sppa
SCOTTISH PUBLIC PENSIONS AGENCY

7 Tweedside Park
Tweedbank
Galashiels TD1 3TE
http://www.sppa.gov.uk

Telephone: 01896 893231
Fax: 01896 893230
James.preston@scotland.gsi.gov.uk

To:-
Members of the Police Negotiating Board

Other interested parties (listed below)

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Dear Colleague

THE POLICE PENSION ACCOUNT (SCOTLAND) REGULATIONS 2010

Please find enclosed the above regulations which introduce the legislative basis for the new financing system for police pensions being introduced from 1 April 2010.

Background

In October 2008, the Scottish Government and COSLA reached agreement on the extra funding needed to offset pressures on the police service and the fire and rescue service caused by a record number of retirements. As part of that agreement, a way forward on reforming the funding arrangements for police and fire pensions was negotiated.

As a result a Steering Group was set up to progress the police and fire pension reform project. The Steering Group consists of representatives from:

- the Scottish Government
- COSLA
- ACPOS
- CFOA(S)
- Police Conveners Forum
- Fire Conveners Forum

In addition to the Steering Group, a Working Group was established in order to manage the changes required to introduce the new financial arrangements. The Working Group is made up of members from:

- the Scottish Government
- ACPOS
- CFOA(S)

• Local Authority Directors of Finance

The members of both the Steering Group and the Working Group support the new financial arrangements and the attached guidance for police pensions was consulted on and agreed.

Briefly under the new arrangements, police service pension costs (with the exception of injury benefits and ill-health capital charges) will be met through a combination of employee contributions, a new actuarially-based employer's contribution calculated as a percentage of pensionable pay and, as required, a "top-up" payment by the Scottish Government. Authorities will be required to set up and maintain a new pension account into which defined income will be made for example member and employer contributions and out of which pensions in payment will be made. Any shortfall between the pension account income and expenditure will be met by top up payments from the Scottish Government and any surpluses will be taken into account as part of future pension funding.

The attached regulations aim to reflect the terms of the agreed guidance so there should be no divergences from what has been agreed as part of that process. Similar amendments will be necessary to cover the new financing system for the firefighter pension schemes and it is planned to issue draft firefighter regulations for consultation in May.

Citation and Comment

Although the regulations are planned to come into force before the Parliament's summer recess they will have effect from 1 April 2010. Retrospective effect is a commonly used feature and is permitted by section 1(5) of the Police Pensions Act 1976 which is part of the enabling powers under which police pensions are made.

Regulation 2

This covers a number of obvious regulations and definitions that apply.

Included in the general definitions are two key terms namely the Police Pension Account, which police authorities are required to set and manage and Police Operating Account. The latter aims to clearly identify the funds from which payments will be made from and to the pension account. This term ensures that the terminology used and agreed in the guidance is carried over into the regulations.

Regulation 3

Confirms that police authorities need to set up and manage a police pension account.
Section 3 of the guidance outlines this requirement.

Regulation 4

This outlines what can be paid into and out of the pension account. Section 4 of the guidance indicates approved income and expenditure from the pension account

Regulation 5

(i) Confirms what the employer contribution rate is and when should it be paid i.e. in line with member contributions but also in specified cases where contributions are deemed as paid. The regulation confirms that the rate going forward from April 2010 is 24.7%. Section 5 of the guidance outlines how this rate has been determined and that it applies for officers who are members of both the Police Pensions Scheme (PPS) and New Police Pension Scheme (NPPS).

(ii) That a capital equivalent charge of 2 x average pensionable pay (final pensionable pay in the NPPS) has to be paid by the police authority when a police officer is retired early on ill health grounds. This is a compensation payment to the scheme to reflect that the pension is being paid early. A pension is paid early if in the PPS the officer retires before achieving 30 years service or before the earlier of his/her compulsory or voluntary retirement age determined under regulation A4 or A18. In the NPPS the pension is paid early if it is paid before age 55 which is the earliest retirement date for that scheme. Section 6 of the guidance provides more detail on capital equivalent charges.

(iii) This regulation also confirms that where a police authority chooses not to abate a pension that it can abate under the applicable police pension regulations then the authority has to compensate the pension account accordingly. Section 7 of the guidance covers this in more detail.

Regulations 6 and 7

The pension account is for pension related payments only. The injury benefits are available to all police officers, are not reliant on membership of either of the pension schemes and for tax purposes are not recognised as pension benefits. This regulation makes clear that injury based awards have to be paid from the operating account. Section 4 of the guidance details the approach to be taken.

Regulation 8

The police authority must balance its pension account to a zero balance each year (see para 2.6 of the guidance). The Regs provide that in achieving that aim any pension account surplus is transferred to the police operating account and any deficit cleared by a payment from the operating account. Reg 8(3) provides that this is done without inclusion of any top up paid to the authority. This will indicate what shortfall or deficit arises from the pension account and the top up required.

Regulation 9

Confirms that the audited pension accounts will determine future funding of pension contributions and top up. It is expected that the audited accounts will be available in the October following the end of financial year to which they refer and any surplus or deficit will inform on any future pension funding i.e. top up. It will be likely that it will affect the top up due in the financial year the audited accounts are actually received and considered but the term “future funding” is used to avoid the application of strict timescales on determining what impact the audited accounts have on pension funding.

Regulation 10

Outlines the information that Scottish Ministers can request. This will include forecasts, outturns, unaudited and audited pension accounts. This information will ensure the resulting deficits and surpluses are correctly managed.

Section 9 and annexe C provides information on how the funding will flow and when and what information is required from police authorities.

Regulation 11

Simply confirms that associated pension costs as defined should be charged to the operational account.

Regulation 12

Confirms that Scottish Ministers are responsible for the pensions account for those employed as inspectors and assistant inspectors of constabulary. These are not the seconded posts but actual Scottish Government appointments.

Almost identical arrangements and requirements apply to HMIC in so far as they appoint inspectors and assistant inspectors who have retained their entitlement to membership of either PPS or NPPS. The Scottish Government make these appointments and will need to make suitable arrangements for maintaining a pension account for the purpose of receiving contributions in respect of their active members of the PPS and NPPS and for paying the pensions of their police pensioners in the same way as police authorities. The only points of difference to note are that this pension account will not be subject to local government regulation and the employer contribution rate for HMIC is set at 26% instead of 24.7% since it is impracticable to apply an early ill-health retirement charge in an organisation with very few active scheme members.

At the moment for officers on central service the PPS regulations provide that references to the police authority are read as Scottish Minister. That means for example that for such officers the Scottish Ministers would decide on ill health retirement. Section 8 of the guidance indicates that from 1 April 2010 the responsibility for pension decisions will remain with the sending force. As a result changes are required to both the PPS and NPPS to reflect this new approach. Regulations 14 and 15 reflect these and other consequential changes to the PPS and NPPS regulations.

Timescale for comments

I should be grateful for your comments on the proposed regulations by **28 April 2010.** Unless specifically asked to treat a response as confidential, the Agency may wish to publish, in due course, responses to this consultation, or deposit them in the libraries of the Scottish Executive or the Scottish Parliament.

A copy of this consultation will also be placed on the Agency's website.

Yours sincerely

Jim Preston
Senior Policy Manager

Addressees

Police Negotiating Board
Audit Scotland
National Association of Pension Funds
Women's National Commission
Home Office, Fire and Police Sections
HM Treasury
Government Actuary's Department
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