POLICY NOTE

THE POLICE PENSION SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2025

SSI 2025/58

The above instrument was made in exercise of the powers conferred by section 1(1) and (2)(g) and section 3(3)(b) and paragraph 7(b) of Schedule 2 of, the Public Service Pensions Act 2013 ("the 2013 Act"). The instrument is subject to negative procedure.

These Regulations amend the Police Pension Scheme (Scotland) Regulations 2015.

Firstly, they remove the ill-health eligibility restrictions set out in Chapter 4, Part 4 of the 2015 Regulations.

Secondly, they amend the percentage rate of member contributions payable under regulation 160 and makes further amendments to that regulation consequential to the removal of ill-health eligibility restrictions.

Policy Objectives

Removal of restrictions on access to ill-health retirement

Part 4 of the Police Pension Scheme (Scotland) Regulations 2015 sets out the rules governing eligibility for payment of ill-health benefits and, in particular, that the scheme manager could exclude certain active members from ill health benefits if they have a pre-existing condition which means that the likely cost of providing the officer with those benefits is deemed "disproportionately high". This function of the scheme manager was delegated to Police Scotland.

The legislation in the equivalent England and Wales Police Pension Regulations was the subject of ongoing litigation. In February 2023, the Secretary of State for the Home Office conceded that the exclusion of officers from ill health benefits in the police pension scheme, contravened the non-discrimination rule in s.61 Equality Act 2010.

As a result, new guidance was issued to Police Scotland about managing the process of enrolling new members to the scheme in 2023.

This SSI provides that chapter 4, part 4 of the 2015 regulations, which sets out the ill-health eligibility exclusions will cease to have effect, along with the reduced contribution rates payable by those excluded members. The removal of the ill health exclusion regulations relating to scheme membership will be applied prospectively and will result in all scheme members paying the full pension contribution rate from 1 April 2025.

Under this prospective stage, ill health retirement following the removal of the ineligibility clause will only be based upon pensionable service from 1 April 2025 for the period they have paid full-member contributions.

Consideration is being given for a further retrospective SSI to address those currently

deemed ineligible for ill-health benefits prior to 1 April 2025.

Changes to the employee contribution rate from 1 April 2025

The 2015 Regulations require that members of the Police Pension Scheme (Scotland) pay contributions to the Scheme as a condition of membership. The scheme framework document, agreed before the introduction of the reformed scheme in 2015, set the target yield of income from members across the three active schemes at that time at 13.7% of pensionable pay, consistent with the equivalent scheme in England and Wales.

The older police pension schemes closed to active membership on 31 March 2022. During the latest police pension scheme valuation carried out by the Government Actuary's Department (GAD) on scheme data held as at 31 March 2020, an anticipated shortfall in the member contribution yield of 0.24% was identified. In consultation with the Scottish Police Pension Scheme Advisory Board, which comprises member and employer representatives, it was agreed that the delivery of the expected yield is fundamental to the scheme's sustainability. The proposed amending instrument (The Police Pension Scheme (Scotland) (Amendment) Regulations 2025) will make changes to the employee contribution rate in regulation 160 from 1 April 2025.

The proposed regulations will therefore insert into the 2015 Regulations a revised member contribution rate of 13.7%, an increase from 13.46%. The revised rate will be applicable from 1 April 2025.

Consultation

A consultation was undertaken from 26 November 2024 to 7 February 2025. The consultation was issued to representatives of police officers, employers and relevant Scottish and UK Government departments. A summary of consultation responses can be found on the Scottish Public Pensions Agency Website.

Impact Assessments

The Government's Actuary Department (GAD) produced equalities impact analysis for the age and sex protected characteristics, to support consideration of the impact of the increase in the member contribution rate in the 2015 scheme.

Their analysis showed that while a flat structure may be considered inherently non-discriminatory, as the same rate will apply to all members regardless of any characteristics, protected or otherwise, income tax relief on pension contributions under the flat contribution structure will impact different groups of members.

The flat rate structure combined with the income tax relief does cost members slightly less as a proportion of their income after tax as age increases and on males above the age of 24, compared to females. This is mainly due to older members or males reaching higher ranks and salaries which attract a higher rate of tax relief.

The GAD did not provide analysis on the other protected characteristics of race, disability, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership as they do not hold data on these groups. However, contribution rates will apply to gross pensionable pay for all members, irrespective of their equality category.

Business and Regulatory Impact Assessment

No business and regulatory impact assessment has been produced for this instrument as no impact on business, charities or voluntary bodies is foreseen.

Child Rights and Wellbeing Impact Assessment

The Scottish Government have carried out a Child Rights and Wellbeing Impact Assessment (CRWIA) and this has been published alongside the laying of these Regulations. The CRWIA has concluded that there is no impact on the rights or wellbeing of children.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Police Pension Scheme (Scotland) Amendment Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Financial Effects

In 2023 the Government Actuary Department estimated the cost of removing the restrictions on access to ill-health retirement would result in an increase of no more than 0.1% of pensionable pay per annum. There are currently 32 members who pay the reduced contribution rate. These members will be required to pay an extra 0.25% of pensionable pay from 1 April 2025.

The increase in member contribution rate from 13.46% to 13.7% will cost a member on a salary of £40,000, £8 per month, approximately £5.60 after tax.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Scottish Public Pensions Agency
An Agency of the Scottish Government
2 March 2025