STATUTORY INSTRUMENTS

2004 No. 1760

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment) (No. 2) Regulations 2004

Made - - - -	*8th July 2004*
Laid before Parliament	*9th July 2004*
Coming into force - -	*1st August 2004*

The Secretary of State, in exercise of the powers conferred upon him by sections 1 and 4 of the Police Pensions Act 1976(**a**), with the consent of the Treasury(**b**) and after consultation with the Police Negotiating Board for the United Kingdom, hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Police Pensions (Amendment) (No. 2) Regulations 2004.

(2) These Regulations shall come into force on 1st August 2004 but regulation 3(1) to (5) has effect in accordance with regulation 2.

(3) In these Regulations, "regular policeman" has the same meaning as in the Police Pensions Regulations 1987(**c**).

(4) These Regulations extend to England and Wales only.

Retrospective effect in certain cases

2.—(1) In relation to a case where a person transferred from the British Transport Police Force to become a regular policeman on or after 1st February 2001 but before 1st August 2004 and either–

(a) the British Transport Police Force Superannuation Fund has paid to the police authority concerned a transfer value in respect of that transfer before 1st August 2004 and his pensionable service in respect of his former service would if recalculated in accordance with the amendments made by these Regulations satisfy the condition set out in paragraph (4); or

(b) no such payment has been made by 1st August 2004, but the policeman applies to the police authority by 31st July 2005 for such a transfer payment to be accepted and for the

(**a**) 1976 c. 35. Section 1 is amended by section 2(3) of the Police Negotiating Board Act 1980 (c. 10), paragraph 28 of Schedule 7 to the Police Act 1996 (c. 16) and section 1(1) of the Police and Firemen's Pensions Act 1997 (c. 52). Functions under the Act as regards Scotland are transferred by article 2 of, and Schedule 1 to, S.I. 1999/1750.
(**b**) Formerly the Minister for the Civil Service: *see* S.I. 1981/1670.
(**c**) S.I. 1987/257; *see* the definition in Schedule A.

period of pensionable service in respect of his former service to be calculated in accordance with the amendments made by these Regulations,

regulation 3(1) to (5) has effect from 1st February 2001(**a**).

(2) In relation to a case where–

(a) a person transferred from the British Transport Police Force to become a regular policeman on or after 30th April 1998 but before 1st February 2001 and either–

(i) the British Transport Police Force Superannuation Fund has paid to the police authority concerned a transfer value in respect of that transfer before 1st August 2004 and that policeman applies to that authority by 31st October 2004 for his pensionable service in respect of his former service to be recalculated in accordance with the amendments made by these Regulations in circumstances where the condition set out in paragraph (4) applies; or

(ii) no such payment has been made by 1st August 2004 but the policeman applies to the police authority concerned by 31st October 2004 for such a transfer payment to be accepted and for the period of pensionable service in his former service to be calculated in accordance with the amendments made by these Regulations, and

(b) the police authority concerned agree to such a recalculation or calculation as the case may be,

regulation 3(1) to (5) has effect from 30th April 1998.

(3) In relation to any other case, regulation 3(1) to (5) has effect from 1st August 2004.

(4) The condition mentioned in paragraphs (1)(a) and (2)(a)(i) is that the period of pensionable service reckonable in respect of the policeman's former service as a result of recalculation as if the transfer value had been a transfer payment accepted in accordance with the amendments made by these Regulations is no less than the period already reckonable.

(5) References in paragraphs (1)(a) and (2)(a)(i) to the recalculation of pensionable service in respect of a regular policeman's former service include references to a recalculation of any resulting award to him or in respect of him in accordance with the amendments made by these Regulations where he has ceased to be a regular policeman, and the reference in paragraph (2)(a)(i) to an application by that policeman shall include an application by or on behalf of the person who is entitled to such an award.

(6) The requirements in paragraph (1)(b) and in paragraph (2)(a)(i) and (ii) for an application to be made by a particular date shall be met if–

(a) the police authority are satisfied that there is good cause why the application could not be made by that date;

(b) the application is made by such later date as the police authority specify; and

(c) the administrators of the British Transport Police Force Superannuation Fund agree that the requirement may be met by that later date.

Amendment of the Police Pensions Regulations 1987

3.—(1) The Police Pensions Regulations 1987(**b**) are amended in accordance with this regulation.

(2) In regulation F6 (previous service reckonable under current interchange arrangements) after paragraph (1A) insert the following paragraph–

"(1B) References in paragraph (1) to a transfer value include references to a transfer payment which has been received under an arrangement with the British Transport Police Force Superannuation Fund in circumstances where the conditions set out in paragraph 1(aa) of Section 2 of Part IV of Schedule F are satisfied."

(**a**) Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.
(**b**) S.I. 1987/257; relevant amendments were made by S.I. 1990/805, 1991/1517 and 2004/1491.

(3) After paragraph 1(a) of Section 2 of Part IV of Schedule F (pensionable service and transfer values), insert the following sub-paragraph–

"(aa) where his former superannuation arrangements were contained in the British Transport Police Force Superannuation Fund and the police authority are satisfied that–

(i) the transfer value represents all his accrued rights to awards under those arrangements,

(ii) the transfer value is one which he has, within 12 months of his last becoming a regular policeman, requested the police authority to accept under regulation F6,

(iii) the transfer value is calculated in accordance with guidance approved by the Government Actuary, and

(iv) either–

(a) the regular policeman has not reached the age of 55 at the time of the transfer; or

(b) he has reached that age at the time of the transfer, but the police authority and the administrators of the British Transport Police Force Superannuation Fund agree that the calculation shall be in accordance with paragraph 2,

in accordance with paragraph 2, and".

(4) After paragraph 1 of Section 2 of Part IV of Schedule F, insert the following paragraph–

"**1A.** References in paragraph 1(aa) to a transfer include–

(a) any transfer where there is an interval of no longer than one month between the regular policeman's service with the British Transport Police Force and his service as a regular policeman; and

(b) any transfer where there is an interval of longer than one month between those periods of service and the police authority concerned and the administrators of the British Transport Police Force Superannuation Fund agree that the calculation shall be in accordance with paragraph 2."

(5) In paragraph 2 of Section 2 of Part IV of Schedule F, after the words "paragraph 1(a)" insert "and (aa)".

(6) In paragraph 1 of Schedule H (medical appeals)(**a**) for the words "regulation H2(2A)" substitute "regulation H2(1)" and for the words "regulation H2(2B)" substitute "regulation H2(2)".

(7) In paragraph 7(2) of Schedule H for the words "paragraph 8(2)" substitute "paragraph 8(5)".

Home Office
6th July 2004

Hazel Blears
Minister of State

We consent to the making of these Regulations

Jim Murphy
Nick Ainger
8th July 2004
Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) Schedule H was substituted by regulation 2 of, and paragraph 7 of the Schedule to, S.I. 2004/1491.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions Regulations 1987 as they have effect in England and Wales.

Regulation 2 provides for the amendments in regulation 3(1) to (5) to have retrospective effect in certain cases. The amendments are backdated to 30 April 1998 (the date when the Police Negotiating Board agreed to bilateral arrangements to recognise the rank and service of transferees from the British Transport Police Force for the purposes of pay and allowances). In the case of officers who transferred on or after that date but before 1 February 2001 (the date when the Strategic Rail Authority was established) this backdating is at the discretion of the police authority concerned.

Regulation 3(1) to (5) provides for the transfer payment of the pension of a person who becomes a police officer having previously served in the British Transport Police Force to be treated on the more favourable basis which is already currently accorded to the pensions of police officers who have previously served in other public sector posts. In the case of a person who is aged 55 or over at the time of the transfer, or where there has been an interval of longer than one month between the two periods of service, that more favourable treatment will require the agreement of the British Transport Police Force Superannuation Fund administrators and of the police authority concerned.

Regulation 3(6) and (7) corrects errors introduced into the 1987 Regulations by S.I. 2004/1491.

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