

Police Federation
Of England and Wales



Ffederasiwn Heddlu
Lloegr a Chymru

Established by Act of Parliament

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FROM THE GENERAL SECRETARY'S OFFICE

IR/sg

18 March 2009

JBB CIRCULAR NO : 013/2009

Dear Colleagues

Outcome of the Judicial Review in to the backdating of commutation factors under the Police Pensions Regulations 1987.

I am pleased to be able to tell you that the High Court has found in favour of the Police Federation in the judicial review of the Home Secretary's decision in relation to the backdating of the new factors for commutation under the Police Pensions Regulations 1987.

The date the new commutation factors should come into effect is the date they were prepared by Government Actuaries Department (GAD), which was 1 December 2006, not a date fixed by the Home Secretary.

The High Court said that there is no scope for affordability or any other public expenditure implication to be taken into account. To do this would be to interfere with the private law rights of the pensioners concerned.

The Home Secretary has 14 days to decide whether to appeal. If this happens, then the decision will not take effect until the appeal is resolved.

If there is no appeal, then the decision means:

- that the new factors, which were backdated to 1 October 2007, will be backdated to 1 December 2006; and

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- that anyone who retired with an immediate pension or whose pension came into payment between 1 December 2006 and 30 September 2007 will be entitled to an additional commutation payment or to an increase in pension (on the basis that a smaller amount would need to be commuted for the lump sum already paid).

There are various administrative and tax issues, outside the scope of the litigation, which result from the decision, including in particular whether any additional commutation payments will be treated as taxable by HMRC, and what should happen if they are. We have raised these issues with the Home Office who have indicated that any tax implications will not affect payments to retired officers. We will provide a further update as soon as possible.

In case of any adverse comment about the cost of police pensions, JBBs should note that commutation is intended to be actuarially neutral i.e. that the lump sum is the exact present equivalent of the future pension that is being given up. This is not "extra" money; rather it is ensuring that the right amount is paid.

Yours sincerely



IAN RENNIE
General Secretary