

Police Federation
Of England and Wales



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Established by Act of Parliament

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FROM THE GENERAL SECRETARY'S OFFICE

IR/sg

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JBB CIRCULAR NO : 032/2011

To: All Branch Boards

Dear Colleagues

PROTECTED PENSION AGE - RETIREMENT AND RE-EMPLOYMENT

We have recently become aware of a potential tax issue for members of the 1987 Police Pension Scheme ("the PPS") who retire and take a pension under the age of 55 and then take up employment as police staff or are re-engaged as police officers.

What follows is a summary of the issue as we understand it and an indication of the steps we are taking. It is not intended to be a comprehensive or definitive statement of the law or the tax position. There may be other factors which are not addressed in this circular that affect the position. Any retiring member who is considering taking up employment as a member of police staff or being re-engaged as a police officer must satisfy him or herself that the implications of doing so are not so adverse as to amount to a deterrent. That may involve seeking assurances from the Force, Police Authority, HMRC or taking independent tax advice.

Our understanding of the issue is, in summary, as follows:

1. From 6 April 2010, the Minimum Pension Age rose to age 55. The rights of members of the PPS to retire in certain circumstances before that age were protected and those members have a Protected Pension Age.

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2. However, that protection can be lost in certain circumstances, meaning that payments become unauthorised and taxable.
3. The particular concern is that on re-employment by certain employers, including for our members potentially a police force or police authority, one of four conditions must be satisfied in order for a member aged between 50 and 54 to remain protected.
4. Those conditions are broadly:
 - recall by the Armed Forces
 - a break in employment of at least six months
 - a break in employment of at least one month and benefits may be abated
 - a break in employment of at least one month and the re-employment is materially different
5. In relation to abatement HMRC guidance states:

“An individual taking benefits from a public service pension scheme who, after one month following becoming entitled to benefits, becomes employed by any of the employers mentioned in RPSM03106064 will not lose their protected pension age if their scheme pension is liable to be reduced by abatement. The pension does not have to be actually reduced, just liable to abatement. For example ‘A’ takes benefits from public service scheme X. After 1 month ‘A’ returns to work for employer X but for reduced hours. ‘A’s pension and new pay level are tested by the scheme to see if their pension should be abated. ‘A’s pension does not need to be reduced, but because it was tested for abatement and could have been reduced ‘A’ keeps their protected pension age for the benefits in payment.”
6. In relation to re-employment being “materially different”, HMRC’s guidance states:

“A simple change in hours will not be a materially different employment. To be a materially different employment the duties and/or the level of responsibility in the new employment must be different from the old employment.”
7. This understanding is drawn from the HMRC guidance at:

<http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM03106065.htm>
<http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM03106065.htm>
8. In relation to members who are under 50, the conditions are different. The position is dealt with at:

<http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM03106065.htm>

We are writing to the Home Office and making, amongst others, the following points:

- expressing our concern that this issue does not appear to have been flagged to police forces and police authorities;
- seeking confirmation of the steps that the Home Office is taking with administrators to ensure that this does not cause any problems in the future; and
- asking the Home Office to issue guidance, preferably with HMRC approval, in relation to abatement and that employment as a member of police staff will, in itself, be regarded as “materially different” from service as a police officer.

Branch Boards should avoid giving advice on tax or financial matters or from giving the impression that they are doing so. Members should be encouraged to seek assurances in the circumstances of their case from the Force or Police Authority or HMRC and to consider taking their own independent tax advice.

Branch Boards should also contact their pension administrator and HR department and seek assurances that:

- the tax implications are understood and appropriate steps taken to minimise the risk of any adverse impact on retired members; and
- those implications will be explained to any retired member before re-employment starts.

I will keep you informed of any further developments.

Yours sincerely



IAN RENNIE

General Secretary