer value basis, under **paragraph 8 of Schedule 3**. This right is restricted, under **paragraph 8(1)(c)**, to officers entitled to a deferred pension under regulation B5 of the 1987 Regulations and therefore does not apply to an officer who is entitled to an ordinary PPS pension. So an officer who has 25 years' pensionable service in PPS cannot transfer PPS rights to NPPS, since he or she is entitled to an ordinary PPS pension.

S3.3 **Schedule 3** determines the effect of transfer elections under **regulation 6(8)** – primarily, the calculation of the service credit in NPPS. There are two alternatives:

- the 'options exercise' terms whereby NPPS service is calculated using the factors in the table in **paragraph 6**;
- a cash equivalent transfer value basis (although there is no reference to this in these terms) under **paragraph 8**.

S3.4 The options exercise terms apply only to:

- officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to a refund of PPS pension contributions and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(ii)**);
- officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to a PPS ordinary pension which is not in payment or a deferred pension which is not in payment and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(iv)**);

¹² Officers returning from an approved career break do not re-join the police service, as they have not left it. Continuity of service is maintained during periods of leave (an approved career break is in effect an extended period of unpaid leave) and if the officer was contributing to PPS before taking leave, and has not opted out, he or she will again contribute to PPS on return.

- officers who joined the police service before 6 April 2006 and left with less than 30 years' pensionable service with an entitlement to an ill-health award [either a pension or a gratuity] under PPS regulation B3 or in receipt of a deferred pension under PPS regulation B5 due to permanent disablement and who re-join the force on or after 6 April 2006 other than under regulation K1 of the Police Pensions Regulations 1987 or on reinstatement following a successful appeal against dismissal or requirement to resign (**regulation 6(2)(a)(v)**);
- officers paying PPS contributions on 6 April 2006 who continue to serve (**regulation 6(6)**);
- officers opted out of PPS on 6 April 2006 who opt back in before the end of the main 'options exercise' (**regulation 6(7)**);
- officers re-joining the police service on or after 6 April 2006 under PPS regulation K1 (**regulation 6(8)(c)**).

S3.5 For all of the categories of officer listed in paragraph S3.4, there was a fixed option period of three months in duration as determined by the Secretary of State, namely 1 November 2006 – 31 January 2007, within which such officers were able to give notice of a transfer election. This 'options exercise period' could be extended at the police authority's discretion by reason of exceptional circumstances in an individual officer's case (**paragraph 1(a)**). This was intended to allow for situations where the officer could not be contacted for a reason outside his or her control (e.g. the officer was in hospital) or where for some other reason he or she did not receive notification of the options exercise until some time after it began.

S3.6 In addition, for:

- the first three categories listed above, where officers re-join after the first day of the main options exercise;
- officers who are reinstated following dismissal or requirement to resign and whose reinstatement is after the first day of the main options exercise; and
- officers re-joining under regulation K1 of the 1987 Regulations after the first day of the main options exercise

each officer has an individual option period of three months commencing on the date of him/her first re-joining the force or being reinstated (**paragraph 1(b)**).

S3.7 The police authority has discretion to extend the three-month period for individual re-joiners, as with the main options exercise period. There is no time limit for officers to re-join the force to be eligible for options terms.

- S3.8 **Schedule 3 paragraph 2** provides that a transfer election made under the main options exercise takes effect from 6 April 2006 (so the effect is backdated to the date NPPS came into being). In other cases, the transfer election takes effect immediately. The latter provision does not apply to an officer who makes a transfer election, as part of the main options exercise period, before 'opting back in' (by cancelling an election not to pay PPS contributions) - in which case the transfer election takes effect at the same time as the cancellation.
- S3.9 **Schedule 3 paragraph 3** provides that an officer who makes a transfer election must pay all PPS contributions then due, either by the end of the main options period or by the date of the transfer election (depending on which is applicable). This includes any payments to buy back unpaid leave or to purchase 'additional sixtieths'.
- S3.10 **Schedule 3 paragraph 4** ensures that those who transfer to become active members of NPPS cannot also be active members of PPS.
- S3.11 **Schedule 3 paragraph 5** ensures that total transferred PPS pensionable service is treated as NPPS pensionable service.
- S3.12 **Schedule 3 paragraph 6** provides the factors for service conversion under the options exercise, which vary depending on age and length of service. At one extreme, 30 years' pensionable service in PPS will translate into 35 years' pensionable service in NPPS, hence the maximum conversion factor of 7/6. For short periods of service, the accrual rate in NPPS may be viewed as 1/52.5 (if the lump sum is valued at 12 x annual pension) which is greater than the 1/60 in PPS, and is reflected in the lower conversion factors at this end of the scale. The factors are not intended to provide actuarial equivalence of benefits in the two schemes – because of the different benefit structures it would be impossible to do this.
- S3.13 Under proviso (a) to **paragraph 6**, an officer who has not paid his or her PPS contributions in full by the due date under **paragraph 3** is entitled to reckon only a proportion of his or her PPS pensionable service (namely the same proportion as the amount paid bears to the total amount due, unless he or she has died in which case the full pensionable service is reckoned).
- S3.14 Under proviso (b) to **paragraph 6**, a pension debit under the 1987 Regulations is multiplied by the conversion factor of 105% and is treated as a pension debit under **regulation 36** (Pension debit members – personal awards). This does not affect the pension credit member but applies only to the pension debit member, in order that his or her pension under NPPS, as reduced by the sharing order, can be correctly calculated.
- S3.15 Under proviso (c) to **paragraph 6**, a maximum of 35 years is placed on the amount of PPS pensionable service that can be transferred to NPPS.

S3.16 **Schedule 3 paragraph 7** defines ‘age next birthday’ and ‘qualifying service’ for the purposes of the conversion table in **paragraph 6**.

S3.17 The following examples are designed to illustrate the main principles of the conversion of PPS service to NPPS service under the options exercise terms. They are not necessarily realistic in the sense that an officer in the circumstances described might be likely to transfer to NPPS.

S3.18 Note that the first two columns in the table of factors in Schedule 3 are headed ‘If under age 55’ and ‘If aged 55 or above’. The operative date for the age of an officer for these purposes, which is not defined explicitly, is 6 April 2006 in the case of those who transferred as part of the main options exercise. For those who re-join, the operative date is when the transfer election takes effect.

Example 22 (note that Examples 22-27 replicate the examples provided in the ‘Options Exercise: Guidance for Pensions Administrators’ document issued by the Home Office in September 2006)

A male officer, date of birth 31 May 1976, joined the service 15 March 1997, has worked full-time since then and paid pension contributions throughout, has 9 years 21 days PPS pensionable service at 5 April 2006, age 29 at effective date of transfer to NPPS.

Qualifying service = pensionable service = 9 years 21 days.

Since the officer is under 55 at date of transfer, the first step is to work out the ‘age next birthday at the notional commencement of pension contributions under the Police Pensions Regulations 1987’, as defined in paragraph 7(a) of Schedule 3 to the 2006 Regulations, as follows:

- ‘Date when he ceased to pay contributions under regulation G2’ is 5 April 2006 (membership of NPPS is backdated to 6 April for all PPS members who transfer as part of the options exercise).
- Officer’s age at 5 April 2006 was 29 years 310 days.
- Subtract from this age the length of the PPS qualifying service (in this case the same as the pensionable service): 29y 310d – 9y 21d = 20y 289d.
- Date on which the officer would have attained that age is 16 March 1997.
- Age next birthday after 16 March 1997 = 21.

Now refer to the table in Schedule 3. For a male officer under 55 with an ‘age next birthday at notional commencement’ etc of 21, the appropriate conversion factor is 7/6ths.

So pensionable service in NPPS = 9y 21 d x 7/6 = **10 years 207 days**.

Example 23

A female officer, date of birth 30 June 1967, joined the service 12 February 1989, has worked full-time since then and paid pension contributions throughout, has 17 years 53 days PPS pensionable service at 5 April 2006, age 38 at effective date of transfer to NPPS. Officer did not up-rate service prior to 17 May 1990 for the purposes of a widower's pension.

Qualifying service = pensionable service = 17 years 53 days.

Since the officer is under 55 at date of transfer, as in Example 22 the first step is to work out the 'age next birthday at the notional commencement of pension contributions under the Police Pensions Regulations 1987':

- 'Date when [s]he ceased to pay contributions under regulation G2' is 5 April 2006.
- Officer's age at 5 April 2006 was 38 years 279 days.
- Subtract from this age the length of the PPS qualifying service (in this case the same as the pensionable service): 38y 279d – 17y 53d = 21y 226d
- Date on which the officer would have attained that age is 5 March 1989
- Age next birthday after 5 March 1989 = 22.

The period in which the officer had full spouse benefit was 17 May 1990 – 5 April 2006 = 15 years 324 days. The period in which she had no spouse benefit was 12 February 1989 – 16 May 1990 = 1 year 93 days.

So, from the table, pensionable service in NPPS = $(15y\ 324d \times 7/6) + (1y\ 93d \times 113\%) = (18y\ 196d) + (1y\ 153d) = \mathbf{19\ years\ 349\ days}$.

Example 24

A female officer, date of birth 1 June 1959, served half-time in the police for 15 years since joining on 2 December 1992. Joined PPS on appointment but opted out on 1 December 2002 at age 43. Age 47 on 1 December 2006 when she elects to transfer her PPS service to NPPS.

Pensionable PPS service = 10 years x 0.5 = 5 years

Qualifying service = calendar length of police service during which pension contributions were payable = 10 years.

Since the officer is under 55 at date of transfer, as in Examples 22 and 23 the first step is to work out the 'age next birthday at the notional commencement of pension contributions under the Police Pensions Regulations 1987':

- 'Date when [s]he ceased to pay contributions under regulation G2' is 1 December 2002.
- Officer's age at 1 December 2002 was 43 years 184 days.
- Subtract from this age the length of the PPS qualifying service: 43y 184d – 10y = 33y 184d
- Date on which the officer would have attained that age is 2 December 1992
- Age next birthday after 2 December 1992 = 34.

All service is post-1990, so full spouse benefit. Conversion factor from the table is 92%.

So pensionable service in NPPS = 5y x 92% = **4 years 219 days**

Example 25

A male officer re-joins the police age 57 in 2006. Previously served as a police officer and retired with a PPS ordinary pension at age 55 after 27 years' service, all of which was full-time and pensionable.

Qualifying service at retirement = pensionable service = 27 years.

Since the officer is over 55, no need to work out 'age next birthday at notional commencement' etc. Conversion factor from the table, based on number of years qualifying service, is 111%.

So pensionable service in NPPS = 27 x 111% = **29 years 354 days.**

Example 26

A male officer, age 55 at date of transfer to NPPS, has worked full-time for 28 years and has 28 years' PPS pensionable service at 5 April 2006.

Qualifying service at retirement = pensionable service = 28 years

Was purchasing 2 'additional sixtieths' in PPS.

Since the officer is 55, no need to work out 'age next birthday at notional commencement' etc. Conversion factor from the table for the 28 years, based on number of years qualifying service, is 113%. Conversion factor for the 2 additional sixtieths is 88% (used in all cases for additional sixtieths: see paragraph 6(b) of Schedule 3 to the 2006 Regulations).

So pensionable service in NPPS = $(28 \times 113\%) + (2 \times 88\%) = (31y 234d) + (1y 277d) =$
33 years 146 days.

Example 27

A male officer as in Example 26, but pension debit member with pension debit of £2,000. The date of the pension debit order was 26 February 2003.

Pensionable service in NPPS is the same as in Example 26. Conversion factor for the pension debit is 105% (used in all cases for pension debits: see paragraph (b) of the proviso to paragraph 6 of Schedule 3 to the 2006 Regulations). Before applying this factor you would need to apply pensions increase to 5 April 2006.

Pensions increase from 26/02/2003 to 05/04/2006 = 6.1352%

$£2,000 \times 6.1352\% = £2,122.70$

So pension debit in NPPS = $£2,122.70 \times 105\% = £2,228.84$

Pensions increase would need to be applied to the NPPS debit again when the officer retires, but only between 6 April and the date of retirement.

S3.19 Schedule 3 paragraph 8 provides that an officer can make a transfer election outside the options exercise period at any time before retirement, but that his or her pensionable service in NPPS is calculated as if a transfer value had been received under **regulation 15(1)** (i.e. a cash equivalent transfer value basis). As mentioned in paragraph S3.2, this right is restricted to officers entitled to a deferred PPS pension and excludes those entitled to an ordinary PPS pension.

- S3.20 **Schedule 3 paragraph 9** covers the situation of an officer who repays a refund of contributions in order to reinstate his or her PPS service and elects to transfer to NPPS under the options exercise. The reinstated service is converted using the relevant options exercise factor.
- S3.21 **Schedule 3 paragraph 10** ensures that, in the case of 'aggregate pension contributions for the purposes of repayment', for officers who transfer PPS service, the period of relevant service is deemed to measure from the effective date of transfer (i.e. the contributions are deemed only to have been NPPS contributions).
- S3.22 **Schedule 3 paragraph 11** provides that, for officers who transfer PPS service, any allocation of PPS pension rights under regulation B9 of the 1987 Regulations no longer has any effect.
- S3.23 **Schedule 3 paragraph 12** ensures that, for officers who transfer PPS service, they have no remaining right to PPS awards (other than a PPS pension credit pension, if applicable) in respect of the period of service transferred in.
- S3.24 **Schedule 3 paragraph 13** allows an officer who transfers PPS service to purchase NPPS 'added years' by lump sum within 12 months of transferring. This option is otherwise only available within 12 months of the officer joining or re-joining the police service – see **regulation 58(1)**.
- S3.25 **Schedule 3 paragraph 14** allows a serving police officer who is a PPS member to make a provisional declaration, before the end of the main options period (or if he or she makes a transfer election before the options exercise, the day before the transfer election) for the purposes of an unmarried partner who would be eligible for NPPS benefits. **Schedule 3 paragraph 15** then provides that the provisional declaration takes effect, but lapses if the officer does not transfer to NPPS before the end of the main options exercise.
- S3.26 The intention was that this provision would operate in conjunction with modifications to the Police Pensions Regulations 1987 so that if the officer were to die in the 'interim period' between 6 April 2006 and the end of the options exercise period, having made a provisional declaration, a survivor pension could be paid to the partner as though the officer had actually transferred to NPPS, for these purposes only, immediately before he or she died. Because no transfer has actually taken place, the survivor benefit would have to be paid under the 1987 Regulations. The effect of a provisional unmarried partner declaration is covered in the Home Office guidance on unmarried partner pensions (March 2006, revised December 2006). There have been no cases of death in service before the end of the main options exercise period giving rise to a claim under these provisions. Accordingly, no amendments to the 1987 Regulations providing for unmarried partner benefits have been made.
- S3.27 **Schedule 3 paragraph 16** provides that, if a re-joiner makes a transfer election having received a lump sum by way of commutation, the proviso to **regulation**

28(1)(b) and **regulation 28(2)** have effect (for an explanation of what that effect is, refer to the notes on the two regulations).

- S3.28 **Schedule 3 paragraph 17** enables an officer who is ineligible for an ill-health award under PPS to request, on making a transfer election, that his or her eligibility be reviewed by the police authority (at the authority's expense) in accordance with **regulation 8** (eligibility for pension awards payable on the ground of permanent disablement) (**paragraph 17(1)**). If on review it is found that the likely cost of providing NPPS benefits is not disproportionately high, then the officer becomes eligible for ill-health awards under **regulation 29**, but only in respect of pensionable service from the date the transfer election took effect (**paragraphs 17(2) and 17(3)**). If the officer is found on review (and after any appeal) to remain ineligible for ill-health awards, then he or she may cancel his or her transfer election within 28 days of receiving notice of the ineligibility (**paragraph 17(4)**), in which case it is treated as never having been made (**paragraph 17(5)**).
- S3.29 **Schedule 3 paragraph 18** applies to an officer who makes a transfer election and who was ineligible for an ill-health award in PPS. It provides that such an officer is ineligible for an ill-health award in respect of the PPS service which he or she transfers to NPPS. This remains the case regardless of any subsequent opting out and opting back in, retirement or otherwise ceasing to serve, or re-joining or joining another force (**paragraph 18 (1) and 18(2)**). An officer to whom this paragraph applies remains ineligible for ill-health awards in NPPS (**paragraph 18(3)**), subject to review under **paragraph 17**.

Schedule 4 Progressive medical conditions

S4.1 Under **regulation 51(11)**, a former officer can only move from a standard to an enhanced ill-health pension under **regulation 51(11)** if the claim that a person's disablement has worsened is made within 5 years of retirement. However, under the proviso to **regulation 51(11)** this time limit does not apply if the disablement is attributable to a progressive medical condition specified in **Schedule 4**. The eleven conditions are:

- AIDS
- Alzheimer's disease
- Cancer
- Creutzfeld-Jacob disease
- Huntington's chorea
- Motor neurone disease
- Multiple sclerosis
- Nieman Pick disease
- Non-variant Creutzfeld-Jacob disease
- Parkinson's disease
- Variant Creutzfeld-Jacob disease.

S4.2 The list may be amended from time to time.

Schedule 5 Amendment of the Police (Injury Benefit) Regulations 2006

S5.1 The Police (Injury Benefit) Regulations 2006 were a consolidation of those parts of the Police Pensions Regulations 1987 which relate to injury awards. This was necessary to comply with the requirement that after 6 April 2006 injury benefits should no longer be part of pension scheme benefits. Following the consolidation it became clear that a number of minor changes were required to the new Injury Benefit Regulations, including the need to include statutory references to the Police Pensions Regulations 2006, and so this opportunity was taken to make the changes. The changes are not related to NPPS. They are mostly technical and are not considered in any more detail here.

Annex A Summary of transitional arrangements

Officer's circumstances	Scheme which the officer joins	Terms on which PPS service can be transferred to NPPS <u>before</u> end of options exercise period	Terms on which PPS service can be transferred to NPPS <u>after</u> end of options exercise period	Limits on maximum pension benefits in NPPS for officers holding pension rights in PPS	Remarks
Category 1. New entrants	NPPS	N/A	N/A	N/A	
Category 2. Serving officers who are members of PPS (and were so on 6 April 2006) (Regulation 6(6) of the 2006 Regulations)	<p>If no action taken, will remain in PPS. May join NPPS under options exercise and transfer all PPS service.</p> <p>Could join NPPS at any other time, if has right to deferred PPS pension not in payment, either by a transfer election on CETV basis or by opting out and opting back in – and could then either leave PPS rights in PPS, or transfer PPS rights to NPPS on CETV basis if a deferred pension.</p>	Options exercise terms during options exercise period	CETV terms if has less than 25 years' service – i.e. only a deferred pension	<p>If retain PPS rights, maximum pensionable service in NPPS is 35 years less equivalent pensionable service of PPS rights based on options exercise terms</p> <p>Note cannot retain PPS pension rights if transfer is on options exercise terms – must transfer service across (so no PPS rights remain)</p>	Officers on any form of leave, whether paid or unpaid (e.g. approved career breaks and maternity leave) maintain continuity of service and so remain members of PPS even if no contributions are payable (unless they opt out)
Categories 3A – 3C. Serving officers who opted out of PPS (either before, on or after 6 April 2006) and wish to opt back in on or after 6 April 2006					
Category 3A. Has right to ordinary PPS pension which is not in	NPPS	Options exercise terms during options exercise period for	CETV transfer terms (but only available to officers entitled to a	If PPS rights not transferred, 35 years less equivalent	Officers who opted out could re-join PPS provided they

Officer's circumstances	Scheme which the officer joins	Terms on which PPS service can be transferred to NPPS <u>before</u> end of options exercise period	Terms on which PPS service can be transferred to NPPS <u>after</u> end of options exercise period	Limits on maximum pension benefits in NPPS for officers holding pension rights in PPS	Remarks
payment (Regulation 6(7))		officers opting back in between those dates No other transfer of PPS service is permitted	PPS deferred pension under regulation B5 of 1987 Regulations)	pensionable service of PPS rights based on options exercise terms	submitted notification by 5 April 2006 (regardless of when this could be processed). After that date can only join NPPS
Category 3B. Has right to deferred PPS pension which is not in payment (Regulation 6(7))	NPPS	Options exercise terms between during options exercise period for officers opting back in between those dates	CETV terms only Can retain deferred pension rights in PPS or transfer all service across	As for Category 2	Officers who opted out could re-join PPS provided they submitted notification by 5 April 2006 (regardless of when this could be processed). After that date can only join NPPS
Category 3C. Has no pension rights under PPS	NPPS	N/A	N/A	N/A	
Categories 4A – 4G. Officers who re-join the service on or after 6 April 2006					
Category 4A. Left with no entitlement to PPS award (Regulation 6(2)(a)(i))	NPPS	N/A	N/A	N/A	
Category 4B. Left with entitlement to refund of PPS contributions (i.e. before 6 April 2006) (Regulation	NPPS	Options exercise terms for the options exercise period or for a period of three months beginning with	Options exercise terms for a period of three months beginning with the date of first rejoining	As for category 2	An officer who has received a refund of PPS contributions would have been able to repay it and reinstate PPS

Officer's circumstances	Scheme which the officer joins	Terms on which PPS service can be transferred to NPPS <u>before end of options exercise period</u>	Terms on which PPS service can be transferred to NPPS <u>after end of options exercise period</u>	Limits on maximum pension benefits in NPPS for officers holding pension rights in PPS	Remarks
6(2) (a) (ii))		the date of first rejoining after the start of the options exercise period, whichever is the later	CETV terms after this period		service under PPS regulation F4 or F5 of the 1987 Regulations and this PPS service could then be converted to NPPS service on options exercise terms
Category 4C. Left with less than 30 years' pensionable service with entitlement to PPS pension (other than ill-health pension or early payment of deferred pension) which is in payment (Regulation 6(2) (a) (iii))	NPPS	Not possible	Not possible	35 years less equivalent pensionable service of PPS rights on options exercise terms	
Category 4D. Left with entitlement to PPS ordinary pension which is not in payment (Regulation 6(2) (a) (iv))	NPPS Option for PPS rights to remain in PPS or transfer to NPPS	Options exercise terms for the options exercise period or for a period of three months beginning with the date of first rejoining after the start of the options exercise period, whichever is the later	Options exercise terms for a period of three months beginning with the date of first rejoining. CETV terms after this	If PPS rights not transferred, 35 years less equivalent pensionable service of PPS rights on options exercise terms	CETV transfer terms are only available to officers entitled to PPS deferred pensions under regulation B5 of the 1987 Regulations
Category 4E. Left with entitlement to	NPPS Option for PPS rights to	Options exercise terms for the options	Options exercise terms for a period of	If PPS rights not transferred,	

Officer's circumstances	Scheme which the officer joins	Terms on which PPS service can be transferred to NPPS <u>before end of options exercise period</u>	Terms on which PPS service can be transferred to NPPS <u>after end of options exercise period</u>	Limits on maximum pension benefits in NPPS for officers holding pension rights in PPS	Remarks
PPS deferred pension which is not in payment (Regulation 6(2) (a) (iv))	remain in PPS or transfer to NPPS	exercise period or for a period of three months beginning with the date of first rejoining after the start of the options exercise period,, whichever is the later	three months beginning with the date of first rejoining CETV terms after this	35 years less equivalent pensionable service of PPS rights	
Category 4F. Left with entitlement to ill-health award, or with early payment of deferred pension, and rejoined other than under regulation K1 (Regulation 6(2) (a) (v))	NPPS Option for PPS rights to remain in PPS or transfer to NPPS	As for Category 4D or 4E above	As for Category 4D or 4E above, depending on whether officer has 25 years' service in PPS	As for Category 4D or 4E above, depending on whether officer has 25 years' service in PPS	'Ill-health award' for these purposes is an award under regulation B3 of the 1987 Regulations Note that this includes an officer who left with entitlement to a deferred pension which subsequently comes into payment early because of ill-health
Category 4G. Rejoins under regulation K1 of the 1987 Regulations (i.e. following cessation of disability) or is reinstated following a successful appeal against dismissal or requirement to resign	If no action taken, will remain in PPS if medically retired under regulation A20 before 6 April 2006 or medically retired on or after 6 April 2006 if a member of PPS at time of medical	Options exercise terms for the options exercise period or for a period of three months beginning with the date of rejoining for the first time after the start of the options exercise period,,	Options exercise terms for a period of three months beginning with the date of first rejoining CETV terms after this	If PPS rights not transferred, NPPS does not apply	Note that officers who re-join under K1 or following successful appeal are in a separate category, not covered by the previous categories 4A-4F of re-joiners

Officer's circumstances	Scheme which the officer joins	Terms on which PPS service can be transferred to NPPS <u>before</u> end of options exercise period	Terms on which PPS service can be transferred to NPPS <u>after</u> end of options exercise period	Limits on maximum pension benefits in NPPS for officers holding pension rights in PPS	Remarks
	retirement or if a PPS member at the time of dismissal or requirement to resign. May join NPPS under options exercise and transfer all PPS service. Could join NPPS at any other time either by a transfer election or on CETV terms by opting out and opting back in – and could then either leave PPS rights in PPS, or transfer PPS rights to NPPS on CETV basis if a deferred pension.	whichever is the later			
Category 5. Officers in service on 6 April 2006 who leave and subsequently re-join the service	NPPS	Options exercise terms for the options exercise period or for a period of three months beginning with the date of first rejoining after the start of the options exercise period,, whichever is the later	Options exercise terms for a period of three months beginning with the date of first rejoining CETV terms after this	If deferred PPS rights are held and not transferred, 35 years less equivalent pensionable service of PPS rights Note cannot retain PPS pension rights if transfer is on options exercise terms – must	

Officer's circumstances	Scheme which the officer joins	Terms on which PPS service can be transferred to NPPS <u>before</u> end of options exercise period	Terms on which PPS service can be transferred to NPPS <u>after</u> end of options exercise period	Limits on maximum pension benefits in NPPS for officers holding pension rights in PPS	Remarks
				transfer service across (so no PPS rights remain)	

Notes to the table

1. The category numbers in the first column are for the purposes of this summary only and have no statutory basis.
2. The main options exercise period was 1 November 2006 – 31 January 2007, but this period could have been extended by the police authority for individual officers in exceptional circumstances. Note also that officers who re-join the service after 6 April 2006 have their own individual 'options exercise period' of 3 months from the date they re-join. References in the table to the options exercise period include these modifications where relevant.
3. N/A = Not Applicable

Annex B Taxation

Introduction - HMRC guidance

- B1 HM Revenue and Customs (HMRC) have provided extensive guidance on the taxation of pensions in the Registered Pension Schemes Manual, which is accessed from the HMRC website at the following link: <http://www.hmrc.gov.uk/manuals/rpsmmanual/index.htm>. The Manual currently contains over 2,000 individual web pages. The Technical Pages of the Manual provide the most detailed guidance. The intention is that this document will be primarily web-based and continually updated, so in the case of any tax query NPPS administrators are strongly recommended to consult the live version of Manual to obtain the latest tax guidance.
- B2 At present, it is not apparent from viewing a web page whether it has been amended, or even when it was last amended. It is possible to download all of the web pages and then refer to these to avoid a need for online access in respect of every query, but unless the pages are re-downloaded very regularly there is the danger that they may not be up to date. HMRC have made part of the Manual available in pdf format but have not guaranteed that this will be kept up to date. So under the present circumstances there seems to be no real alternative to online access.
- B3 The following notes can only be for general information about tax issues that may affect NPPS. The decision was taken not to make any reference to tax limits in the NPPS Regulations, as they derive from other legislation and apply in any case.

Background to the tax regime

- B4 The tax treatment of pensions changed significantly on 6 April 2006. This has been described as a 'simplification' - and indeed many of the previous complexities have been removed - but the new regime has in some cases produced new difficulties.
- B5 In a number of respects the legislation is permissive. For example:
- there is no limit to the amount that an individual may pay in pension contributions, although there is a limit to the amount that may be paid free of tax;
 - there is no limit to the amount of pension benefits which may be paid to an individual, but payments in excess of a limit will be subject to a tax charge.
- B6 However, in other areas the legislation is restrictive. In particular, the payments that a pension scheme is authorised to make are set out by statute and anything that falls outside the precise definition will be an 'unauthorised payment'.

B7 The main legislation which controls the taxation of pensions is the Finance Act 2004, which has been amended by the Finance Act 2005 and the Finance Act 2006. There are also numerous sets of regulations relating to specific aspects. New terminology introduced by the Finance Act 2004 includes:

- The **annual allowance** – the amount by which the value of an individual's pension benefits may increase in a tax year without the individual incurring a tax charge, set initially at £215,000 for 2006/07 and increasing as follows:

2007/08 - £225,000

2008/09 - £235,000

2009/10 - £245,000

2010/11 - £255,000

- The **lifetime allowance** – the amount within which an individual's total pension benefits will not be subject to an additional tax charge, set initially at £1.5m for 2006/07 and increasing as follows:

2007/08 - £1.6m

2008/09 - £1.65m

2009/10 - £1.75m

2010/11 - £1.8m

- A **benefit crystallisation event** – broadly, something which triggers the payment of pension benefits. As the tax legislation permits an individual to receive a pension whilst continuing to work for the same employer, a new term had to be invented as 'retirement' is not necessarily applicable.

B8 Many of the tax provisions affect the individual rather than the pension scheme. The following notes focus on the impact on pensions administrators.

The annual allowance

B9 As mentioned above, this limits the amount of increase in pension benefits in a tax year which is free of tax, which is referred to as the 'pension input amount'. This is not the same thing as a limit on pension contributions.

B10 For a money purchase scheme, the pension input amount is the amount of pension contributions. For a defined benefit scheme such as NPPS, the situation is more complex. The pension input amount is:

- the increase in annual pension benefits in the year, multiplied by 10, plus
- the increase in the (uncommuted) lump sum in the year.

Example 28

An officer has 35 years' pensionable service in NPPS and her salary increases by £20,000 p.a. on 6 April. At the end of that tax year, the officer's pension rights will have increased by £10,000 p.a. and her lump sum entitlement by £40,000 (four times the increase in the pension).

Therefore the pension input amount for the tax year is (£10,000 x10) plus £40,000 = £140,000.

- B11 It is thus possible that if an officer receives a major promotion (possibly from Commander to Deputy Assistant Commissioner in the Metropolitan Police) then the pension input amount could exceed the annual allowance. Other than the transitional arrangements for 'enhanced protection' (see below) there is currently no way of protecting the officer against this.
- B12 A problem could also arise if an officer was to make a large contribution to another pension scheme at the same time as contributing to NPPS, or made an exceptionally large NPPS contribution by lump sum.
- B13 If the annual allowance is exceeded, a tax charge is payable by the individual of 40% of the amount by which the pension input amount exceeds the annual allowance. So, if an officer's pension input amount is £240,000 in 2006/07, he or she will incur a tax charge of £10,000 (£25,000 x 40%). HMRC state that: 'The annual allowance charge is payable by the member concerned (not the scheme administrator). This will be done through the individual's personal Self Assessment return. If the individual has not been issued with a personal tax return, but they have a liability to pay the charge, they should notify their tax office of the position.'
- B14 HMRC also state that 'The annual allowance charge will not apply to an individual who has registered to have enhanced protection of pension rights under schedule 36, paragraph 49, Finance Act 2004. This is providing that the conditions of the enhanced protection apply throughout the tax year being considered for an annual allowance charge.'
- B15 The annual allowance does not apply to a pension scheme in the tax year that all pension benefits are paid from that scheme – so, for example, an increase in NPPS pension rights resulting from an enhanced top-up ill-health pension would not be subject to the annual allowance test.

Contribution limits

- B16 Tax relief on member contributions is a separate issue from the lifetime allowance. Tax relief on pension contributions is given up to the individual's total taxable earnings in a tax year. Thus there should not usually be any difficulty in allowing

tax relief on regular contributions, even if these are higher than normal because of the payment by instalments of arrears or the purchase by instalments of added years.

B17 Circumstances to look out for include:

- any large one-off payments of contributions for whatever reason – such as a lump sum payment for the purchase of added years or to repay a refund of contributions – in case these would exceed taxable earnings;
- officers on no pay, or on very low pay, who wish to make pension contributions to NPPS. Tax relief is only available up to the total taxable earnings in the year. The publicised tax relief for contributions up to £3,600 p.a. applies where an individual receives tax relief at source, and NPPS operates a 'net pay arrangement' which does not qualify for this.

Payment of benefits in excess of the lifetime allowance

B18 If pension benefits are paid above the lifetime allowance, arrangements must be made to pay any tax which is due. The tax charge is 25% on any excess pension payments and 55% on any excess lump sum.

B19 NPPS retirement benefits are valued at 20 times the annual pension plus any lump sum (so if an officer's initial pension is £40,000 p.a. and he or she receives a lump sum of £160,000, the amount which counts against the lifetime allowance is £960,000). Individuals must certify how much of their lifetime allowance remains (as a percentage) when pension benefits are paid ('crystallise' in HMRC terminology). It is possible, although unlikely, that an individual officer might have used a significant proportion of the allowance already and that his or her police pension will take him or her over the lifetime limit. Officers must therefore inform the police authority of the amount of lifetime allowance that has already been used when retiring from the police service (if they are already receiving other pension benefits, or have other pensions coming into payment on the date of retirement from the police).

B20 It is to be expected that officers who are likely to be affected by the lifetime limit will be very senior in rank, will have obtained independent financial advice and will have taken steps where possible to avoid breaching the lifetime allowance. If the unusual circumstance does arise where a tax charge becomes due, the recommended method of payment is to reduce the annual pension. Treasury and actuarial guidance is incomplete at present and any police authority which is in this position is advised to consult the Home Office before taking action.

B21 Note that strictly speaking a pension commencement lump sum cannot give rise to a tax charge, because this is defined as being limited to a percentage of the individual's available lifetime allowance. If the initial lump sum is larger than this limit, the excess becomes an 'unauthorised member payment' (see below) and

the member is liable for the tax charge of 40% (see the Registered Pension Schemes Manual pages RPSM09104220, RPSM04104510)

Benefit crystallisation events

B22 The importance of these is that each triggers a lifetime allowance test. There are nine benefit crystallisation events (BCEs) as follows:

BCE 1	Where funds are designated to provide a member with an unsecured pension or where the member reaches age 75 still holding uncrystallised funds. [Money purchase schemes only, so does not apply to NPPS or PPS]
BCE 2	Where a member becomes entitled to a scheme pension, whether from a defined benefits arrangement or a money purchase arrangement.
BCE 3	Where a scheme pension already in payment to a member is increased beyond a permitted margin (the permitted margin basically being the greater of 5% and RPI).
BCE 4	[Money purchase schemes only] Where a member becomes entitled to a lifetime annuity under a money purchase arrangement.
BCE 5	Where a member reaches their 75th birthday under a defined benefit arrangement without having drawn all or part of their entitlement to a scheme pension and/or lump sum
BCE 5A	Where a member reaches age 75 with an earlier designated unsecured pension fund which has not been secured by a lifetime annuity or scheme pension [not relevant to NPPS]
BCE 6	Where the member becomes entitled to a relevant lump sum (a pension commencement lump sum, a serious ill health lump sum, or a lifetime allowance excess lump sum).
BCE 7	Where a relevant lump sum death benefit is paid on the death of the member (this applies to all NPPS lump sum death benefits). [Where benefits are paid on the death of the member in the form of a dependant's pension a lifetime allowance test is not triggered]
BCE 8	Where a member's benefits or rights are transferred to a qualifying recognised overseas pension scheme.

B23 Note that the payment of a retirement lump sum and the payment of a retirement pension are separate benefit crystallisation events. At each of these events, the amount of the lifetime allowance used must be calculated. For NPPS:

- a pension is valued at 20 times the annual pension payable for the first 12 months;
- a lump sum is valued at the amount of the lump sum;
- a transfer to a qualifying recognised overseas pension scheme is valued at the amount of the transfer payment.

B24 This amount is then compared with the amount of the individual's lifetime allowance remaining, to assess whether the lifetime allowance has been exceeded.

B25 It will not necessarily be apparent whether an overseas pension scheme meets all the criteria of a 'qualifying recognised overseas pension scheme', but HMRC have stated that they will be able to confirm whether a specific scheme does qualify.

Protecting members' rights on 5 April 2006 from tax charges

B26 The legislation allows individuals some means to protect pension rights accrued up to 5 April 2006. To take advantage of this, the appropriate form must reach HMRC on or before 5 April 2009.

B27 There are three forms of protection:

- primary protection, where an individual's pension rights are valued at more than £1.5m on 5 April 2006 – which acts to augment permanently the individual's lifetime allowance;
- enhanced protection, available to anyone but of limited use, as it will be lost if 'relevant benefit accrual' takes place after 5 April 2006 – 'relevant benefit accrual' occurs if a contribution is paid into a money purchase pension scheme and will almost certainly occur if a police officer increases pensionable service;
- pension credit – where an individual has pension credit rights (arising from pension sharing on divorce) on 5 April 2006, he or she may claim an additional lifetime allowance.

B28 In every case, registration for protection must be made by the individual.

B29 Further explanation of the protection mechanisms was included in the Home Office model letter to superintendents and above, which was circulated to police authorities in December 2005.

Authorised payments

B30 These are defined by the Finance Act 2004 as the only payments that a registered pension scheme is authorised to make to, or in respect of, a member of a pension

scheme. They are listed at the end of this Annex with a comment on the relevance of each to NPPS.

Unauthorised payments

B31 An unauthorised payment is any payment which is not an authorised payment. An unauthorised member payment will attract a 40% tax charge payable by the individual. If unauthorised payments by a pension scheme exceed a threshold in a given time period, a tax surcharge of a further 15% is levied, bringing the total tax charge to 55%.

B32 It is important that every police authority guards against the possibility of making an unauthorised payment. No payment made under the 2006 Regulations will be unauthorised, but particular care should be taken in the following circumstances:

- payment of pension benefits to unmarried partners: whilst a police authority is able to exercise discretion in relation to the period of cohabitation, it is essential in every case that the authority is satisfied as to financial dependency or interdependency at the date of the officer's death (see Pension Death Benefit Rule 1);
- assignment: pension benefits must be paid to the person entitled to receive them and assignment to anyone else is not normally allowed. The only exceptions in NPPS are where the beneficiary is a minor or is incapable of managing his or her affairs (see **regulation 83**);
- refunds of contributions: refunds must be made from the pension fund and only if the officer's pensionable service has ended (e.g. he or she has opted out or ceased to serve). It has been agreed with HMRC that refunds may be made through the payroll subject to the consideration that HMRC and the police authority's pension account, as well as the officer, must be in the same position as if the contributions had not been made. The appropriate amount must therefore be reimbursed from the pension account to the police authority's operational account to cover any pension contributions refunded through the payroll. Note that this applies just to main contributions; separate arrangements apply to additional contributions for added years or increased widowers' benefits.
- payment of dependants' pensions which in total exceed the officer's pension, where the officer is aged over 75 at death: this should not be possible in NPPS, but there is a requirement that in these circumstances the total of pensions payable to all dependants in the post-death year must not exceed the "initial member pension limit" of (basically) the pension paid to the member in the year preceding death plus 5% of any tax-free lump sum paid to the member.

Recycling lump sums

B33 The Finance Act 2006 introduced anti-avoidance provisions to prevent lump sum pension payments being used to fund further tax-relieved pension contributions. The relevant provision (paragraph 3A of Schedule 29 to the Finance Act 2004, as inserted by section 159 of the Finance Act 2006) applies in relation to a pension commencement lump sum if:

‘(a) because of the lump sum, the amount of the contributions paid by or on behalf of, or in respect of, the member to the pension scheme, or to any other registered pension scheme, is significantly greater than it otherwise would be, and

(b) the member envisaged at the relevant time that that would be so.’

B34 Any such payment would become an unauthorised payment. It could cover not only pension contributions made after the lump sum is paid, but also contributions paid before receipt of the lump sum if the member intended to use the lump sum to fund them.

B35 In order to be caught by the provision, the following must apply:

- the lump sum payment must exceed 1% of the standard lifetime allowance (i.e. £15,000 for 2006/07);
- the pension contributions are ‘significantly greater’ if the increase is more than 30% of the lump sum;
- the arrangement must be ‘pre-planned’.

B36 The interpretation of these requirements may be problematic and it is suggested that in cases of difficulty reference should first be made to the current version of the Registered Pension Schemes Manual, which contains a specific section on recycling (see page RPSM04104900 et seq.) At this stage, it is probably only necessary for NPPS pensions administrators to be aware that this might be a potential problem area in the future.

Authorised payments and relevance to NPPS

Authorised payment	Comment re NPPS
Pension rules (Finance Act 2004 s165)	
<i>Pension rule 1</i> No payment of pension may be made before the day on which the member reaches normal minimum pension age, unless the ill-health condition was met immediately before the member became entitled to a pension under the	The Pension Schemes (Prescribed Schemes and Occupations) Regulations 2005 [SI 2005/3451] specify the Police Pension Scheme as an exception.

Authorised payment	Comment re NPPS
pension scheme.	
<p><i>Pension rule 2</i> If the member dies before the end of the period of ten years beginning with the day on which the member became entitled to a scheme pension, an annuity or alternatively secured pension, payment of the scheme pension, annuity or alternatively secured pension may continue to be made (to any person) until the end of that period. But no other payment of the member's pension may be made after the member's death.</p>	Not relevant – NPPS does not have a 'pension guarantee'.
<p><i>Pension rule 3</i> No payment of pension other than a scheme pension may be made in respect of a defined benefits arrangement.</p>	All NPPS member pensions are scheme pensions.
<p><i>Pension rule 4</i> If the member has not reached the age of 75, no payment of pension other than— (a) a scheme pension, (b) a lifetime annuity, or (c) unsecured pension, may be made in respect of a money purchase arrangement; but a scheme pension may only be paid if the member had an opportunity to select a lifetime annuity instead.</p>	Not relevant (money purchase arrangements only)
<p><i>Pension rule 5</i> The total amount of unsecured pension paid in each unsecured pension year in respect of a money purchase arrangement must not exceed 120% of the basis amount for the unsecured pension year.</p>	Not relevant (money purchase arrangements only)
<p><i>Pension rule 6</i> If the member has reached the age of 75, no payment of pension other than— (a) a scheme pension, (b) a lifetime annuity, or (c) alternatively secured pension, may be made in respect of a money purchase arrangement; but a scheme pension may only be paid if the member had an opportunity to select a lifetime annuity instead.</p>	Not relevant (money purchase arrangements only)
<p><i>Pension rule 7</i></p>	Not relevant (money purchase

Authorised payment	Comment re NPPS
The total amount of alternatively secured pension paid in each alternatively secured pension year in respect of a money purchase arrangement must not exceed 70% of the basis amount for the alternatively secured pension year.	arrangements only)
Lump sum rule (FA 2004 s166)	
No lump sum may be paid other than -	
(a) a pension commencement lump sum	This covers the standard lump sum on retirement.
(b) a serious ill-health lump sum	Only relevant to pension credit members (regulation 62).
(c) a short service refund lump sum	Relates to refunds of contributions under regulation 34 .
(d) a refund of excess contributions lump sum	Not relevant.
(e) a trivial commutation lump sum	Limits the circumstances in which a small officer's pension may be commuted for a lump sum – see regulation 38 .
(f) a winding-up lump sum, or	Not relevant.
(g) a lifetime allowance excess lump sum.	Not relevant.
Pension death benefit rules (FA 2004 s167)	
<i>Pension death benefit rule 1</i> No payment of pension death benefit may be made otherwise than to a dependant of the member.	NPPS survivor pensions can only be paid to dependants.
<i>Pension death benefit rule 2</i> No payment of pension death benefit other than a dependants' scheme pension may be made in respect of a defined benefits arrangement.	All NPPS survivor pensions are dependants' scheme pensions.
<i>Pension death benefit rule 3</i> If a dependant has not reached the age of 75, no payment of pension death benefit to the dependant other than— (a) a dependants' scheme pension, (b) a dependants' annuity, or (c) dependants' unsecured pension, may be made to the dependant in respect of a money purchase arrangement; but a dependants' scheme pension may only be paid if the member	Not relevant (money purchase arrangements only)

Authorised payment	Comment re NPPS
or dependant had an opportunity to select a dependants' annuity instead.	
<p><i>Pension death benefit rule 4</i> The total amount of dependants' unsecured pension paid to a dependant each unsecured pension year in respect of a money purchase arrangement must not exceed 120% of the basis amount for the unsecured pension year.</p>	Not relevant (money purchase arrangements only)
<p><i>Pension death benefit rule 5</i> If a dependant has reached the age of 75, no payment of pension other than— (a) a dependants' scheme pension, (b) a dependants' annuity, or (c) dependants' alternatively secured pension, may be made to the dependant in respect of a money purchase arrangement; but a dependants' scheme pension may only be paid if the member or dependant had an opportunity to select a dependants' annuity instead.</p>	Not relevant (money purchase arrangements only)
<p><i>Pension death benefit rule 6</i> The total amount of dependants' alternatively secured pension paid to a dependant in each alternatively secured pension year in respect of a money purchase arrangement must not exceed 70% of the basis amount for the alternatively secured pension year.</p>	Not relevant (money purchase arrangements only)
Lump sum death benefit rule (FA 2004 s168)	
No lump sum death benefit may be paid other than -	
(a) a defined benefits lump sum death benefit	Covers the NPPS lump sum death awards under regulations 44 - 46.
(b) a pension protection lump sum death benefit	Not relevant
(c) an uncrystallised funds lump sum death benefit	Not relevant (money purchase arrangements only)
(d) an annuity protection lump sum death benefit	Not relevant (money purchase arrangements only)
(e) an unsecured pension fund lump sum death	Not relevant (money purchase

Authorised payment	Comment re NPPS
benefit	arrangements only)
(f) a charity lump sum death benefit	Not relevant (money purchase arrangements only)
(g) a transfer lump sum death benefit	Not relevant (money purchase arrangements only)
(h) a trivial commutation lump sum death benefit, or	Limits the circumstances in which a small survivor's pension may be commuted for a lump sum – see regulation 38 .
(i) a winding-up lump sum death benefit.	Not relevant

Annex C Model certificate of service

This model certificate is designed for use – subject to adaptation - when an officer transfers from one force to another. It includes all the information which it is recommended should be passed on, including the information specifically required by the Police Pensions Regulations 2006. The model is not intended to prescribe a specific format, although a suggested format for the record of service is provided at the end. In practice, some or all of the information may be provided in the form of a print-out from your pensions software system. A copy of the certificate must be provided to the officer.

Police authority

Surname

Forename(s)

Date of birth

National Insurance Number

Rank (*indicate if temporary promotion*)

Pay

Date joined

Date left

Service since last joining

[Insert here, or attach, a record of reckonable service transferred in, any periods of unpaid service, any periods of part-time service inclusive of part-time overtime paid up to the date of leaving and any career breaks or other periods during which pension contributions were not made]

Date of commencement for pension purposes

[Insert notional start date in scheme].

Purchasing added years

Yes No

[If 'yes', give details]

Contributing to in-house AVC or stakeholder scheme

Yes No

[If 'yes', give details]

Any period of temporary promotion or demotion?

Yes No

[If 'yes', give details]

Pensionable service at date of leaving

Total pension contributions paid
[For purposes of refund]

Eligible for ill-health awards (i.e. paying full contribution rate) **Yes No**

Election not to pay pension contributions in force at date of leaving **Yes No**

Earmarking or pension sharing order in force **Yes No**
[If yes', give details]

Unmarried partner declaration in force **Yes No**
[If 'yes', attach the declaration]

Lump sum death grant nomination in force **Yes No**
[If 'yes', attach the nomination form]

PPS-NPPS options exercise
Transferred from Police Pension Scheme 1987 **Yes No**
under terms of options exercise
[If 'yes', attach completed choice form]

Possible format for record of service –

A. Reckonable service

Force or employer	Period of employment		Service reckonable in the New Police Pension Scheme 2006	
	From	To	Years	Days

B. Service not reckonable

Period of employment		Service not reckonable in the New Police Pension Scheme 2006	
From	To	Years	Days

Annex D Contributions to other pension schemes

- D1 NPPS does not have an AVC scheme. Officers are free to contribute to other pension schemes at the same time as contributing to NPPS, but need to make their own arrangements for this.
- D2 There is no restriction on the total pension contributions that an individual may make, but tax relief is limited (see the notes on contribution limits in **Annex B**).
- D3 Officers who transfer all of their pension benefits from PPS to NPPS may continue to contribute to their PPS AVC during their membership of NPPS.
- D4 The police authority cannot advise on the appropriateness or otherwise of any non-NPPS pension arrangements.
- D5 The pension benefits from a non-NPPS scheme may be taken entirely independently from NPPS benefits. There is no requirement to link this to retirement from the police service, and it would be possible for a serving officer to be in receipt of pension benefits from another scheme.