

**2013 No. 35**

**POLICE**

**The Police Service of Scotland Regulations 2013**

*Made* - - - - - *6th February 2013*

*Laid before the Scottish Parliament* *8th February 2013*

*Coming into force* - - - *1st April 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012(a) and all other powers enabling them to do so.

In accordance with section 54(1) of that Act, they have shared a draft of the Regulations with the Police Negotiating Board for the United Kingdom and have considered any representations made.

In accordance with section 54(2) of that Act, they have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) and have considered any representations made.

**PART 1**

**COMMENCEMENT AND INTERPRETATION**

**Citation and commencement**

1. These Regulations may be cited as the Police Service of Scotland Regulations 2013 and come into force on 1st April 2013.

**Interpretation and application**

2.—(1) In these Regulations—

“the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012;

“Conduct Regulations” means the Police Service of Scotland (Conduct) Regulations 2013(b) and the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013(c);

“police force”, except where the context otherwise requires, means—

(a) a police force maintained before 1st April 2013 under the Police (Scotland) Act 1967(d);

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(a) 2012 asp 8.  
(b) S.S.I. 2013/XXX.  
(c) S.S.I. 2013/XXX.  
(d) 1967 c.77.

- (b) a police force maintained under section 2(1) of the Police Act 1996(a);
- (c) the metropolitan police force;
- (d) the City of London police force;
- (e) the Police Service of Northern Ireland;
- (f) the British Transport Police Force;
- (g) the Ministry of Defence Police, that is to say the force established by section 1 of the Ministry of Defence Police Act 1987(b) or, before the coming into force of that Act, comprising constables appointed under section 3 of the Special Constables Act 1923(c) on the nomination of the Defence Council;
- (h) the Port of Tilbury Constabulary or before the coming into force of the Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992(d), the Port of London Authority's police force, that is to say the force of constables appointed under section 154 of the Port of London Act 1968(e);
- (i) an aerodrome constabulary within the meaning given by section 31(1) of the Aviation Security Act 1982(f);
- (j) the States of Jersey Police Force;
- (k) the salaried police force of the Island of Guernsey; and
- (l) the Isle of Man Constabulary;

“qualifying diploma” and “qualifying examination” have the same meaning as in the Police Service of Scotland (Promotion) Regulations 2013(g);

“representative bodies” means the Police Federation for Scotland and all bodies for the time being recognised by the Scottish Ministers for the purposes of section 64 of the Police Act 1996(h); and

“seaman” has the same meaning as in section 313 of the Merchant Shipping Act 1995(i).

(2) These Regulations apply to constables of the Police Service, other than—

- (a) constables so far as any regulations made under section 15(3) of the 2012 Act so provide;
- (b) constables engaged on temporary service under arrangements made under section 16 of the 2012 Act; or
- (c) special constables appointed under section 9 of the 2012 Act.

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(a) 1996 c.16; section 2 was amended by the Police Reform and Social Responsibility Act 2011 (c.13), section 99 and Schedule 16, paragraph 4.

(b) 1987 c.4. Section 1 has been amended by the Police Act 1996 (c.16), Schedule 7, paragraph 41; the Police (Northern Ireland) Act 1998 (c.32), section 74 and Schedule 4, paragraph 16; and the Police Reform Act 2002 (c.30), section 79.

(c) 1923 c.11.

(d) S.I. 1992/284.

(e) 1968 c.xxxii.

(f) 1982 c.36. Section 31 has been amended by the Greater London Authority Act 1999 (c.29), sections 325 and 423, Schedule 27, paragraph 46 and Schedule 34, Part VII; the Police (Northern Ireland) Act 2000 (c.32), section 78 and Schedule 6, paragraph 8; the Police and Justice Act 2006 (c.48), Schedule 14, paragraph 8; and the Policing and Crime Act 2009 (c.26), Schedule 6, paragraph 12 and Schedule 8, Part 7.

(g) S.S.I. 2013/39.

(h) Section 64 has been amended by the Police Act 1997 (c.50), section 134 and Schedule 9, paragraph 84; the Serious Organised Crime and Police Act 2005 (c.15), Schedule 4, paragraph 79 and Schedule 17, Part 2; the Police and Justice Act 2006 (c.48), Schedule 1, paragraph 69; the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(2) and schedule 8, Part 1; S.I. 2001/3649 and 2007/1098.

(i) 1995 c.21; there are no relevant amendments.

## PART 2

### GOVERNMENT

#### **Part-time appointments**

**3.**—(1) The chief constable may, after consultation with local representatives of the representative bodies, appoint constables to perform part-time service in any rank.

(2) In these Regulations a constable appointed to perform part-time service includes a constable appointed to share a job with another constable and the Scottish Ministers may determine what arrangements constitute sharing a job with another constable and what conditions, if any, apply in relation to such arrangements.

(3) A constable appointed to perform part-time service may not be appointed to serve as a full-time constable without that constable's consent.

(4) A constable appointed to perform part-time service immediately after serving as a full-time constable may give notice in writing of that constable's intention to be re-appointed as a full-time constable and is to be so appointed—

- (a) within one month of the date the notice is received by the chief constable, where the chief constable has a suitable vacancy; or
- (b) in all other cases, no later than 3 months after the day the notice was received.

(5) A constable serving as a full-time constable may not be appointed to perform part-time service without that constable's consent.

(6) In this regulation "full-time constable" means a constable appointed otherwise than under this regulation.

(7) In its application to constables appointed under this regulation to perform part-time service, regulation 17 is modified as follows—

- (a) in paragraph (1) for the words after "compensated in respect of time" to the end substitute "spent on duty in excess of such period as the Scottish Ministers may determine"; and
- (b) omit paragraph (2).

#### **Restrictions on the private life of constables**

**4.**—(1) Schedule 1 has effect.

(2) No other restrictions except those designed to secure the proper exercise of the functions of a constable may be imposed by the Authority or the chief constable on the private life of constables.

#### **Business interests**

**5.**—(1) A constable must not have a business interest without the consent of—

- (a) the Authority, in the case of a senior officer;
- (b) the chief constable, in the case of any other constable, provided that, in the case of any such constable in whose case the chief constable has an interest otherwise than as chief constable, the chief constable must refer the matter to the Authority for it to consider whether to consent.

(2) If a constable acquires or is likely to acquire a business interest, the constable must forthwith give written notice of that interest to the chief constable or, in the case of a senior officer, the Authority.

(3) If a constable has a business interest and is appointed to the office of chief constable, deputy chief constable or assistant chief constable, the constable must forthwith give written notice of that interest to the Authority unless the constable has previously disclosed that interest to the Authority.

(4) An individual applying for appointment to the Police Service, other than an individual referred to in paragraph (5), must give written notice to the chief constable of any business interest which that individual has or is likely to acquire after appointment.

(5) An individual applying for appointment to the office of chief constable, deputy chief constable or assistant chief constable must give written notice to the Authority of any business interest which that individual has or is likely to acquire after appointment.

(6) An individual or constable is regarded as having a business interest if—

- (a) that individual or constable carries on any business or holds any office or employment for hire or gain (otherwise than as a constable) in the United Kingdom;
- (b) that individual or constable resides at any premises where any member of that individual's or constable's family keeps a shop or carries on any like business in Scotland;
- (c) that individual or constable holds, or any member of that individual's or constable's family living with that individual or constable holds, any licence, certificate or permit granted in pursuance of the laws relating to liquor licensing or betting and gaming or regulation of places of public entertainment in Scotland or has any pecuniary interest in such licence, certificate or permit; or
- (d) that individual's or constable's spouse (not being separated from that individual or constable), civil partner (not being separated from that individual or constable) or cohabitant (not being separated from that individual or constable) keeps a shop or carries on any like business in Scotland.

(7) For the purposes of this regulation—

- (a) “member of that individual's or constable's family” includes parent, son, daughter, dependant, brother, sister, spouse (not being separated from that individual or constable), civil partner (not being separated from that individual or constable) or cohabitant (not being separated from that individual or constable); and
- (b) “cohabitant” means a member of a couple consisting of—
  - (i) a man and a woman who are living together as if they were husband and wife; or
  - (ii) two individuals of the same sex who are living together as if they were civil partners.

### **Qualifications for appointment to the Police Service**

6.—(1) A candidate for appointment to the Police Service must—

- (a) produce satisfactory references as to character, and, if that candidate has served in any police force, in the armed forces, in the civil service or as a seaman, produce satisfactory proof of good conduct while so serving;
- (b) have attained the age of 18 years;
- (c) be certified by a registered medical practitioner approved by the Authority to be fitted both physically and mentally to perform the duties on which that candidate will be employed after appointment;
- (d) meet the standard of eyesight determined by the Scottish Ministers;
- (e) if the Scottish Ministers have determined a standard, meet the standard of hearing so determined;
- (f) if a candidate for appointment in the rank of constable, satisfy the chief constable that that candidate is sufficiently educated, including being sufficiently competent in written and spoken English and sufficiently numerate, by passing an assessment to a standard approved by the chief constable and the Scottish Ministers after consultation with those persons mentioned in section 54(2)(a)(i) to (vi) of the 2012 Act;

- (g) if a candidate for appointment in the rank of sergeant, or inspector, be qualified for promotion to such rank in accordance with the provisions of the Police Service of Scotland (Promotion) Regulations 2013(a); and
  - (h) give such information as may be required as to the candidate's previous history or employment or any other matter relating to the candidate's appointment to the Police Service.
- (2) A candidate for appointment to the Police Service must be given a notice in terms approved by the Scottish Ministers drawing attention to the terms and conditions of service.
- (3) For the purposes of this regulation—
- (a) “armed forces” means the naval, military or air forces of the Crown including any women's service administered by the Defence Council; and
  - (b) “police force” includes the Civil Nuclear Constabulary.

### **Appointment of senior officers**

7.—(1) Subject to regulation 6, an individual may not be appointed to the office of chief constable or qualified for appointment to the office of deputy chief constable or assistant chief constable unless that individual holds or has held such rank, and for such period, as the Scottish Ministers must determine in respect of such appointments.

(2) The Scottish Ministers may determine any other requirements that must be satisfied in respect of such appointments and temporary appointments under paragraph (6) and the Authority may determine any additional requirements that must be satisfied in respect of any particular appointment.

(3) An appointment to the office of chief constable or deputy chief constable must be for a fixed term and the Scottish Ministers must determine the range within which a fixed term must fall and the circumstances in which a fixed term appointment may be extended.

(4) Paragraph (3) is without prejudice to any provision whereby a term of appointment comes to an end on promotion, dismissal, the conclusion of disciplinary proceedings and regulation 10.

(5) Subject to paragraph (6), appointment to any office or rank below deputy chief constable must not be for a fixed term.

(6) A constable who is required to perform the duties of a deputy chief constable or an assistant chief constable may be temporarily appointed to that office for such period and on such conditions as the Authority may determine and, in relation to a constable to be temporarily appointed as deputy chief constable, any determination made under paragraph (3) does not apply.

(7) The Scottish Ministers must determine the circumstances in which a vacancy in the office of a senior officer must be advertised; if a vacancy is to be advertised, the advertisement must contain such detail and be published in such manner as the Scottish Ministers may determine. The Scottish Ministers may determine that no appointment is to be made until after a date to be specified in the advertisement.

### **Probationary service in the rank of constable**

8.—(1) Subject to paragraphs (2) and (3), a constable appointed in the rank of constable, other than a constable who has served with a police force having completed the required period of probation therein, is on probation for such period as the Scottish Ministers must determine in respect of such appointments.

(2) A determination under paragraph (1) may provide for the chief constable to have discretion to determine the required period in a particular case.

(3) For the purposes of a determination under paragraph (1), the periods to be counted or disregarded in reckoning service are such as may be determined by the Scottish Ministers.

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(a) S.S.I. 2013/39.

(4) In this regulation “police force” means—

- (a) a police force maintained under section 2(1) of the Police Act 1996(a);
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) the Police Service of Northern Ireland;
- (e) the British Transport Police Force;
- (f) the States of Jersey Police Force;
- (g) the salaried police force of the Island of Guernsey; and
- (h) the Isle of Man Constabulary.

### **Discharge of probationer**

**9.**—(1) Subject to the provisions of this regulation, during a constable’s period of probation the services of that constable may be dispensed with at any time by written notice given by the chief constable if the chief constable considers that that constable is not fitted, physically or mentally, to perform the duties of the office of constable, or that that constable is not likely to become an efficient or well conducted constable.

(2) A constable whose services are dispensed with under this regulation is to be—

- (a) informed in writing of the provisions of paragraph (3); and
- (b) entitled to receive a month’s notice or a month’s pay in lieu thereof.

(3) A constable’s services are not dispensed with in accordance with this regulation and any notice given for the purposes thereof ceases to have effect if that constable gives written notice to the Authority of that constable’s intention to retire and retires in pursuance of the said notice on or before the date on which that constable’s services would otherwise be dispensed with; and such a notice taking effect on that date must be accepted by the Authority notwithstanding that less than a month’s notice is given.

(4) Where a constable has received a notice under this regulation that the services of the constable are to be dispensed with and that constable gives written notice of intention to retire and retires under paragraph (3), that constable is nevertheless entitled to receive pay up to and until the date on which the month’s notice that constable has received would have expired or where that constable has received or is due to receive a month’s pay in lieu of notice that constable remains entitled to that pay notwithstanding the notice that constable has given under paragraph (3).

### **Retirement**

**10.** Constables may retire in such circumstances as must be determined by the Scottish Ministers, and in making such a determination the Scottish Ministers may require such notice of intention to retire as may be specified in the determination, or such shorter notice as may have been accepted by the Authority, to be given to the Authority.

### **Personal records**

**11.**—(1) The chief constable must cause a personal record of each constable to be kept.

(2) The personal record must contain—

- (a) the home address of, and a contact telephone number (if any) for, the constable;
- (b) a photograph not more than 10 years old of the constable taken in accordance with the directions of the chief constable and at the expense of the Authority;
- (c) a personal description of the constable;

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(a) 1996 c.16; section 2 was amended by the Police Reform and Social Responsibility Act 2011 (c.13), section 99 and Schedule 16, paragraph 14.

- (d) particulars of the constable's place and date of birth;
  - (e) particulars of the constable's marriage or civil partnership (if any) and children and other dependants (if any) or, where none, particulars of the constable's next of kin;
  - (f) a record of the constable's service (if any) in any branch of Her Majesty's naval, military or air forces or in the civil service or as a seaman;
  - (g) a record of the constable's service (if any) in any police force including previous service with the Police Service (if any);
  - (h) a record of whether the constable—
    - (i) passed or failed to pass any qualifying examination at which the constable was a candidate;
    - (ii) obtained or failed to obtain any qualifying diploma; and
  - (i) a record of the constable's service in the Police Service, including particulars of all promotions, changes of pay, postings, transfers, removals, injuries received, periods of illness, attendances at training courses, commendations, rewards, punishments, disposals other than cautions, and the date of the constable ceasing to be a constable of the Police Service with the reason, cause or manner thereof.
- (3) The chief constable must cause to be expunged from the personal record—
- (a) any record of a disposal made in terms of the Police (Conduct) (Scotland) Regulations 1996(a) after 3 years free from any disposal other than a caution;
  - (b) in the case of any proceedings taken against the constable under the Police (Efficiency) (Scotland) Regulations 1996(b), any record of proceedings (including any disposal made under those Regulations) after two years have elapsed since the date of the last event to take place in terms of those Regulations in relation to any proceedings taken against the constable;
  - (c) any record of a disposal made in terms of the Conduct Regulations after 3 years free from any disposal other than a caution; and
  - (d) in the case of any proceedings taken against the constable under or by virtue of the Police Service of Scotland (Performance) Regulations 2013(c), any record of proceedings (including any disposal made under or by virtue of those Regulations) after two years have elapsed since the date of the last event to take place in terms of those Regulations in relation to any proceedings taken against the constable.
- (4) Where any such record as is mentioned in paragraph (3) is expunged from a constable's personal record, so much of that personal record as relates to any such record must be destroyed and a new part made out so as not to disclose that the expunged record existed.
- (5) A constable is entitled to inspect that constable's personal record.
- (6) Where a constable ceases to be a constable of the Police Service that constable's personal record must be kept for such time as the chief constable thinks fit and must then be destroyed.

### **Record of constable leaving the Police Service**

**12.—**(1) Where a constable ceases to be a constable of the Police Service the constable must be given a certificate showing that constable's rank and setting out the period of that constable's service in—

- (a) the Police Service; and
- (b) any police force.

(2) The chief constable may append to the certificate any recommendation which the chief constable feels justified in giving in respect of that constable's service with the Police Service.

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(a) S.I. 1996/1642.  
 (b) S.I. 1996/1643.  
 (c) S.S.I. 2013/XXX.

## **Fingerprints and samples**

**13.**—(1) All constables must on appointment and in accordance with the directions of the chief constable have their fingerprints and a sample taken.

(2) Fingerprints, samples or the information derived from samples of constables taken in accordance with this regulation must be kept separate from the fingerprints, samples or the information derived from samples—

- (a) taken in accordance with—
  - (i) sections 18(a), 19(b), 19A(c) and 19AA(d) of the Criminal Procedure (Scotland) Act 1995;
  - (ii) section 56 of the Criminal Justice (Scotland) Act 2003(e);
  - (iii) in the case of fingerprints, section 87(5A)(b) of the Sexual Offences Act 2003(f);
  - (iv) in the case of samples or the information derived from samples, section 87(5A)(c) of the Sexual Offences Act 2003; or
- (b) otherwise lawfully taken and held by or on behalf of the Police Service or in connection with or as a result of an investigation of an offence.

(3) Fingerprints and samples may only be taken for the purpose of enabling a check to be carried out against any other fingerprint, sample or information derived from a sample taken by or on behalf of the Police Service or in connection with or as a result of the investigation of a criminal offence.

(4) The fingerprints, samples or information derived from samples of a constable taken in accordance with paragraph (1), and all copies and records thereof must be destroyed on that constable ceasing to be a constable of the Police Service.

(5) In this regulation “sample” means—

- (a) a sample of hair, other than pubic hair, complete with roots;
- (b) saliva; or
- (c) a swab taken from the mouth.

## **PART 3**

### **DUTY**

#### **Duty**

**14.**—(1) The Scottish Ministers must determine—

- (a) the normal periods of duty of a constable;

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- (a) Section 18 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 47 and 62 and Schedule 3; the Crime and Disorder Act 1998 (c.37), section 119 and Schedule 8, paragraph 117; the Terrorism Act 2000 (c.11), section 41 and Schedule 8, paragraph 20; the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 83 and schedule 6, paragraph 4; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 77(2); and the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(1) and schedule 7, paragraph 12(3).
  - (b) Section 19 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 47, 48 and 62 and the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 203 and schedule 7, paragraph 31; and the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(1) and schedule 7, paragraph 12(7).
  - (c) Section 19A was added by section 48 of the Crime and Punishment (Scotland) Act 1997 (c.48) and has been amended by the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77 and schedule 6, paragraph 4; the Sexual Offences (Scotland) Act 2009 (asp 9), schedule 5, paragraph 2; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 81, section 203 and schedule 7, paragraph 32; and S.S.I. 2005/465, Schedule 1, paragraph 27.
  - (d) Section 19AA was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.
  - (e) 2003 asp 7.
  - (f) Section 87(5A) was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.



- (b) the periods allowed for refreshment;
- (c) the variable shift and flexible working arrangements which may be brought into operation by the chief constable;
- (d) the manner and timing of the publication of duty rosters and the matters to be contained therein; and
- (e) the circumstances in which travelling time may be treated as duty.

(2) In making a determination under paragraph (1)(a) the Scottish Ministers may confer on the chief constable discretion to fix the time at which a period commences for the purposes of the determination and may determine the conditions subject to which that discretion is to be exercised.

(3) In making a determination under paragraph (1)(c) the Scottish Ministers may confer on the chief constable discretion to decide which flexible working arrangements may be brought into operation in particular cases.

(4) In making a determination under paragraph (1)(e) the Scottish Ministers may—

- (a) confer on the chief constable discretion to fix a limit on the travelling time which is to be treated as duty;
- (b) confer on the Authority discretion to fix a limit on the amount of the expenses which may be reimbursed in respect of such travelling time.

(5) In this regulation “travelling time” means time spent by a constable in travelling to and from that constable’s home—

- (a) where that constable is required to perform that constable’s normal daily period of duty in more than one tour of duty, between two tours; or
- (b) where that constable is recalled to duty between two tours of duty, in consequence of that constable’s recall.

#### **Meetings of Police Federation for Scotland treated as police duty**

**15.**—(1) The attendance of a constable at any of the following meetings of the Police Federation for Scotland is to be treated as an occasion of police duty—

- (a) an ordinary meeting of an area committee;
- (b) an ordinary meeting of the joint central committee;
- (c) the annual meeting of the joint central committee with the joint central committee of the Police Federation for England and Wales and the central committee of the Police Federation for Northern Ireland; or
- (d) the biennial meeting of the joint central conference.

(2) Subject to the approval of the chief constable, the attendance of a constable at an additional meeting of an area committee of the Police Federation for Scotland or at a meeting of an area sub-committee is to be treated as an occasion of police duty.

(3) Subject to the approval of the Scottish Ministers, the attendance of a constable of the Police Service at a meeting of the Police Federation for Scotland, other than such a meeting as is mentioned in paragraph (1) or (2), is to be treated as an occasion of police duty.

(4) In this regulation a reference to a particular committee of the Police Federation for Scotland is a reference to that committee mentioned in the Police Federation (Scotland) Regulations 2013(a).

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(a) S.S.I2013/XXX.

## PART 4

### PAY

#### Pay

**16.**—(1) Subject to the following provisions of this Part and Part 7, the pay of constables must be determined by the Scottish Ministers, and in making such a determination the Scottish Ministers may—

- (a) confer such functions in relation to the pay of constables above the rank of chief superintendent on the Authority;
- (b) where the pay of a constable of the rank of chief superintendent or below is payable subject to such conditions as may be specified in the determination, confer on a constable senior in rank to that constable, or any individual employed by the Authority, such functions in relation to those conditions, as they think fit.

(2) Nothing in this regulation or regulation 31 affects the operation of any provisions of the Conduct Regulations, and in relation to a constable suspended or fined thereunder the provisions of paragraphs 1 and 3 of Schedule 2 or of paragraph 4 thereof have effect.

#### Overtime

**17.**—(1) Subject to the provisions of this regulation, the Scottish Ministers must determine the circumstances and manner in which a constable is to be compensated in respect of time—

- (a) for which that constable remains on duty after that constable's tour of duty ends;
- (b) for which that constable is recalled between two tours of duty; or
- (c) which forms part of a tour of duty which that constable is required to begin earlier than the rostered time without due notice and on a day when that constable has already completed that constable's normal daily period of duty,

and such time is referred to in this regulation as "overtime".

(2) For the purposes of this regulation—

"due notice" means notice given at least 8 hours before the revised starting time of the rostered tour of duty in question;

"normal daily period of duty" is construed in accordance with regulation 14;

"recall" does not include a warning to be in readiness for duty if required; and

"tour of duty", in relation to a constable of the Police Service for whom variable shift or flexible working arrangements are in operation under regulation 14(1)(c), means rostered shift.

(3) In making a determination under paragraph (1), the Scottish Ministers may confer on the chief constable discretion to—

- (a) fix the day on which a period commences for the purposes of the determination;
- (b) fix the period within which time off in compensation for overtime is to be granted;
- (c) allow time in addition to that specified in the determination to be taken into account in computing any period of overtime.

#### Public holidays and rest days

**18.**—(1) The Scottish Ministers must determine the circumstances and manner in which a constable is granted leave or otherwise compensated in respect of time spent on duty on—

- (a) public holidays; or
- (b) rostered rest days.

(2) In making a determination under paragraph (1) the Scottish Ministers may confer on the chief constable discretion to fix—

- (a) the time at which, or the day on which, a period commences for the purposes of the determination;
- (b) the period within which time off in compensation for time spent on duty as mentioned in that paragraph is to be granted;
- (c) a limit on the time occupied by a constable in travelling to and from that constable's place of duty which is to be included in a period of duty for the purposes of the determination.

(3) In this regulation—

- (a) “public holiday” means Christmas Day, New Year's Day and each of 6 other days, being as far as practicable local public holidays and in any year where Christmas Day, 26th December or New Year's Day falls on a Saturday or Sunday the 6 other days are increased by one for each day on which Christmas Day, 26th December or New Year's Day falls on a Saturday or Sunday; and
- (b) “rostered rest day”, in relation to a constable who is required to do duty on that day, means a day which according to the duty roster was, immediately before that constable was so required to do duty, to have been a rest day for that constable.

### **Temporary salary**

**19.** The Scottish Ministers must determine the circumstances in which a constable is entitled to receive a temporary salary and the rate of that salary.

### **Temporary promotion**

**20.** The Scottish Ministers must determine the rate of a constable's salary while temporarily promoted under the Police Service of Scotland (Promotion) Regulations 2013 or temporarily appointed under regulation 7(6) of these Regulations.

### **Sick pay**

**21.** The Scottish Ministers must determine the entitlement of constables to pay during periods of sick leave taken in accordance with a determination under regulation 25(5), and in making such a determination the Scottish Ministers may confer on the chief constable discretion to allow a constable of the Police Service to receive more pay than that specified in the determination.

### **Maternity pay, maternity support leave pay, adoption pay and adoption support leave pay**

**22.** The Scottish Ministers must determine the entitlement of constables to pay during periods of—

- (a) maternity and maternity support leave;
- (b) adoption and adoption support leave; and
- (c) paternity leave.

### **Fixing of pay day and calculation of monthly, weekly and daily pay**

**23.—(1)** The intervals at which constables are to be paid must be fixed by the Authority in accordance with such rules as the Scottish Ministers may determine.

(2) The Scottish Ministers must determine the manner of calculating monthly, weekly and daily pay.

## **Deductions from pay of social security benefits and statutory sick pay**

- 24.**—(1) There is deducted from the pay of a constable who is in receipt of full pay—
- (a) the amount of any short-term or long-term incapacity benefit to which the constable is entitled under the Social Security (Incapacity for Work) Act 1994(a);
  - (b) any statutory sick pay to which the constable is entitled under the Social Security Contributions and Benefits Act 1992(b); and
  - (c) any contributory employment and support allowance to which the constable is entitled under the Welfare Reform Act 2007(c).
- (2) For the purposes of paragraph (1)(a) any increase for adult and child dependants is treated as forming part of the benefit or allowance to which it relates.
- (3) For the purposes of this regulation, a female constable, who as a married woman or widow has elected to pay contributions under section 19 of the Social Security Contributions and Benefits Act 1992(d) at the reduced rate, is deemed to be entitled to any social security benefits mentioned in paragraph (1) to which she would have been entitled had she not elected to contribute at the reduced rate.
- (4) In this regulation “full pay” means pay at the rate ascertained from regulation 16, and the determination made thereunder, and Part 7.

## **PART 5**

### **LEAVE**

#### **Leave**

- 25.**—(1) Every constable must, so far as the exigencies of duty permit, be granted in each leave year such annual leave as may be determined by the Scottish Ministers, and in this regulation “leave year” means that period of 12 months beginning on such date as may from time to time be determined by the Authority.
- (2) In making a determination under paragraph (1), the Scottish Ministers may confer on the chief constable discretion—
- (a) to grant such additional days of annual leave in any leave year in such circumstances and subject to such conditions as the Scottish Ministers may determine; and
  - (b) subject to such conditions as the Scottish Ministers may determine, to allow days of annual leave granted under this regulation to be taken as a single period, or as single days, or in periods of more than one day or as half days.
- (3) In a determination under paragraph (1) the Scottish Ministers must make provision for the compensation of a constable for being recalled to duty during a period of annual leave granted under this regulation.
- (4) Annual leave granted under this regulation is additional to the days on which the constable is not required to perform police duties in accordance with a determination under regulation 18 (public holidays and rest days).
- (5) A constable must not be absent from duty on account of injury or illness otherwise than in such circumstances as must be determined by the Scottish Ministers, and in making such a determination the Scottish Ministers may confer on the Authority power to appoint, or approve the

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(a) 1994 c.18.  
(b) 1992 c.4.  
(c) 2007 c.5.  
(d) Section 19 has been amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), section 2 and Schedule 3, paragraph 19 and by the National Insurance Contributions Act 2008 (c.19), Schedule 1, paragraph 5.

appointment of, a medical practitioner for the purposes of any function to be carried out under the determination.

(6) A constable who is pregnant has, in such circumstances as must be determined by the Scottish Ministers, the right not to be unreasonably refused special leave from duty to enable the constable to keep an appointment for the purpose of receiving antenatal care.

(7) A constable qualifies for maternity leave and paternity leave in such circumstances as must be determined by the Scottish Ministers.

(8) A constable must, so far as the exigencies of duty permit, be granted such—

- (a) maternity support leave;
- (b) parental leave;
- (c) adoption leave; and
- (d) adoption support leave,

in such circumstances, as the Scottish Ministers must determine.

(9) In this regulation “maternity support leave” means leave to enable support to be given to an expectant mother at or around the time of birth and “adoption support leave” means leave to enable support to be given to an adoptive parent at or around the time of adoption.

(10) A constable must, so far as the exigencies of duty permit, be entitled to be permitted to take a reasonable amount of time off during periods of duty in order to take such action, and for such purposes, in respect of a dependant of that constable, and subject to such conditions, as must be determined by the Scottish Ministers; and for this purpose the Scottish Ministers may determine the meaning of “dependant” in relation to constables.

(11) The Scottish Ministers may determine that any period of leave or time off taken in accordance with a determination under paragraph (1), (6), (8) or (10) is to be treated as a period of duty.

(12) Paragraph (5) and any determination thereunder apply to a constable who is in quarantine as they apply to a constable who is ill subject, in the case of such a determination, to such modifications as may be determined by the Scottish Ministers.

(13) The Scottish Ministers must determine the circumstances and manner in which a constable is entitled to take a career break and return to duty after taking such a career break.

(14) In making a determination under paragraph (13), the Scottish Ministers may confer functions on the—

- (a) Authority in relation to a constable who holds the rank of assistant chief constable or a higher rank, who takes a career break;
- (b) chief constable in relation to a constable who holds the rank of chief superintendent or a lower rank, who takes a career break.

(15) The chief constable may authorise that any of the functions which are conferred on the chief constable under a determination made under paragraph (13) in relation to career breaks may be carried out by a constable who holds the rank of chief superintendent or a higher rank.

(16) Any determination made under paragraph (13) is without prejudice to any arrangements in place under which a constable is taking a career break at the time that paragraph comes into force.

## PART 6

### ALLOWANCES AND EXPENSES

#### **Allowances**

**26.**—(1) Except in relation to replacement allowance under the Police (Scotland) Regulations 2004<sup>(a)</sup>, the Scottish Ministers must determine the entitlement of constables to any allowance, and in making such a determination the Scottish Ministers may confer on—

- (a) the Authority;
- (b) the chief constable,

such functions—

- (i) in relation to the calculation of an allowance;
- (ii) where the payment of any allowance is subject to such conditions as may be specified in the determination, in relation those conditions,

as they think fit.

(2) No allowances may be paid to a constable except as provided by or under these Regulations or approved by the Scottish Ministers, and the amounts and conditions of payment of such allowances must be as so provided or approved.

(3) Nothing in this regulation applies to the reimbursement of expenses incurred by a constable in the execution of that constable's duty, being expenses authorised either generally or specifically by the Authority in respect of which no allowance is payable under these Regulations and no determination has been made under regulation 27.

#### **Expenses**

**27.**—(1) The Scottish Ministers must determine the entitlement of a constable to reimbursement of any expenses incurred by that constable in or in connection with the execution of that constable's duty.

(2) Where, in making a determination under paragraph (1), the Scottish Ministers specify conditions subject to which expenses are to be reimbursed, they may in that determination confer on—

- (a) the Authority;
- (b) the chief constable,

such functions in relation those conditions as they think fit.

(3) The expenses that may be reimbursed under a determination made under paragraph (1) include tax paid by the chief constable in connection with removal or relocation expenses associated with a constable's appointment to the Police Service.

#### **Continuance of allowances – absence from duty**

**28.** If a constable who is regularly in receipt of an allowance to meet an expense which ceases during that constable's absence from duty is placed upon the sick list or is on maternity leave or adoption leave, the allowance is payable during that constable's absence from duty up to a period of a month, but thereafter, during the remainder of that constable's absence from duty, payment may be suspended at the discretion of the chief constable.

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

### **Allowances in respect of periods of suspension**

29. This Part of these Regulations has effect in relation to a constable suspended under the Conduct Regulations, subject to the provisions of paragraphs 2 and 3 of Schedule 2 to these Regulations.

### **Restriction on payments for private employment of police**

30. Without prejudice to the generality of regulation 26(2), a constable who is engaged on duty at the request of any person who has agreed to pay the Authority for the constable's services is not entitled to any payment for those services except as provided by or under these Regulations; and any payments made in pursuance of that agreement must be made by that person to the Authority.

## **PART 7**

### **RECKONING OF SERVICE**

#### **Reckoning of service**

31.—(1) Subject to regulation 32 and section 15 of the 2012 Act, in reckoning the service of a constable in any rank for the purposes of pay—

- (a) account is to be taken of all that constable's service in that rank;
- (b) where the constable has served in any rank with a police force, account is to be taken of all that constable's service in that rank as if it were service in the corresponding rank in the Police Service; and
- (c) service in a higher rank, on temporary promotion thereto, is to be treated as if it had been service in that higher rank.

(2) For the purposes of this regulation in reckoning a constable's service in any rank—

- (a) that service is to be treated as unbroken by, and including, any period of service in Her Majesty's naval, military or air forces which the constable is entitled to reckon as pensionable service;
- (b) account is to be taken of service in that rank whether it is by virtue of the constable's current appointment to the Police Service or a previous such appointment;
- (c) except where the Authority in the circumstances of a particular case otherwise determines with the approval of the Scottish Ministers, no account is to be taken of any previous service in that rank which terminated in that constable's reduction in rank as a punishment but any previous service in a higher rank which so terminated is to be treated as if it had been service in the rank to which that constable was reduced;
- (d) no account is to be taken of any performance of the duties of that rank in respect of which a temporary salary is payable under regulation 19;
- (e) any period of unpaid leave is to be disregarded;
- (f) any part-time service is to be taken into account as though it were full-time service;
- (g) in the case of a constable who has taken one or more periods of maternity leave or paternity leave (taken in accordance with a determination under regulation 25(7)) or adoption leave (taken in accordance with a determination under regulation 25(8)(c)), the Scottish Ministers must determine how and how much account is to be taken;
- (h) account is to be taken of any period of maternity support leave, parental leave and adoption support leave taken in accordance with a determination under regulation 25(8)(a), (b) and (d) respectively,

and in the case of a constable of a rank higher than that of chief inspector, paragraph (1) has effect subject to any contrary agreement so far as it relates to the reckoning of previous service.

(3) In this regulation “corresponding rank of the Police Service” means the rank designated by the Scottish Ministers as being the corresponding rank in the Police Service.

### **Reckoning by constables of overseas police service**

**32.**—(1) A constable of the Police Service of the rank of constable is entitled to reckon for the purposes of pay for that rank any period of certified overseas police service such as is mentioned in paragraph (2).

(2) The reference in paragraph (1) to certified overseas police service is a reference to—

- (a) continuous service as a member of a police force in any territory or country outside the United Kingdom, being a colony, protectorate or protected state within the meaning of the British Nationality Act 1948(a), a dependent territory within the meaning of the British Nationality Act 1981(b) or, where appropriate, the territory or country wherein the colony, protectorate or protected state or dependent territory was incorporated after the inception of the service, subject to it having been certified by or on behalf of the Secretary of State that—
  - (i) the service was, at its inception, pensionable; and
  - (ii) in the Secretary of State’s opinion the individual concerned ceased so to serve for reasons connected with constitutional developments in the territory or country in question; or
- (b) continuous service for 6 years or more as a member of a police force outside the United Kingdom, subject to it having been certified by or on behalf of the Secretary of State that—
  - (i) the individual concerned so served under a contract of service;
  - (ii) immediately before the individual ceased so to serve, the individual concerned was, for the purposes of section 12 of the Overseas Development Act 1980(c), an individual designated in accordance with such an agreement as is therein mentioned; and
  - (iii) in the Secretary of State’s opinion the individual concerned ceased so to serve for reasons connected with constitutional developments in the territory or country in question,

except that it does not include a reference to service pursuant to an appointment under section 10 of the Overseas Development and Co-operation Act 1980(d) or service pursuant to appointment made in connection with the provision by the Secretary of State of assistance under the International Development Act 2002(e) where that member has a right of reversion under section 15(5) of the 2012 Act.

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(a) 1948 c.56.

(b) 1981 c.61.

(c) 1980 c.63. Section 12 was repealed by Schedule 4 to the International Development Act 2002 (c.1) but, by virtue of paragraph 4 of Schedule 5 to that Act, the repeal does not prevent any agreement entered into under section 12 from continuing to have effect.

(d) Section 10 was repealed by Schedule 4 to the International Development Act 2002 (c.1) but, by virtue of paragraph 3 of Schedule 5 to that Act, officers holding appointment under that section immediately before repeal continue to hold office under that section after repeal.

(e) 2002 c.1.



## PART 8

### UNIFORM AND EQUIPMENT

#### **Issue of uniform and equipment**

**33.**—(1) Constables are entitled to receive from the Authority such uniform and equipment that the Authority determines they need free of charge and in a clean and serviceable condition.

(2) Unless the Authority and constable agree, such uniform and equipment remains the property of the Authority and must be returned when the constable leaves the Police Service.

## PART 9

### DETERMINATIONS

#### **Determinations**

**34.**—(1) Before making a determination under any provision of these Regulations relating to the matters mentioned in section 61(1) of the Police Act 1996(a), the Scottish Ministers must take into consideration any representation made by the Police Negotiating Board and must supply the Board with a draft of the determination; and section 62(2) of the Police Act 1996(b) applies in relation to a representation to be made for the purposes of this paragraph as it applies in relation to a recommendation to be made for the purposes of subsection (1) of that section.

(2) Before making a determination under any provision of these Regulations relating to any other matter, the Scottish Ministers must consult and share a draft of the determination with the persons mentioned in section 54(2)(a)(i) to (vi) of the 2012 Act and consider any representations made by those persons.

(3) A determination under any provision of these Regulations may—

- (a) in relation to regulating pay and allowances, be made with retrospective effect to any date specified in the determination but must not retrospectively reduce any pay or allowance payable to or in respect of any constable;
- (b) make different provision for different cases and circumstances; and
- (c) vary or revoke earlier determinations under these Regulations.

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(a) Section 61(1) has been amended by the Police Act 1997 (c.50), section 134 and Schedule 9, paragraph 81; the Police (Northern Ireland) Act 2000 (c.32), section 78 and Schedule 6, paragraph 12; the Serious Organised Crime and Police Act 2005 (c.15), Schedule 4, paragraph 76 and Schedule 17, Part 2; the Police and Justice Act 2006 (c.48), Schedule 1, paragraph 66; the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 16, paragraph 38; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), schedule 6, paragraph 5; the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(2) and schedule 8; S.I. 1999/1747, 2010/976.

(b) Section 62(2) has been amended by the Police Act 1997 (c.50), section 134 and Schedule 9, paragraph 82; the Criminal Justice and Police Act 2001 (c.16), Schedule 6, paragraph 77; the Serious Organised Crime and Police Act 2005 (c.15), Schedule 4, paragraph 77; the Police and Justice Act 2006 (c.48), Schedule 1, paragraph 67; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), schedule 6, paragraph 5; the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(2) and schedule 8, Part 1; S.I. 1999/1820.

## PART 10

### TRANSITIONAL AND SAVING PROVISIONS AND REVOCATIONS

#### **Transitional and saving provisions and revocations**

**35.** Schedule 3 has effect.

St Andrew's House,  
Edinburgh  
6th February 2013

*KENNY MACASKILL*  
A member of the Scottish Government

## SCHEDULE 1

Regulation 4(1)

### RESTRICTIONS ON THE PRIVATE LIFE OF CONSTABLES

**1.** A constable must at all times abstain from any activity which is likely to interfere with the impartial discharge of that constable's duties or which is likely to give rise to the impression amongst members of the public that it may so interfere; and, in particular, a constable must not take any active part in politics.

**2.** A constable must not, unless that constable has previously given written notice to the chief constable, receive a lodger in a house in which that constable resides and in respect of which that constable receives a replacement allowance (within the meaning of the Police (Scotland) Regulations 2004(a)) or sub-let any part of such a house.

**3.** A constable must not wilfully refuse or neglect to discharge any lawful debt.

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

## SCHEDULE 2

Regulations 16 and 29

### EFFECT OF DISCIPLINARY ACTION ON PAY AND ALLOWANCES

1.—(1) Subject to paragraph 3, a constable suspended under the Conduct Regulations who—

- (a) is detained in pursuance of a sentence of a court in a prison or other institution to which the Prisons (Scotland) Act 1989(a) applies, or is in custody (whether in prison or elsewhere) between conviction by a court and sentence; or
- (b) has absented himself or herself from duty and whose whereabouts are unknown to the chief constable (or deputy chief constable acting under a designation under section 18(3) of the 2012 Act),

is not, by virtue of regulation 16 and Part 7, entitled to pay in respect of that constable's period in detention or custody or, as the case may be, in respect of the period during which that constable's whereabouts are unknown.

(2) Where the constable suspended is a senior officer, sub-paragraph (1)(b) has effect as if for the words "to the chief constable (or deputy chief constable acting under a designation under section 18(3) of the 2012 Act)" there were substituted "to the Authority".

2. Subject to paragraph 3, a constable suspended under the Conduct Regulations is not, by virtue of Part 6 of these Regulations, entitled to any allowance, in respect of the period of suspension, other than—

- (a) a replacement allowance in accordance with the Police (Scotland) Regulations 2004; or
- (b) in the case of a constable to whom paragraph 3(c) does not apply, such allowance as the Scottish Ministers may determine.

3. Where a constable returns to duty when the period of suspension comes to an end and—

- (a) it has been decided that that constable is not to be charged with a disciplinary offence;
- (b) that constable has been so charged and all the charges have been dismissed; or
- (c) that constable has been so charged and has been punished by a reduction in that constable's rate of pay, fine, reprimand or caution,

that constable must receive, as from the date of that constable's suspension, the pay to which, but for paragraph 1, and the allowances to which, but for paragraph 2, that constable would have been entitled by virtue of these Regulations.

4. Where a constable of the Police Service is fined under the Conduct Regulations the fine may, without prejudice to any other method of recovery, be recoverable by way of deductions from the constable's pay during the period of 13 weeks following the imposition of the fine so, however, that the aggregate sum which may be deducted in pursuance of this paragraph in respect of any one week (whether on account of one or more fines) must not exceed a seventh of that constable's weekly pay:

Provided that in the event of the constable leaving the Police Service, the whole amount of any unpaid fine may be deducted from any pay then due.

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(a) 1989 c.45.

## TRANSITIONAL AND SAVING PROVISIONS

**Interpretation****1.** In this Schedule-

“police authority” means a police authority established under section 2 of the 1967 Act;

“police force” means a police force maintained under section 1 of the 1967 Act;

“the 1967 Act” means the Police (Scotland) Act 1967(a);

“the 2004 Regulations” means the Police (Scotland) Regulations 2004;

“transferred constable” means a constable of a police force who is transferred to the Police Service under schedule 5 to the 2012 Act.

**Transitional: part-time service**

**2.**—(1) A transferred constable who, immediately before 1st April 2013, was appointed under regulation 6 of the 2004 Regulations to perform part-time service or to perform part-time service immediately after performing full-time service is, on and after that date, to be regarded as if that transferred constable had been so appointed under regulation 3 of these Regulations.

(2) Any notice given under regulation 6(4) of the 2004 Regulations to the police authority before 1st April 2013 is to be regarded, on and after that date, as if it had been given under regulation 3(4) of these Regulations to the chief constable and the date the notice was received by the police authority is to be regarded as the date the notice was received by the chief constable.

**Transitional: business interests**

**3.**—(1) Any consent given by a police authority or chief constable of a police force under regulation 8(1) of the 2004 Regulations before 1st April 2013 is, on and after that date, to be regarded as if it had been given by the Authority or the chief constable respectively under regulation 5(1) of these Regulations.

(2) Any written notice given to a police authority or chief constable of a police force under regulation 8 of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date, as if it had been given to the Authority or the chief constable respectively under regulation 5 of these Regulations.

(3) Regulation 5(1) of these Regulations does not apply in respect of a business interest within the meaning of regulation 5(6)(c) or (d) of these Regulations which was, immediately before 1st April 2013, not regarded as being a business interest under regulation 8(5)(c) or (d) of the 2004 Regulations but which on that date is regarded as being a business interest under regulation 5(6)(c) or (d) of these Regulations only by virtue of the location of that business interest.

(4) In relation to a constable appointed before 1st April 2013, any consent by the Authority or notice by that constable to the Authority given before that date in respect of any business interest of that constable is to be regarded, on and after that date, as if it had been consented to or notified in accordance with regulation 5 of these Regulations.

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(a) 1967 c.77.

#### **Transitional: transferred senior officers**

4.—(1) Regulation 7(3) of these Regulations applies to an individual to whom paragraph 5(2) of schedule 5 to the 2012 Act applies as it applies to an appointment to the office of deputy chief constable.

(2) Regulation 7(5) of these Regulations does not apply to an individual to whom paragraph 5(4) of schedule 5 to the 2012 Act applies but such an individual may be appointed by the Authority for a single further fixed term after the expiry of the contractual terms transferred by paragraph 3(6) of schedule 5 to the 2012 Act.

#### **Transitional: probationary service in the rank of constable**

5.—(1) This paragraph applies where a transferred constable is, immediately before 1st April 2013, on probation in accordance with regulation 12 of the 2004 Regulations.

(2) For the purposes of these Regulations, any period of probation served in accordance with regulation 12 of the 2004 Regulations by a transferred constable before that date is, on and after that date, to be regarded as if it had been served with the Police Service.

(3) Any determination by a chief constable of a police force of the required period of probation in a particular case in accordance with a determination made under regulation 12 of the 2004 Regulations made before 1st April 2013 is, on and after that date, to be regarded as if it had been determined by the chief constable in accordance with a determination made under regulation 8 of these Regulations.

#### **Transitional: discharge of probationer**

6.—(1) Any written notice given by a chief constable of a police force in accordance with regulation 13(1) of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date, as if it had been given by the chief constable in accordance with regulation 9(1) of these Regulations and for the purposes of regulation 9 of these Regulations any such written notice expires on the same date as if the 2004 Regulations had continued in force.

(2) Any written notice given by a transferred constable to a police authority in accordance with regulation 13(3) of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date, as if it had been given by the transferred constable to the Authority in accordance with regulation 9(3) of these Regulations.

#### **Transitional: retirement**

7.—(1) This paragraph applies in respect of any transferred constable who, before 1st April 2013, gave notice of intention to retire or had such shorter notice accepted in accordance with regulation 14 of the 2004 Regulations or a determination made thereunder.

(2) Any notice of intention to retire given or accepted in accordance with regulation 14 of the 2004 Regulations or a determination made thereunder is to be regarded as if it had been given or accepted in accordance with a determination made under regulation 10 of these Regulations and the transferred constable is to retire on the same date as if the 2004 Regulations had continued in force.

#### **Transitional: fingerprints and samples**

8.—(1) Regulation 13(1) of these Regulations does not apply to any person transferred to the Police Service by schedule 5 to the 2012 Act whose fingerprints, samples or the information derived from samples have been transferred to the chief constable, unless the chief constable so requires in a particular case.

(2) Any fingerprints, samples or the information derived from samples taken in accordance with regulations 18 or 19 of the 2004 Regulations and transferred to the chief constable are to be regarded as having been taken in accordance with regulation 13 of these Regulations and are to be retained, used and destroyed in accordance with that regulation.

### **Transitional: reckoning of service**

9.—(1) Any service of a transferred constable reckoned or disregarded for the purposes of pay in accordance with regulation 24 or Part 7 of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date, as if it had been reckoned or disregarded for the purposes of pay in accordance with regulation 16 or Part 7 of these Regulations.

(2) For the purposes of regulation 16 and Part 7 of these Regulations service is not to be regarded as broken or discontinuous where it would be so regarded solely by virtue of a constable having transferred to the Police Service under schedule 5 to the 2012 Act.

(3) Any period of maternity, maternity support, adoption, adoption support or parental leave being taken immediately before 1st April 2013 is to be reckoned, on or after that date, for the purposes of regulation 16 and Part 7 of these Regulations as if the whole period had taken place in accordance with these Regulations.

### **Transitional: overtime**

10. Any overtime, within the meaning of regulation 25(1) of the 2004 Regulations, served by a transferred constable before 1st April 2013 in respect of which compensation was not paid before that date is to be regarded, on and after that date, as if it was overtime for the purposes of regulation 17 of these Regulations and is to be paid in accordance with that regulation and any determination made thereunder.

### **Transitional: temporary salary**

11. Any transferred constable entitled, or accruing an entitlement, to temporary salary immediately before 1st April 2013 in accordance with a determination made under regulation 27 of the 2004 Regulations is, on that date, to be regarded as if entitled to or accruing entitlement in accordance with a determination made under regulation 19 of these Regulations.

### **Transitional: temporary promotion**

12.—(1) This paragraph applies to any transferred constable of the rank of chief inspector who, immediately before 1st April 2013, was temporarily performing the duties of the rank of superintendent but who had not been temporarily promoted by virtue of a determination made under regulation 27 of the 2004 Regulations.

(2) The unbroken period ending with 1st April 2013 during which the transferred constable was temporarily performing the duties of the rank of superintendent is to be regarded for the purposes of any determination made under regulation 20 of these Regulations as time spent temporarily performing the duties of the rank of superintendent and is to be regarded as continuous with any unbroken period of time beginning with 1st April 2013 during which the constable was temporarily performing the duties of the rank of superintendent in the Police Service.

### **Transitional: sick pay**

13. Any entitlement to sick pay under regulation 28 of the 2004 Regulations or any determination made thereunder existing immediately before 1st April 2013 is, on and after date, to be regarded as existing under regulation 21 of these Regulations and any determination made thereunder and any decision of a chief constable of a police force to pay a higher rate of sick pay is to be regarded as having been taken by the chief constable.

### **Transitional: maternity, maternity support leave, adoption and adoption support leave pay**

14. A transferred constable who, immediately before 1st April 2013, is in receipt of maternity, maternity support, adoption or adoption support leave pay in respect of that leave under regulation 29 of the 2004 Regulations is, on and after date, to continue to receive such pay in accordance with regulation 22 of these Regulations and any determination made thereunder.

### **Saving: university scholars**

15. Notwithstanding the revocation of regulation 32 of the 2004 Regulations, that regulation and any determination made thereunder (including any provision of the 2004 Regulations applied by it) continue to have effect on and after 1st April 2013 in respect of any university scholar, within the meaning of regulation 4(1) thereto, existing immediately before that date until that university scholar completes his or her course of study.

### **Transitional: leave**

16.—(1) Any transferred constable on leave of any type or a career break immediately before 1st April 2013 granted in accordance with regulation 33 of the 2004 Regulations is entitled to continue on that leave or career break on or after that date as if it had been granted in accordance with regulation 25 of these Regulations.

(2) Any balance of annual leave not taken by a transferred constable existing immediately before 1st April 2013 by virtue of regulation 33 of the 2004 Regulations or any determination made thereunder is to be regarded as a balance of annual leave not taken for the purposes of regulation 25 of these Regulations and any determination made thereunder and accordingly able to be taken under that regulation or determination.

(3) Any additional days of leave granted by a chief constable of a police force under regulation 33(2) of the 2004 Regulations before 1st April 2013 are to be regarded as if they had been granted by the chief constable under regulation 25(2) of these Regulations.

(4) Any compensation due to a transferred constable in respect of a recall to duty in accordance with regulation 33(3) of the 2004 Regulations which occurred before 1st April 2013 but which remained unpaid on that date is to be regarded, on and after that date, as compensation due to the transferred constable in accordance with regulation 25(3) of these Regulations.

### **Transitional: uniform and equipment**

17. Any uniform and equipment with which a transferred constable was issued under regulation 45 of the 2004 Regulations is to be regarded as if it was issued under regulation 33 of these Regulations.

### **Saving: replacement allowance**

18. Notwithstanding the revocation of the 2004 Regulations by paragraph 20, those Regulations continue to have effect as they had effect immediately before 1st April 2013, subject to the modifications in paragraph 19, for the purpose of administering the entitlement, reduction, increase or termination of replacement allowance payable by virtue of Schedule 3 to those Regulations.

19.—(1) For the purpose of paragraph 18, Schedule 3 to the 2004 Regulations is modified as follows.

(2) In paragraph 1(2)—

- (a) for “member of a police force” where it first occurs substitute “constable of the Police Service of Scotland”; and
- (b) in head (a) for “that or another police force” substitute “a police force maintained under section 1 of the Police (Scotland) Act 1967”.

(3) In paragraph 1(3) and (4) for “a police force in Scotland” substitute “the Police Service of Scotland”.

(4) In paragraph 1(6) for head (d) substitute—

- “(d) a period of service in accordance with section 72(1)(b) or 73(1)(b) of the Police and Fire Reform (Scotland) Act 2012 as an assistant inspector of constabulary or, as the case may be, as a staff officer of the inspectors of constabulary;



- (e) a period of service under the Crown in connection with research or other services connected with the police provided by the Scottish Ministers,”.

**Revocations**

20. The Regulations mentioned in column 1 of the Table are revoked to the extent specified in column 2.

**Table**

<i>Column 1</i>	<i>Column 2</i>
The Police (Scotland) Regulations 2004 (S.S.I. 2004/257)	The whole Regulations
The Police (Minimum Age for Appointment) (Scotland) Regulations 2006 (S.S.I. 2006/552)	Regulation 2
The Police (Scotland) Amendment Regulations 2007 (S.S.I. 2007/134)	The whole Regulations
The Police (Scotland) Amendment Regulations 2009 (S.S.I. 2009/372)	Regulation 4
The Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011 (S.S.I. 2011/61)	Regulations 11, 12(4), (7) and (8) and 33 and paragraph 4 of Schedule 2

## EXPLANATORY NOTE

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

These Regulations make provision in respect of constables of the Police Service of Scotland.

Part 2 makes provision for the government of constables. Regulation 3 permits constables to perform part-time service in any rank and to change between different patterns of service. Regulation 4 and Schedule 1 place restrictions on the private life of constables and regulation 5 requires constables to notify the chief constable or the Scottish Police Authority, as appropriate, in relation to any business interests they may have, as set out in that regulation. Regulation 6 sets out the qualifications which a candidate for appointment to the Police Service of Scotland must satisfy and regulation 7 makes additional provision in relation to appointment of senior officers. Regulations 8 and 9 deal with probationary service and the counting of probationary service in certain other police forces. Regulations 11 and 12 provide for the personal record of a constable and the details it is to contain and for a certificate of service on a constable leaving the Police Service of Scotland. Regulation 13 requires constables on appointment to give fingerprints and samples for the purpose of comparing them with other such material as part of the investigation of crime.

Part 3 makes provision in relation to duty and for the Scottish Ministers to determine periods of duty, periods for refreshment, variable shift arrangements or flexible working patterns, roster periods and travelling time. Regulation 15 provides that time spent at certain meetings of the Police Federation for Scotland is counted as duty.

Part 4 makes provision about pay, overtime, holidays, temporary salary and temporary promotion and pay during various types of leave. Part 7 makes provision about reckonable service for the purposes of pay and which types of service count for pay purposes.

Part 5 deals with leave entitlement of various types including annual leave, maternity leave, maternity support leave, adoption leave, adoption support leave and parental leave.

Part 6 makes provision about allowances and expenses and Schedule 2 makes provision about how pay and allowances are affected during disciplinary proceedings. Part 8 deals with uniform and equipment and provides that constables are to be provided such uniform and equipment as they need free of charge by the Scottish Police Authority.

Part 10 and Schedule 3 make detailed transitional provision to deal with the transfer of constables to the Police Service of Scotland under schedule 5 to the Police and Fire Reform (Scotland) Act 2012. Paragraph 20 of Schedule 3 contains a table of revocations.

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Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.



£5.75

S2013020710 02/2013 19585

<http://www.legislation.gov.uk/id/ssi/2013/35>

ISBN 978-0-11-101939-9



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