

Pension Forfeiture Procedure

SECTION		PAGE
1	Introduction	2
2	Stage One – Certificate Application	2
	Receipt of Matter by Avon & Somerset Police and Crime Commissioner	2
	Convictions under Appeal	3
	Invitation to Officer/Former Officer to supply written submissions	3
	Response by the Chief Constable	3
	Application by Officer / Former Officer for Payment of Pension Transfer Value	3
	Consideration of Certification Decision by the Committee	4
	Application for a certificate for forfeiture	4
	After the Committee meeting	5
3	Stage Two - Forfeiture Decision	6
	Receipt of Secretary of State’s Decision	6
	Consideration of Forfeiture Decision by the Commissioner	7
	Forfeiture Decision	8
	Right of Appeal	9
4	Annex	
	1. Regulation K5, Police Pension Regulations 1987	10
	2. List of information and papers to be supplied by the Chief Constable	11
	3. List of Information to be included in an Application to the Secretary of State for a Certificate of Forfeiture	13
	4. Matters the Committee may wish to take into account in relation to the Forfeiture Decision	14
	5. Regulation 55 of the Police Pensions Regulations 2006	15
	6. Part 13, Chapter 5 of the Police Pensions Regulations 2015	16

1. Introduction

This document sets out the procedure to be followed by the Avon & Somerset Police and Crime Commissioner ('the Commissioner'), or the people to whom they have delegated the decision-making, when considering pension forfeiture under Regulation K5 of the Police Pensions Regulations 1987 ('the 1987 Regulations'). Regulation K5 is reproduced at the end of this document as Annex 1. This process is also reflected in Regulation 55 of the Police Pensions Regulations 2006 and the Part 13, Chapter 5 of the Police Pensions Regulations 2015 reproduced as Annex 5 and 6 respectively.

There are three stages to the pension forfeiture procedure under Regulation K5:

1. The Commissioner (who is the pension supervising authority) determines whether a pensioner has been convicted of an offence committed in connection with his/her service as a member of the police force and whether an application for a certificate of forfeiture should be made to the Secretary of State for the Home Department ('Certificate Application'). If an application is made, the Secretary of State considers whether to issue a certificate of forfeiture on the basis that the pensioner's offence was either gravely injurious to the interests of the State or liable to lead to serious loss of confidence in the public service;
2. The Commissioner determines whether the pensioner's pension should be forfeited and, if so, by what percentage and for how long ('Forfeiture Decision').

Whilst their occurrence is likely to be rare, there are two other circumstances in which a police pension may be forfeited:

- (a) the pensioner has been convicted of treason (reg K5, paras 2, 3(a));
- (b) the pensioner has been convicted of offences under the Official Secrets Acts 1911 to 1939 and has been sentenced to a term or terms of imprisonment of at least ten years (reg K5, paras 2, 3(b)).

Neither of these circumstances require certification by the Secretary of State.

The Commissioner is responsible for determining the Certificate Application Decision and the Forfeiture Decision. The procedure to be followed in relation to the Decisions is set out below.

2. Stage One - Certificate Application

Receipt of Matter by Avon & Somerset Police and Crime Commissioner

Within 28 days of any criminal conviction or, where appropriate, of any misconduct hearing, the Chief Constable¹ should inform the Commissioner that

¹ It is accepted that in the majority of cases this report will be completed by the Professional Standards Department on behalf of the Chief Constable or Chief Officer Group under delegated authority.

the officer/former officer has been convicted of a criminal offence and should supply a factual report with the information and papers listed at Annex 2.

The Constabulary representative should not make any comments as to whether forfeiture is appropriate or the level of any forfeiture. To do so would be usurping the role of the Commissioner under the legislation.

Convictions under Appeal

If an officer/former officer is intending to appeal against conviction or sentence, the pension forfeiture procedures should be stayed pending the conclusion of appeal proceedings.

Invitation to Officer/Former Officer to supply written submissions

The Commissioner's Office should write to the officer/former officer, or his/her/their representative, inviting written submissions to be placed before the Commissioner as to whether:

- the conviction was in connection with the officer/former officer's service as a member of the police force; and
- an application should be made to the Secretary of State for a certificate of forfeiture.

With the invitation to supply written submissions, the officer/former officer should be sent copies of the information received by the Commissioner's Office from the Chief Constable unless there is an overriding public interest in specific papers being withheld; for example, where a document is protected from disclosure owing to public interest immunity.

The officer/former officer will be asked to submit any written representations that he/she wishes the Commissioner to consider within 28 days. There may be circumstances where a longer time period is appropriate and an extension can be considered. The officer/former officer should be informed that any submissions he/she makes will be sent to the Secretary of State if the Commissioner decides to make an application for a certificate of forfeiture, and their submissions may be provided to the Chief Constable.

Response by the Chief Constable

In certain circumstances – for example, if there is a dispute as to fact or an issue which the Chief Constable could clarify – any submissions received by the officer/former officer may be provided to the Chief Constable to respond or provide clarification. The Chief Constable will respond to any information supplied by the officer/former officer within 21 days.

Application by Officer/Former Officer for Payment of Pension Transfer Value

The officer/former officer may apply to the Commissioner's Office for a calculation of the transfer value of his/her pension. However if disciplinary/court proceedings have begun against the officer/former officer, and it appears to the Commissioner's Office that it may need to forfeit the pension, then the payment of the pension transfer value can be delayed until three months after proceedings have been finalised.

Consideration of Certification Decision by the Committee

Following receipt of the officer/former officer's submissions (and any response by the Chief Constable) the case will be considered by the Committee consisting of:

- The Police and Crime Commissioner;
- The OPCC Monitoring Officer; and
- An independent panel member.

If an officer/former officer has not supplied written submissions, the Commissioner may consider a case provided that it is content that the officer/former officer has been given the opportunity to make written representations.

The Committee will make any decision in private and make the Certificate Application Decision on the papers only.

The Committee will receive a covering report and papers at least 7 days before taking the decision. The papers will include:

- the documents received from the Chief Constable;
- any submissions received from the officer/former officer; and
- any further response from the Chief Constable.

Only in exceptional circumstances, such as overriding public confidence, should the Committee see documents that have not been made available to the officer/former officer.

When considering the Certification Decision, the Committee will **not** determine whether the officer/former officer's police pension should be forfeited. At the first consideration of a case, the Committee will **only** determine whether:

1. As a question of fact, the officer/former officer has been convicted of an offence in connection with his/her service as a member of a police force; and
2. An application should be made to the Secretary of State for a certificate of forfeiture.

Application for a certificate for forfeiture

In determining whether to apply to the Secretary of State for a certificate of forfeiture, it is open to the Commissioner to consider whether the offence was serious and there is, or might be, public concern about the officer/former officer's abuse of a position of trust.

In assessing the seriousness of an offence and the potential for public concern, the Committee may take into account the issues that the Secretary of State will consider pursuant to the 1987 Regulations in deciding whether to issue a certificate of forfeiture, namely whether the offence was:

- (a) gravely injurious to the interests of the State; and/or
- (b) liable to lead to a serious loss of confidence in the public service.

In considering (a) and (b), the Committee may consider the following factors:

- the seriousness with which the Court viewed the offence (as demonstrated by the punishment imposed and the sentencing remarks);
- the circumstances surrounding the offence and the investigation;
- the seniority of the officer/former officer (the more senior, the greater the loss of credibility and confidence);
- the extent of publicity and media coverage;
- whether the offence involved:
 - (i) an organised conspiracy amongst a number of officers;
 - (ii) active support for criminals;
 - (iii) the perversion of the course of public justice;
 - (iv) the betrayal of an important position of trust for personal gain;
 - (v) the corruption or attempted corruption of junior officers.

Full reasons for the Commissioner's decision should be given in the application for a Certificate.

After the Committee meeting

The officer/former officer should be informed in writing of the decision and the reasons. If the Commissioner has determined that the offence, for which the officer/former officer was convicted, is connected with his/her service and an application is to be made for a certificate of forfeiture, the officer/former officer should be informed that any submissions he/she made will be included in the bundle of papers sent to the Secretary of State. The officer/former officer should also be informed that he/she will have an opportunity to make submissions on the question of whether his police pension should be forfeited or not if the Secretary of State issues a certificate of forfeiture.

If the Commissioner decides that an application should be made for a certificate of forfeiture, a letter with supporting documentation should be prepared for the attention of:

Police Integrity Unit, 6th Floor, Fry Building, 2 Marsham Street, SW1P 4DF

E-Mail: pension.forfeiture@homeoffice.gov.uk

The information that should be included with the application, where applicable, is outlined in Annex 3.

The Chief Constable should be informed of the decision to ensure that the pay and pension administrators are notified of the potential of forfeiture.

3. Stage Two - Forfeiture Decision

Receipt of Secretary of State's Decision

The Commissioner's Office will seek to avoid there being undue delay in consideration of the application for a Certificate of Forfeiture by the Home Office by requesting updates as to the position of the application at monthly intervals.

Upon receipt of the Secretary of State's decision, the Commissioner's Office should inform the officer/former officer and the Chief Constable of the Secretary of State's decision. If the Secretary of State has issued a certificate, the officer/former officer should be notified and:

- invited to make submissions as to whether his/her police pension should be forfeited at all, in whole or in part or on a permanent or temporary basis;
- asked to indicate whether he wishes to make oral representations to the Commissioner; and
- asked whether he/she wishes the proceedings to be held in public or in private. If the officer/former officer is serving a prison sentence and intends to attend the Committee meeting, the Committee proceedings will be in private in the interests of security. Remote attendance, by video link or similar, will be explored in the first instance. The officer/former officer will be advised of this condition.

Should the officer/former officer request the opportunity to make oral submissions, arrangements should be made to hold such an oral hearing.

The officer/former officer will be asked to provide any further submissions and responses to the questions raised within 28 days, unless there are circumstances that suggest a longer period would be appropriate.

Consideration of Forfeiture Decision by the Commissioner

In advance of the meeting on the question of a forfeiture decision, those attending will receive a covering report together with appropriate paperwork. The documents will include:

- The papers presented to the Commissioner in relation to the certification decision;
- The certificate of forfeiture; and
- Any further submissions supplied by the officer/former officer.

If the Chief Constable has supplied any further paperwork between the Certification Decision and the meeting to determine the question of forfeiture, the documents will be made available to the officer/former officer for comment unless non-disclosure is justified by an overriding public interest.

The paperwork prepared for the meeting is exempt information under Schedule 12A of the Local Government Act 1972 (as amended). Consequently, although proceedings may be held in public, the documents presented will not be released to the press or public.

Where a Forfeiture Decision is being considered the following procedure will be followed:

1. The member of staff from the Commissioner's Office will outline the issues to be determined. This may include, as appropriate, the matters listed in Annex 4. If the meeting is taking place in public, the officer/or former officer will ensure that any information provided orally is in the public domain. Otherwise, the officer/former officer should refer to the relevant sections of the bundle of documents;
2. The officer/former officer or his/her representative will be invited to make oral submissions to the meeting;
3. Those attending may ask relevant questions;
4. The Chief Constable or his representative will be invited to respond to the oral submissions made by or on behalf of the officer/former officer;
5. Those attending may ask relevant questions;
6. The meeting will convene in private to consider the Forfeiture Decision (see below).

Even if the officer/former officer has requested a hearing in public, the meeting may, at any time, following an application by either the officer/former officer or the Chief Constable or of its own volition, exclude the press and public if it considers that it is appropriate to do so and in accordance with the provisions of Schedule 12A of the Local Government Act 1972 (as amended).

Forfeiture Decision

In considering a Forfeiture Decision, the meeting must determine whether or not a pension should be forfeited and, if so, the extent of forfeiture both in terms of the proportion and the period. In making a decision, the meeting should note the following:

1. There is no jurisdiction to forfeit an allowance, a gratuity, a lump sum or an award by way of repayment of aggregate pension contribution.
2. There is discretion whether or not to forfeit a pension over which there is jurisdiction, and a decision can be taken to forfeit a pension (including an ordinary, short service, ill health, injury or deferred pension), a widow's pension or a dependent relative special pension.
3. A commuted lump sum may not be forfeited. Home Office Guidance recognises that if a police pension is forfeited before it becomes payable (e.g. an ordinary pension before the age of 50 or a deferred pension before the age of 60), there will be little or no pension left to commute for a lump sum.
4. Forfeiture can be temporary or permanent.
5. An officer/former officer's own contributions - or the secured element of a pension - are protected from forfeiture on a permanent basis. Actuarial calculations have assessed the officer/former officer's contributions as 35%. Consequently, the maximum amount that the Committee can permanently forfeit is currently assessed at 65%. There is no minimum amount.
6. It is possible to forfeit the secured portion of a pension on a temporary basis but only until the officer/former officer reaches state pensionable age (unless he or she is imprisoned or in custody).
7. If the pension is a deferred pension, a decision may be taken to stay consideration of the forfeiture question and keep this under review. Such a decision may be subject to challenge and any delay in reaching a decision may be a breach of the officer/former officer's human rights. There are, however, circumstances in which deferment may be appropriate - for example, if an appeal has been lodged.
8. If a number of officers/former officers were involved in the commission of the offence, the decisions may reflect the different levels of culpability in the extent of forfeiture for each officer/former officer.

In addition, in determining the forfeiture decision, the meeting may wish to take into account the matters listed at Annex 4 together with any written or oral submissions, or both, presented to it by the officer/former officer.

Full reasons for any decision taken should be provided. If the meeting has been held in public, the reasons should be announced in public. Any reasons announced publicly must not contain exempt information. If it is not possible to

fully explain the reasons without revealing exempt information, the officer/former officer should be advised that he/she will be provided with comprehensive reasons in private, **within 10 working days**.

The reasons for the decisions should also be notified to the officer/former officer in writing. This notification should be sent within 3 working days of the meeting.

The Chief Constable and the Home Office should also be informed of the final outcome of the matter.

Right of Appeal

Regulation H5 gives a pensioner the right of appeal to the Crown Court against the police authority's role in the decision to forfeit the pension. An officer may appeal against the local policing body's decision that there was a connection between the offence and the pensioner's membership of a police force and against the extent of the forfeiture. The right of appeal lies after the forfeiture has occurred, even if the cause for aggrievement is that the offence was committed in connection with his/her service. A decision to delay the determination as to forfeiture following the issue of a certificate might, in some circumstances, be prejudicial to a successful appeal and liable to challenge. Under the rules of the Crown Court a notice of appeal should be submitted to the Court and any other party to the appeal within 21 days of the day the decision was notified. The Court has discretion, however, to accept an appeal out of time.

Regulation H6 provides a right of appeal to a tribunal appointed by the Secretary of State as police authority against the first and third stages of forfeiture where the pensioner was a central police officer.

Policy Statement Information	
Policy Owner (Head of Contacts and Conduct)	Sally Fox
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ANNEX 1.

Regulation K5, Police Pension Regulations 1987

Forfeiture of pension

K5

1. This Regulation shall apply to a pension payable to or in respect of a member of a police force under Part B or C or under Regulation E(1) (adult dependent relative's special pension).
2. Subject to paragraph (5) a PCC's responsible for payment of a pension to which this Regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and, in the case of a widow's pension, that offence was committed after the death of the pensioner's husband.
3. The offences referred to in paragraph (2) are:-
 - (a) an offence of treason;
 - (b) one or more offences under the Official Secrets Acts 1911 to 1939(a) [(a) 1911 c.28, 1920 c.75, 1939 c.121] for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.
4. Subject to paragraph (5), a PCC's responsible for payment to a member of a police force of a pension to which this Regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the grantee has been convicted of an offence committed in connection with his service as a member of a police force which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.
5. In the case of a pension to which this Regulation applies, other than an injury pension, the PCC in determining whether a forfeiture should be permanent or temporary and affect a pension in whole or in part, may make different determinations in respect of the secured and unsecured portions of the pension; but the secured portion of such a pension shall not be forfeited permanently and may be only forfeited temporarily for a period expiring before the grantee attains state pensionable age or for which he is imprisoned or otherwise detained in legal custody.
6. To the extent to which a pension is forfeited under this Regulation, the PCC shall be discharged from all actual or contingent liability in respect thereof.
7. The provisions of Section 4(1) and (2) of the Police Pensions Act 1948(1) [(a) 1948 c.24] as they have effect by virtue of section 12(2) of the Police Pensions Act 1976(b) [(b)1976 c.35] (forfeiture of pensions), shall not apply in relation to an award under these Regulations.
8. This Regulation has effect subject to Regulation J1(6)(c).

ANNEX 2

List of information and papers to be supplied by the Chief Constable

1. Information about the offence/s, **subject to conviction or appeal**, including:
 - (a) the charge/s brought against the officer/former officer;
 - (b) the offence/s for which the officer/former officer was convicted;
 - (c) the sentence imposed;
 - (d) the circumstances surrounding the offence/s and the investigation;
 - (e) whether the offence/s involved:
 - (i) an organised conspiracy among a number of police officers;
 - (ii) active support for criminals;
 - (iii) the perversion of the court of public justice;
 - (iv) the betrayal of an important position of trust for personal gain;
 - (v) the corruption or attempted corruption of junior officers;
 - (f) details of any appeal;
2. Judge's sentencing remarks.
3. Press and media coverage of the conviction.
4. Details of any disciplinary action taken against the officer/former officer and the outcome of such action
5. Details of the officer/former officer's service history and rank at the time of the offence.
6. The officer/former officer's current address and/or contact details of any legal representative.
7. An estimate of the officer/former officer's pension.
8. Details of any dependents.
9. Any other factors such as:
 - (a) disability in the family;
 - (b) illness at the time of the offence;

- (c) assistance or information given to the police during the investigation or following conviction;
- (d) any other mitigating factors.

ANNEX 3

List of Information to be included in an Application to the Secretary of State for a Certificate of Forfeiture

1. A statement that, in the view of the PCC, the offence was committed in connection with service as a member of the police force and is liable to lead to serious loss of confidence in the public service.
2. Full details of the offence(s) and the perceived connection with police service.
3. Details of the circumstances surrounding the offence and investigation; in particular, whether the offence involved:
 - Organised conspiracy amongst a number of officers;
 - Active support for criminals
 - Perversion of the administration of justice
 - Betrayal of an important position of trust, and/or
 - Corruption or attempted corruption of junior officers.
4. Details of the punishment imposed by the Court and the Judge's sentencing remarks if known.
5. Details of publicity and media coverage.
6. Brief details of the officer/former officer's service, in particular, length of service and seniority; and
7. financial implications, including pension details, widower's and/or children's allowances.

ANNEX 4

Matters the Committee may wish to take into account in relation to the Forfeiture Decision

1. The seriousness with which the Court viewed the offence (as demonstrated by the punishment imposed and the sentencing remarks).
2. The circumstances surrounding the offence and the investigation.
3. The seniority of the officer/former officer (the more senior, the greater the loss of credibility and confidence).
4. The extent of publicity and media coverage.
5. Whether the offence involved:
 - An organised conspiracy amongst a number of officers;
 - Active support for criminals
 - The perversion of the course of public justice
 - The betrayal of an important position of trust for personal gain
 - The corruption or attempted corruption of junior officers.
6. Disability in the family.
7. Illness at the time of the offence.
8. Assistance or information given to the police during the investigation or following conviction.
9. Any other mitigating circumstances.

Forfeiture of pension

55.—(1) This regulation applies to a pension payable—

- (a) under this Part, to a regular police officer or former regular police officer;
- (b) under regulation 39, to a survivor of such a police officer; and
- (c) under Part 6, to a pension credit member.

(2) A police authority responsible for payment of a pension to which this regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and, in the case of an adult survivor's pension, that offence was committed after the death of the police officer in respect of whom the pension is payable.

(3) The offences referred to in paragraph (2) are—

- (a) an offence of treason;
- (b) one or more offences under the Official Secrets Acts 1911 to 1989(1) for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least ten years.

(4) A police authority responsible for payment to a regular police officer of a pension to which this regulation applies may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the grantee has been convicted of an offence committed in connection with his service as a member of a police force which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(5) The police authority may, to such extent as they at any time in their discretion think fit—

- (a) apply for the benefit of any adult or child survivor of the grantee of the pension; or
- (b) restore to the grantee of the pension,

any amount or amounts of any pension that has or have been forfeited under this regulation.

(6) To the extent to which a pension is forfeited under this regulation, the police authority shall be discharged from all actual or contingent liability in respect of it.

(7) This regulation has effect subject to regulation 43(8).

Pension supervising authority

210.—(1) For the purpose of this Chapter, the table in this regulation specifies the pension supervising authority for a member of a police force in England and Wales.

- (2) The pension supervising authority may require the scheme manager to withhold benefits payable to a member under this Chapter.

Forfeiture: offences committed by members

211.—(1) If a member is convicted of a relevant offence, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable under this scheme to or in respect of the member.

- (2) Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of “relevant offence”.
- (3) The scheme manager may only withhold that part of a person's pension that exceeds any guaranteed minimum to which the person is entitled under—

(a) section 14 of PSA 1993 (earner's guaranteed minimum); or

(b) section 17 **F6** of that Act (minimum pension for surviving spouses and civil partners).

- (4) The pension supervising authority may to the extent that in its discretion it thinks fit restore to the member or apply for the benefit of an eligible child or surviving adult of the member any amount of pension that has been forfeited under this regulation.
- (5) In this regulation—
- “forfeiture certificate” means a certificate given by the Secretary of State for the Home Department stating that the Secretary of State for the Home Department considers that the offence—

(a)

- has been gravely injurious to the interests of the State; or

(b)

- is liable to lead to serious loss of confidence in service by members of police forces in England and Wales; and
- “relevant offence” means—

(a)

- one or more offences under the Official Secrets Acts 1911 to 1989 **F7** for which the member has been sentenced on the same occasion to—

(i)

- a term of imprisonment of at least 10 years; or

(ii)

- 2 or more consecutive terms of imprisonment which add up to at least 10 years;

(b)

- an offence committed in connection with the member's service as a member of a police force and in respect of which the Secretary of State for the Home Department has issued a forfeiture certificate.

Forfeiture: offences committed by a member's beneficiary

212.—(1) If the beneficiary of a deceased member of this scheme is convicted of a relevant criminal offence, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme

manager to withhold benefits payable to the beneficiary in respect of the member.

- (2) The scheme manager may withhold benefits but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 17 of PSA 1993.
- (3) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 9 (death benefits) applies as if the beneficiary had died before the member.
- (4) In this regulation—
 - “beneficiary”, in relation to a deceased member of this scheme, means the surviving adult or eligible child of the member;
 - “relevant criminal offence” means—
 - (a) the murder of the member;
 - (b) the manslaughter of the member; or
 - (c) any other offence of which the unlawful killing of the member is an element.

Forfeiture: relevant monetary obligations and relevant monetary losses

213.—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the pension supervising authority may, to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable to P under this scheme.

- (2) The scheme manager may withhold benefits but may only withhold that part of P's pension that exceeds any guaranteed minimum to which P is entitled under section 14 of PSA 1993.
- (3) The scheme manager may not withhold more than the lesser of—
 - (a) the amount of the relevant monetary obligation or relevant monetary loss; and
 - (b) the value of P's entitlement to benefits.
- (4) The scheme manager may only withhold benefits if—
 - (a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or
 - (b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—
 - (i) under an order of a competent court;
 - (ii) in consequence of an award of an arbitrator; or
 - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.
- (5) In this regulation—
 - “relevant monetary obligation” means a monetary obligation which—
 - (a) was incurred to the Crown or P's employer (if different);
 - (b) was incurred after P became an active member of this scheme;
 - (c) arose out of P's criminal, negligent or fraudulent act or omission; and
 - (d) arose out of or was connected with P's service as a member of a police force; and
 - “relevant monetary loss” means a monetary loss which—
 - (a) was caused to this scheme; and

(b)

- arose as a result of P's criminal, negligent or fraudulent act or omission.

Set-off

214.—(1) The pension supervising authority may require the scheme manager to set off a relevant monetary obligation against a member's entitlement to benefits under this scheme.

- (2) In this regulation, a "relevant monetary obligation" is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

- (3) The conditions are that the monetary obligation—

(a) was incurred to the Crown or P's employer (if different);

(b) was incurred after P became an active member of this scheme; and

(c) arose out of or was connected with P's service as a member of a police force.

- (4) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of P's criminal, negligent or fraudulent act or omission.

- (5) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of a payment made to P in error by the scheme manager.

- (6) Paragraph (7) applies if a set-off is to be applied as a result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

- (7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P's entitlement to benefits that represents transfer credits within the meaning of section 124(1) (interpretation of Part 1) of PA 1995 **F8** (other than prescribed transfer credits for the purposes of section 91(5)(d) (exceptions from the inalienability of occupational pensions) of PA 1995 **F9**).

- (8) The scheme manager may only apply a set-off against that part of a member's pension that exceeds any guaranteed minimum to which the member is entitled under section 14 of PSA 1993.

- (9) The value of the set-off applied must not exceed the lesser of—

(a) the amount of the relevant monetary obligation; and

(b) the value of P's entitlement to benefits.

- (10) The scheme manager may only set off a relevant monetary obligation against P's entitlement to benefits if—

(a) there is no dispute as to the amount of the relevant monetary obligation; or

(b) the relevant monetary obligation is enforceable—

(i) under an order of a competent court;

(ii) in consequence of an award of an arbitrator; or

(iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

Forfeiture and set-off: procedure

215.—(1) If the pension supervising authority proposes to require the scheme manager to withhold benefits or apply a set-off against a person's entitlement to benefits, the pension supervising authority must notify the person of the proposal in writing.

- (2) If the scheme manager withholds benefits under regulation 213 (forfeiture: relevant monetary obligations and relevant monetary losses) or applies a set-off against an entitlement to benefits under regulation 214 (set-off), the scheme manager must give the member a certificate showing—

(a) the amount withheld or set off; and

(b) the effect of the withholding or set-off on the member's benefits under this scheme.

Forfeiture: appeals to Crown Court

216.—(1) If the pension supervising authority proposes to require the scheme manager to withhold any benefits payable in respect of a person's service as a member of a home police force ("the member"), the member or a person claiming payment of a benefit in respect of the member may, subject to regulation 209 (limitations on appeals), appeal against the proposal to the Crown Court.

- (2) On an appeal made under paragraph (1), the Crown Court may by order—

(a) confirm or reject the proposal; or

(b) amend the proposal so as to reduce the extent to which the benefits are withheld.

- (3) The scheme manager must comply with any order made by the Crown Court.

Forfeiture: appeals to Secretary of State

217.—(1) If the pension supervising authority proposes to require the scheme manager to withhold any benefits payable to or in respect of a member ("the member") of a police force other than a home police force, the member or a person claiming payment of a benefit in respect of the member may, subject to regulation 209 (limitations on appeals), appeal against the proposal to the Secretary of State.

- (2) Regulation 225 (procedure on appeals to the Secretary of State) sets out the procedure for appeals under this regulation to the Secretary of State.