

2014 No. 79

POLICE, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

The Police Pensions (Amendment) Regulations 2014

<i>Made</i> - - - -	<i>15th January 2014</i>
<i>Laid before Parliament</i>	<i>23rd January 2014</i>
<i>Coming into force</i> - -	<i>13th March 2014</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1 to 7 of the Police Pensions Act 1976(a).

In accordance with section 1(1) of that Act, the Treasury(b) have consented to the making of these Regulations and the Secretary of State has consulted with the Police Negotiating Board for the United Kingdom(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Pensions (Amendment) Regulations 2014 and shall come into force on 13th March 2014.

(2) These Regulations extend to England and Wales.

Amendment of the Police Pensions Regulations 1987

2. The Police Pensions Regulations 1987(d) are amended as follows.

3. In regulation A12(2)(e) (disablement), omit “or the widower of a member of a police force”.

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- (a) 1976 c. 35. Sections 1 to 7 were amended by section 2(3) of the Police Negotiating Board Act 1980 (c. 10), paragraph 19 of Schedule 5 to the Police and Magistrates’ Courts Act 1994 (c.29), paragraphs 28 and 29 of Schedule 7 to the Police Act 1996 (c. 16), section 1(1) and (2) of the Police and Firemen’s Pensions Act 1997 (c.52), section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), section 126(1) of and paragraph 6(1) and (2) of Schedule 4 to the Criminal Justice and Police Act 2001 (c.16), paragraph 6(1) of Schedule 3 to the International Development Act 2002 (c. 1), paragraph 30 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraph 58 of Schedule 1 and Part 1(A) of Schedule 15 to the Police and Justice Act 2006 (c. 48), paragraph 11(2) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47), paragraph 2(2) of the Schedule to S.I. 2007/1098 and paragraphs 128 to 130 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13).
- (b) The functions of the Minister for the Civil Service were transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).
- (c) See section 61 of the Police Act 1996.
- (d) S.I. 1987/257.
- (e) Paragraph (2) was amended by S.I. 2003/535, S.I. 2006/932 and S.I. 2009/2060.

4. In regulation G6(a) (payments by women to enhance widowers' awards)—

- (a) in paragraph (1A), after “by the Police Pensions (Amendment) Regulations 2006” insert “or the Police Pensions (Amendment) Regulations 2014”;
- (b) in paragraph (3), at the end insert—
 - “(g) in the case of a woman by whom contributions are payable under regulation G2 on or before the date on which the Police Pensions (Amendment) Regulations 2014 come into force, and who elects to secure the counting of pensionable service after 5th April 1988 and before 17th May 1990 (not being service which is already the subject of an election to enhance her surviving spouse's or surviving civil partner's award), the date on which those Regulations come into force, or
 - (h) in the case of a woman by whom contributions become payable under regulation G2 after the date on which the Police Pensions (Amendment) Regulations 2014 come into force, and who elects to secure the counting of pensionable service after 5th April 1988 and before 17th May 1990 (not being service which is already the subject of an election to enhance her surviving spouse's or surviving civil partner's award), the date on which those contributions become payable.”;
- (c) in paragraph (4A), for “paragraph (3)(c), (d), (e), (f)” substitute “paragraph 3(c), (d), (e), (f), (g) or (h)”;
- (d) in paragraph (13), for “paragraph (3)(c), (d), (e), (f)” substitute “paragraph 3(c), (d), (e), (f), (g) or (h)”.

5. In regulation J1(b) (policeman with a guaranteed minimum for the purposes of the Social Security Pensions Act 1975) —

- (a) in paragraph (4B)—
 - (i) before “a civil partner” insert “a surviving spouse who is the same sex as the policeman or”;
 - (ii) before “surviving civil partner” insert “surviving spouse or”;
- (b) in paragraph (5B), before “surviving civil partner” insert “surviving spouse or”;
- (c) at the end insert—

“(7) Section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Marriage (Same Sex Couples) Act 2013(c) (effect of extension of marriage; interpretation of legislation) do not apply to this Regulation.”.

6. In Part I of Schedule C(d) (widow's ordinary pension)—

- (a) in paragraph 1—
 - (i) in sub-paragraph (2A), for the words “a widower” substitute “the surviving spouse”;
 - (ii) in sub-paragraph (2B), for the words “the surviving civil partner of” substitute “a woman who is the surviving spouse, or who is the surviving civil partner of,”;
 - (iii) in sub-paragraph (2C), for the words “the surviving civil partner of” substitute “a man who is the surviving spouse, or who is the surviving civil partner of,”;
- (b) in paragraph 3, for the words “a man” substitute “a surviving spouse”.

(a) Regulation G6 was inserted by S.I. 1994/641; paragraph (1A) was inserted by SI 2006/740; paragraph (3) was amended by SI 2003/27 and SI 2006/740; paragraph (4A) was substituted by SI 2003/27 and amended by SI 2006/740 and SI 2010/431; paragraph (13) was amended by SI 2003/27 and SI 2006/740; there are other amending instruments but none is relevant to these Regulations.

(b) Paragraphs (4B) and (5B) were inserted by S.I. 2006/740.

(c) 2013 c.30.

(d) Paragraph 1(2A) was inserted by S.I. 1992/2349 and was amended by S.I. 1994/641 and S.I. 2006/740; paragraph 1(2B) and (2C) was inserted by S.I. 2006/740; paragraph 3 was amended by S.I. 1992/2349 and S.I. 2006/740.

7. In Part III of Schedule C(a) (widow's accrued pension)—

- (a) in paragraph 1—
 - (i) in sub-paragraph (1A), for the words “a widower” substitute “the surviving spouse”;
 - (ii) in sub-paragraph (1B), for the words “the surviving civil partner of” substitute “ a woman who is the surviving spouse, or who is the surviving civil partner of,”;
 - (iii) in sub-paragraph (1C), for the words “the surviving civil partner of” substitute “a man who is the surviving spouse, or who is the surviving civil partner of,”;
- (b) in paragraph 3(4), for the words “A man” substitute “A surviving spouse”.

8. In Part IV of Schedule C(b) (widow's pension in the case of post-retirement marriage)—

- (a) in paragraph 4, for the words “a widower”, substitute “the surviving spouse”;
- (b) in paragraph 5, for the words “the surviving civil partner of” substitute “ a woman who is the surviving spouse, or who is the surviving civil partner of,”;
- (c) in paragraph 6, for the words “the surviving civil partner of” substitute “a man who is the surviving spouse, or who is the surviving civil partner of,”.

9. In Part V of Schedule C(c) (widow's requisite benefit pension)—

- (a) in paragraph 1—
 - (i) in sub-paragraph (a), for the words “a widower” substitute “the surviving spouse”;
 - (ii) in sub-paragraph (b), for the words “the surviving civil partner of” insert “a man who is the surviving spouse, or who is the surviving civil partner of,”;
- (b) in paragraph 1A, for the words “the surviving civil partner of” substitute “ a woman who is the surviving spouse, or who is the surviving civil partner of,”.

Amendment of the Police (Injury Benefit) Regulations 2006

10. The Police (Injury Benefit) Regulations 2006(d) are amended as follows.

11. In regulation 7(4) (disablement), for “widower” substitute “surviving spouse”.

12. In regulation 13 (adult survivor's special award)—

- (a) in paragraph (10), for “a widower” substitute “the surviving spouse”;
- (b) in paragraph (11), for the words “the surviving civil partner of” substitute “a woman who is the surviving spouse, or who is the surviving civil partner of,”;
- (c) in paragraph (12), for the words “the surviving civil partner of” substitute “a man who is the surviving spouse, or who is the surviving civil partner of,”.

13. In regulation 20(1) (adult dependent relative's special pension), for paragraphs (c) and (d), substitute—

“(c) where the member was a woman who was married or in a civil partnership, and where her spouse or civil partner was permanently disabled at the time the member died, to her surviving spouse or surviving civil partner,”.

14. In paragraph 2(a) of Schedule 5 (dependent relative's special pension), for “widower” substitute “surviving spouse”.

(a) Paragraphs 1(1A) and 3(4) were inserted by S.I. 1992/2349 and amended by S.I. 2006/740; paragraph 1(1B) and (1C) was inserted by S.I. 2006/740.
(b) Paragraph 4 was inserted by S.I. 1992/2349 and amended by S.I. 1994/641 and S.I. 2006/740; paragraphs 5 and 6 were inserted by S.I. 2006/740.
(c) Paragraphs 1(a) and (b) and 1A were substituted by S.I. 2006/740.
(d) S.I. 2006/932, to which there are amendments not relevant to these Regulations.

Home Office
14th January 2014

Damian Green
Minister of State

We consent

David Evennett
Sam Gyimah

15th January 2014

Two Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions Regulations 1987 (“the 1987 Regulations”) and the Police (Injury Benefit) Regulations 2006 in consequence of the Marriage (Same Sex Couples) Act 2013. Section 11 of the Act provides for the law of England and Wales to apply to marriages of same sex couples as it applies to marriages of opposite sex couples. Schedule 3 includes “glossing” provisions which require references in legislation to marriage, married couples and people who are married to be read as including references to marriages of same sex couples, and there is similar provision in relation to people who are living together as a married couple.

In the case of legislation concerning survivor benefits in public service pension schemes where people in a marriage are treated differently to people in a civil partnership, the Government's policy is to make contrary provision with the effect that survivors of marriages of same sex couples are treated in the same way as surviving civil partners, rather than survivors of marriages of opposite sex couples.

These Regulations implement this policy in the case of the 1987 Regulations and the Police (Injury Benefit) Regulations 2006 by amending the relevant references to widowers and civil partners. The reference to a widower in regulation A12(2) of the 1987 Regulations is redundant and is omitted altogether.

Regulation 4 of these Regulations amends regulation G6 of the 1987 Regulations. Widowers' benefits, along the same lines as those available to widows, were introduced into those Regulations with effect from 17th May 1990. Regulation G6 was added in 1994 in order to give female members the opportunity to make additional payments to secure that service between 6th April 1988 and 17th May 1990 counted in the calculation of these widowers' benefits. On the introduction of civil partnerships in 2006, regulation G6 was amended so as to extend a further opportunity to make such payments to female members who had not previously elected to do so because they related only to benefits for widowers. Regulation 4 makes similar amendments to regulation G6 to reflect the introduction of marriages of same sex couples.

Regulation 5 amends regulation J1 (4B) of the 1987 Regulations. Paragraph (4B) entitles a surviving civil partner of a deceased police officer to a pension of one half of that police officer's guaranteed minimum. Regulation 5 of these Regulations amends paragraph (4B) to put a surviving spouse of the same sex as the deceased police officer in the same position as a surviving civil partner of a deceased police officer.

Regulation 6 amends paragraph 1 of Part I of Schedule C to the 1987 Regulations. Schedule C deals with widows' awards, and paragraph 1 deals with the amount of a widow's ordinary pension. Regulation 6 of these Regulations inserts wording which puts surviving spouses in the same position as widowers and surviving civil partners in relation to the calculation of pension benefits and different periods of pensionable service.

Regulation 7 amends Part III of Schedule C to the 1987 Regulations, which deals with widows' accrued pensions. Regulation 7 inserts wording to put surviving spouses of the same sex as a

deceased police officer in the same position as surviving spouses of a deceased opposite sex police officer in relation to accrued pension rights. Surviving spouses are put in the same position as surviving civil partners in relation to accrued pension rights. A surviving spouse is put in the same position as a man or a surviving civil partner of a woman in relation to the limit on the amount of flat rate award under Regulation E10 of the 1987 Regulations.

Regulation 8 amends Part IV of Schedule C to the 1987 Regulations, to put surviving spouses in the same position as surviving civil partners in relation to widows' pensions in case of post-retirement marriage or civil partnership.

Regulation 9 amends Part V of Schedule C to the 1987 Regulations. In paragraph 1(a), surviving same sex spouses are put in the same position as widowers in relation to widows' or widowers' requisite benefit pensions. In paragraph 1(b), male surviving same sex spouses are put in the same position as surviving civil partners in relation to widowers' requisite benefit pensions. In paragraph 1A, female surviving same sex spouses are put in the same position as female surviving civil partners in relation to widowers' requisite benefit pensions.

These Regulations also amend regulations 7 and 13 of the Police (Injury Benefit) Regulations 2006 to put surviving same sex spouses in the position of surviving opposite sex spouses, or surviving civil partners. Schedule 5 to the Police (Injury Benefit) Regulations 2006 is amended in relation to an adult dependent relative's special pension so that same sex spouses who were members of the pension scheme are in the same position as if they were opposite sex spouses or were in a civil partnership.

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£4.00

UK201401171 01/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/79>

ISBN 978-0-11-110852-9



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