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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No.**

**PENSIONS**

**The Police Pensions (Amendment) (Scotland) Regulations 2008**

<i>Made</i> - - - - -	2008
<i>Laid before the Scottish Parliament</i>	2008
<i>Coming into force</i> - - -	2008

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1 to 8 of the Police Pensions Act 1976(a), and of all other powers enabling them to do so.

In accordance with section 1(1) of that Act they have consulted with the Police Negotiating Board for the United Kingdom(b).

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Police Pensions (Amendment) (Scotland) Regulations 2008.

(2) These Regulations come into force on [ ] 2008 and, subject to paragraph (3), have effect from 1st April 2006(c).

(3) (a)[Regulations 6(c), 16, 17, 19 and 22(7) have effect from 1st April 2002;]

(b) Regulation 7 has effect from 1st April 2006 to 30th September 2006;

(c) Regulations 29 to 43 have effect from 6th April 2006; and

(d) Regulations 4 (in so far as it inserts paragraph (5C) into regulation A6 of the 1987 Regulations), 8, 10(2) to (4) and (6), 11 to 13, 15, 20, 21 and 23 to 28 have effect from 1st October 2006.

(4) These Regulations extend to Scotland only.

**Interpretation**

**2.** In these Regulations—

the “1987 Regulations” means the Police Pensions Regulations 1987(d);

the “2007 Regulations” means the Police Pensions (Scotland) Regulations 2007(e);

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(a) [1976 (c. 35) (“the Act”). Section 1 is amended by section 2(3) of the Police Negotiating Board Act 1980 (c.10), section 103 and 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). These powers are extended by section 42 of the Welfare Reform and Pensions Act 1999 (c.30). The functions of the Secretary of State under the Act as regards Scotland are transferred to the Scottish Ministers by S.I. 1999/1750 article 2, Schedule 1. The requirement for consent by the Minister for the Civil Service under section 1 of the Act was transferred to Treasury by virtue of S.I. 1981/1670, and such consent is not required in the exercise by the Scottish Ministers of the transferred functions by virtue of S.I. 1999/1750 and section 63 of the Scotland Act 1998 (c.46).]

(b) See section 61 of the Police Act 1996 (c.16).

(c) Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

(d) S.I. 1987/257.

(e) S.S.I. 2007/201.

the “Increased Benefits Regulations” means the Police Pensions (Purchase of Increased Benefits) Regulations 1987(a); and

the “Injury Benefits Regulations” means the Police (Injury Benefits) (Scotland) Regulations 2007(b).

### **The Police Pensions Regulations 1987**

3. The 1987 Regulations are amended in accordance with regulations 4 to 24.

4. After paragraph (5) of regulation A6 (meaning of certain expressions in relation to persons who are not members of a home police force) insert–

“(5A) For the purposes of these Regulations, a specified employee of SOCA shall be deemed to be a member of a home police force, except where the context otherwise requires.

(5B) In relation to a specified employee of SOCA–

- (a) a reference in these Regulations to a force shall be construed as a reference to SOCA;
- (b) a reference in these Regulations to a police authority shall be construed as a reference to SOCA.

(5C) For the purposes of regulation B2A–

- (a) a specified employee of SOCA shall be deemed to hold the rank of a member of a home police force (other than the metropolitan police force) equivalent to his SOCA grade as set out in the following table–

<i>SOCA grade</i>	<i>Equivalent rank</i>
5	constable
4	sergeant
3	inspector (but not chief inspector)
2	superintendent (but not chief superintendent)
1	chief superintendent; and

- (b) a specified employee of SOCA with a SOCA grade which is higher than 1 shall be deemed to hold the rank of assistant chief constable.”.

5.—(1) Regulation A16 (Transfers) is amended as follows.

(2) In paragraph (d), omit “or”.

(3) At the end of paragraph (e) insert–

“or

- (f) being a specified employee of SOCA, leaving SOCA for the purpose of joining a home police force as a regular policeman and joining that force in that capacity, where he leaves SOCA after giving notice of his intention to do so to SOCA in accordance with his contract of employment.”.

6. In regulation A17 (retirement)–

(a) after paragraph (1)(a) insert–

“(aa) to the contract under which a specified employee of SOCA is employed by SOCA being terminated;”;

(b) at the end of paragraph (f) insert “and subsequently becoming a specified employee of SOCA”; and

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(a) S.I. 1987/2215.

(b) S.S.I. 2007/68.

(c) omit paragraph (4).

7. In regulation A18 (compulsory retirement on account of age)–

(a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (4)”; and

(b) after paragraph (3) insert–

“(4) This regulation shall not apply to a specified employee of SOCA.”.

8.—(1) For regulation A18 (compulsory retirement on account of age) there is substituted–

“**A18.**—(1) Subject to the following provisions of this regulation, every regular policeman shall be required to retire–

(a) if he is of the rank of constable, sergeant or inspector, on attaining the age of 60 years;

(b) if he holds any higher rank, on attaining the age of 65 years.

(2) The time at which, under paragraph (1), a person shall be required to retire may be postponed, if the person concerned holds a rank above that of superintendent, by the police authority, and, if he holds the rank of superintendent or any lower rank, by the chief officer of police.

(3) Paragraph (1) has effect subject to paragraphs 5(2) and 6(3) of Part VII of Schedule J.

(4) This regulation shall not apply to a specified employee of SOCA.”.

9. In paragraph (1) of regulation A19 (compulsory retirement on grounds of efficiency of the force) for “or assistant chief constable” substitute “, assistant chief constable or specified employee of SOCA”.

10.—(1) Regulation B1 (policeman’s ordinary pension) is amended as follows.

(2) For paragraph (2), substitute–

“(2) Except in the circumstances mentioned in paragraph (3), this Regulation shall not apply to a regular policeman where–

(a) he is of the rank of superintendent or below, and he retires or has retired without having given to the police authority a month’s written notice of his intention to retire or such shorter notice as may have been accepted by the police authority; or

(b) he is of a rank above superintendent, and he retires or has retired without having given to the police authority three months’ written notice of his intention to retire or such shorter notice as may have been accepted by the police authority.”.

(3) For paragraph 3(b), substitute–

“(b) being a regular policeman who has been appointed for a fixed term under regulation 11 of the Police (Scotland) Regulations 2004<sup>(a)</sup>, he retires or has retired at the end of that appointment, or if such a term has been extended, at the expiry of the extension.”

(4) Omit paragraph (3)(ba).

(5) After paragraph (3)(c) insert–

“(ca) being a specified employee of SOCA, he retires or has retired having given to SOCA notice of his intention to retire in accordance with his contract of employment, or

(cb) being a specified employee of SOCA, his contract of employment is or was terminated, or”.

(6) In paragraph (6)(b), for “paragraph (2)(a) or (3)(b)” substitute “paragraph (2) or (3)(ca)”.

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(a) S.S.I. 2004/257.

11. After paragraph (1)(a) of regulation B2 (policeman’s short service award) insert–

“(ab) retires or retired voluntarily in accordance with regulation B2A;”.

12. After regulation B2 (policeman’s short service award) insert–

**“Short service award on voluntary retirement**

**B2A.**—(1) This regulation applies to a regular policeman who is not a member of the metropolitan police [or an overseas policeman]–

- (a) if he is a superintendent or inspector, on or after attaining the age of 60 years;
- (b) if he is a sergeant or constable, on or after attaining the age of 55 years.

(2) A regular policeman to whom this regulation applies may retire voluntarily subject to giving notice in accordance with the following provisions of this regulation.

(3) A regular policeman of the rank of superintendent or below who wishes to retire voluntarily must give to the police authority a month’s written notice of his intention to retire or such shorter notice as may be accepted by the police authority.

(4) A regular policeman above the rank of superintendent who wishes to retire voluntarily must give to the police authority three months’ written notice of his intention to retire or such shorter notice as may be accepted by the police authority.”.

13. In paragraph (4)(b) of regulation B7 (commutation-general provision), after “sub-paragraph (a)” insert “, (ab)”.

14. At the end of paragraph (2A)(b) of regulation E8 (increase of widow’s pension or child’s allowance during first 13 weeks, insert “or, in the case of a specified employee of SOCA, the equivalent allowances to which he was entitled under his contract of employment”.

15. In regulation E10(3)(b) (determination of amount of widow’s or child’s flat rate award and increase thereof by reference to the Pensions Increase Act 1971) for “he could have been required to retire on account of age” substitute “he could have retired voluntarily in accordance with regulation B2A or, where regulation B2A would not apply to him, until he could have been required to retire on account of age”.

16. Omit sub-paragraph (1)(g) of regulation F3 (previous service reckonable without payment).

17. In regulation F8A (former police authority to provide certificate of the amount of pensionable service giving entitlement to pension)–

(a) for paragraph (1) substitute–

“(1) This regulation shall apply where, on or after 31st March 1996, a regular policeman–

- (a) by reason of previous service in a police force becomes entitled to reckon pensionable service either–
  - (i) by virtue of regulation F3(1)(a); or
  - (ii) by virtue of regulation F5 in the circumstances mentioned in paragraph (2) of that regulation (including that paragraph as it has effect by virtue of paragraph (3) thereof); or
- (b) has left a police force and joined the Police Service of Northern Ireland with such consent as is mentioned in regulation A17(2) and the police authority for Northern Ireland is contingently liable to make payments to him under the Police Service of Northern Ireland pensions legislation.”; and

(b) omit sub-paragraph (5)(c).

18. At the end of paragraph (1) of regulation G1 (pensionable and average pensionable pay) insert “and during any period in which a member of a police force is a specified employee of SOCA, it means the pay at the rate to which he is or was then entitled under his contract of employment, account being taken of any retrospective increase in that rate”.

**19.** Omit regulation J3A (transfers to the National Criminal Intelligence Service or the National Crime Squad: prevention of duplication of entitlement).

**20.** In paragraph (1) of regulation K1 (cancellation of ill-health and injury pensions)–

- (a) omit “and” which follows sub-paragraph (b);
- (b) in sub-paragraph (c), after “account of age” insert “or would not have been able to retire voluntarily in accordance with regulation B2A”; and
- (c) after sub-paragraph (c) insert–
  - “and
  - (d) he was not, immediately before he retired with the ill-health pension, a specified employee of SOCA,”.

**21.** In paragraph (a) of the proviso to Regulation K3 (reduction of pension in case of default), after “pensionable service” insert “or have been able to retire voluntarily in accordance with regulation B2A”.

**22.**—(1) Schedule A (glossary of expressions) is amended as follows.

(2) In the definition of “central service”–

- (a) after the words “section 97(1)(b) to (cc)” insert “and (cf)”;
- (b) for “1966” substitute “1996”; and
- (c) for “section 38A(1)(b) to (bb)” substitute “section 38A(1)(b) and (bc)”.

(3) In the definition of “maternity leave” at the end insert “except that in relation to a specified employee of SOCA it means any period of maternity leave taken by that employee whilst employed by SOCA.”.

(4) In the inclusive definition of “member of a police force”–

- (a) omit “and” which follows paragraph (d); and
- (b) after paragraph (e) insert–
  - “and
  - (f) a specified employee of SOCA;”.

(5) In the definition of “parental leave” at the end insert “except that in relation to a specified employee of SOCA it means any period of parental leave taken by that employee whilst employed by SOCA”.

(6) In the definition of “part-time service” at the end insert “or any other part-time service as a regular policeman or part-time employment as a specified employee of SOCA”.

(7) Omit the definition of “police force”.

(8) In the definition of “regular policeman”–

- (a) omit “and” which follows paragraph (c); and
- (b) after paragraph (d) insert–
  - “and
  - (e) a specified employee of SOCA;”.

(9) In the definition of “sick leave” at the end insert “except that in relation to a specified employee of SOCA it means any period of sick leave taken by that employee whilst employed by SOCA”.

(10) After the definition of “sick leave” insert–

““SOCA” means the Serious Organised Crime Agency;

“specified employee of SOCA” means–

- (a) an employee of SOCA who immediately before he 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 last became an employee of SOCA was serving as a police member of the National Criminal Intelligence Service appointed under subsection (1)(b) of section 9 of the Police Act 1997 by virtue of subsection (2)(a) of that section;
- (c) an employee of SOCA who immediately before he last became an employee of SOCA was serving as a police member of the National Crime Squad appointed under subsection (1)(b) of section 55 of the Police Act 1997 by virtue of subsection (2)(a) of that section;”

**23.**—(1) Part III of Schedule B (policeman’s ill-health pension) is amended as follows.

(2) In paragraph 5(1), for “he could be required to retire on account of age” substitute “he could have retired voluntarily in accordance with regulation B2A or, where regulation B2A does not apply to him, until he could be required to retire on account of age”.

(3) In paragraph 5(2), for “he or she could be required to retired on account of age” substitute “he could have retired voluntarily in accordance with regulation B2A or, where regulation B2A does not apply to him, until he could be required to retire on account of age”.

**24.**—(1) Part VI of Schedule B (policeman’s deferred pension) is amended as follows.

(2) In paragraph 1(b), for the words “or until he could be required” to the end, substitute “, until he could be required to retire on account of age, or until he could retire voluntarily under regulation B2A, whichever is the earliest, (here referred to as “hypothetical service”), and”.

#### **The Police Pensions (Purchase of Increased Benefits) Regulations 1987**

**25.**—(1) The Increased Benefits Regulations are amended in accordance with regulations 26 to 28.

**26.** In paragraph 1(b) of regulation 2 (interpretation) for the definition of “retirement date” substitute—

“retirement date” in relation to the period from—

- (a) 1st February 1988 to 30th September 2006 and at any particular time during that period, means, in relation to a regular policeman, the date on which he could be required to retire on account of age if he continued to serve as such without change of rank or transfer from one force to another, disregarding any postponement of that date under regulation A18 (2) of the principal Regulations effected after that time; and
- (b) from 1st October 2006, means, in relation to a regular policeman and at any particular time on or after 1st October 2006, the date on which he could retire voluntarily under regulation B2A of the principal Regulations if he continued to serve as such without change of rank or transfer from one force to another;”.

**27.** For paragraph (3) of regulation 3 (election to purchase increase benefits) substitute—

“(3) When the retirement date of a policeman who has exercised the right of election accorded by paragraph (1) becomes later than it was at the time of his election then, notwithstanding that he may derive no benefit from his election, his liability to make payment in accordance with the following provisions of these Regulations shall not be affected and he shall not be entitled to the repayment of any lump sum or contribution so paid.”.

**28.**—(1) Part I of the Schedule (payments) is amended as follows.

(2) Omit paragraph 3(2)(a).

(3) In paragraph 3(2)(b) omit “(not being a person specified in paragraph (a))”.

(4) In paragraph 4—

- (a) for “the member” in each place substitute “the regular policeman”;

- (b) for “the member’s” in each place substitute “the regular policeman’s”; and
- (c) in sub-paragraph (2), for “Class A member” substitute “regular policeman”.

**The Police (Injury Benefit) (Scotland) Regulations 2007**

**29.** The Injury Benefit Regulations are amended in accordance with regulations 30 to 32.

**30.** After paragraph (2) of regulation 3 (meaning of certain expressions in relation to persons who are not members of a home police force) insert—

“(3) Except where the context otherwise requires, for the purposes of these Regulations a specified employee of SOCA shall be deemed to be a member of a home police force.

(4) In relation to a specified employee of SOCA—

- (a) a reference in these Regulations to a force shall be construed as a reference to SOCA; and
- (b) a reference in these Regulations to a police authority shall be construed as a reference to SOCA.”.

**31.—**(1) Regulation 6 (injury received in the execution of duty) is amended as follows.

(2) In paragraph (2), at the end of sub-paragraph (c) insert—

“or

(d) being a specified employee of SOCA, the member received the injury while exercising any of his or her powers outside the scope of his or her employment.”.

(3) In paragraph (3), after “an officer” (in both places) insert “or employee”.

(4) After paragraph (3) insert—

“(3A) In the case of a person who is a specified employee of SOCA, paragraphs (1) and (2) shall have effect as if references to duty, being on duty and the execution of duty were references to acting within the scope of that person’s employment.

(3B) In paragraph (2)(d), “powers” means any of the powers or privileges that the specified employee of SOCA has, having been designated under section 43 of the Serious Organised Crime and Police Act 2005 as a person having the powers of a constable<sup>(a)</sup>.”.

**32.—**(1) Schedule 1 (glossary of expressions) is amended as follows.

(2) In the inclusive definition of “member of a police force”—

- (a) omit “and” which follows paragraph (a); and;
- (b) at the end of paragraph (b) insert—

“and

(c) a specified employee of SOCA;”.

(3) In the definition of “regular police officer”—

- (a) omit “and” which follows paragraph (b); and
- (b) at the end of paragraph (c) insert—

“and

(d) a specified employee of SOCA;”.

(4) After the definition of “the Scheme actuary” insert—

““SOCA” means the Serious Organised Crime Agency;

“specified employee of SOCA” means—

- (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;

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(a) 2005 (c.15).

- (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 appointed under subsection (1)(b) of section 9 of the Police Act 1997 by virtue of subsection (2)(a) of that section;
- (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 appointed under subsection (1)(b) of section 55 of the Police Act 1997 by virtue of subsection (2)(a) of that section;”.

**The Police Pensions (Scotland) Regulations 2007**

**33.** The 2007 Regulations are amended in accordance with regulations 34 to 43.

**34.** In regulation 3 (meaning of certain expressions in relation to persons who are not members of a home police force)–

- (a) in paragraph (1), after “inspector of constabulary” insert “, a specified employee of SOCA”; and
- (b) after paragraph (2) insert–  
“(3) In relation to a specified employee of SOCA–
  - (a) any reference in these Regulations to the police authority shall be construed as a reference to SOCA; and
  - (b) any reference in these Regulations to a force shall be construed as a reference to SOCA.”.

**35.** In regulation 5 (transfers), at the end of paragraph (b), insert–

“or

- (c) being a specified employee of SOCA, leaving SOCA for the purpose of joining a home police force as a regular police officer and joining that force in that capacity, where the person leaves SOCA after giving notice of intention to do so to SOCA in accordance with the person’s contract of employment.”.

**36.** In regulation 17 (retirement)–

- (a) omit “or” which follows paragraph (1)(c); and
- (b) at the end of paragraph (1)(d), insert–

“or

- (e) leaving a force on joining the National Criminal Intelligence Service or the National Crime Squad and subsequently becoming a specified employee of SOCA.”.

**37.**—(1) Regulation 18 (voluntary retirement) is amended as follows.

(2) In paragraph (2), at the beginning insert “Subject to paragraph (2A)”.

(3) After paragraph (2) insert–

“(2A) A specified employee of SOCA who intends to retire under this regulation shall give the police authority notice of that intention in accordance with his contract of employment.”.

(4) After paragraph (4) insert–

“(5) A specified employee of SOCA shall be deemed to have retired in accordance with this regulation where his or her contract of employment has been terminated.”.

**38.**—(1) Regulation 19 (compulsory retirement on account of age) is amended as follows.

(2) In paragraph (1), at the beginning, insert “Subject to paragraph (4),”.

(3) In paragraph (2), for “subject to paragraph (3)” substitute “subject to paragraphs (3) and (4)”.

(4) After paragraph (3), insert–

“(4) This regulation shall not apply to a specified employee of SOCA.”.

**39.** In regulation 20 (compulsory retirement on grounds of efficiency of the force)–

(a) in paragraph (1), for “This regulation applies” substitute “Subject to paragraph (3), this regulation applies”; and

(b) after paragraph (2), insert–

“(3) This regulation shall not apply to a specified employee of SOCA.”.

**40.**—(1) In regulation 23 (pensionable pay) at the end insert “and during any period in which a member of a police force is a specified employee of SOCA, it means the pay at the rate to which he is or was then entitled under his or her contract of employment, account being taken of any retrospective increase in that rate”.

**41.** In regulation 51 (review and cancellation of pensions payable on the ground of permanent disablement), after paragraph (13) insert–

“(14) In its application to a specified employee of SOCA, this regulation shall apply with the following modifications–

(a) any consideration by the police authority under paragraph (1) shall be of whether the disablement of the person concerned has significantly worsened such that the person has become permanently disabled for engaging in any regular employment (in the case of a person such as is mentioned in paragraph (1)(a)) or improved such that the person’s disablement for engaging in any regular employment has ceased (in the case of a person such as is mentioned in paragraph (1)(b));

(b) any consideration by the police authority under paragraph (1) shall not include any consideration of whether the disability of the person concerned has improved such that the person is no longer disabled for the performance of the ordinary duties of a member of the police force; and

(c) paragraphs (3), (4), (6), (7) and (12) shall not apply.”.

**42.**—(1) Schedule 1 (glossary of expressions) is amended as follows.

(2) In the definition of “maternity leave” at the end insert “except that in relation to a specified employee of SOCA it means any period of maternity leave taken by that employee whilst employed by SOCA”.

(3) In the definition of “parental leave” at the end insert “except that in relation to a specified employee of SOCA it means any period of parental leave taken by that employee whilst employed by SOCA”.

(4) In the definition of “part-time service” at the end insert “or any other part-time service as a regular police officer or part-time employment as a specified employee of SOCA”.

(5) In the definition of “regular police officer” after “inspector of constabulary” insert “, a specified employee of SOCA”.

(6) In the definition of “sick leave” at the end insert “except that in relation to a specified employee of SOCA it means any period of sick leave taken by that employee whilst employed by SOCA.”.

(7) After the definition of “sick leave” insert–

““SOCA” means the Serious Organised Crime Agency;

“Specified employee of SOCA” means–

(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 appointed under subsection (1)(b) of section 9 of the Police Act 1997 by virtue of subsection (2)(a) of that section;

- (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 appointed under subsection (1)(b) of section 55 of the Police Act 1997 by virtue of subsection (2)(a) of that section.””.

**43.**—(1) [Omit paragraph 13 of Schedule 5 (amendment of the Police (Injury Benefit) Regulations 2006)].

St Andrew’s House,  
Edinburgh

2008

Authorised to sign by the Scottish Ministers

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Police Pensions Regulations 1987, the Police Pensions (Purchase of Increased Benefits) Regulations 1987, the Police (Injury Benefit) (Scotland ) Regulations 2006, the Police Pensions (Scotland) Regulations 2007. These amendments make provision for these Regulations to apply to a “specified employee of SOCA”. Specified employees of SOCA are those who immediately before joining SOCA, were serving as the Director General of the National Crime Squad, or a police member of the National Crime Squad or the National Criminal Intelligence Service. The amendments further make a number of changes consequential on the implementation of section 126 of the Criminal Justice and Police Act 2001 (c.16) which made provision for the Director Generals and police members of the National Criminal Intelligence Service and National Crime Squad to become members of the Police Pension Scheme; and they also provide for a new set of compulsory retirement ages for police officers and a new entitlement for voluntary retirement under the Police Pensions Regulations 1987.

These Regulations have effect from 1st April 2006, apart from regulations 6(c), 16, 17, 19 and 22(7) (which have effect from 1st April 2002); regulation 7 (which has effect from 1st April 2006 until 30th September 2006); regulations 29 to 43 (which have effect from 6th April 2006) and regulations 4 (as so far as it inserts paragraph (5C) into regulation A6 of the Police Pensions Regulations 1987), 8, 10(2) to (4) and (6), 11 to 13, 15, 20, 21 and 23 to 28 (which have effect from 1st October 2006).