
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 117

The Police (Special Constables) (Scotland) Regulations 2008

PART 2

GOVERNMENT

Restrictions on the private life of special constables

4.—(1) The restrictions on private life contained in Schedule 1 shall apply to all special constables.

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

Business interests

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

(2) If a special constable is likely to acquire a business interest that special constable must forthwith give written notice of that interest to the chief constable, unless that special constable has previously disclosed that interest to that chief constable.

(3) A person applying for appointment to the office of special constable must give written notice to the chief constable of any business interest.

(4) A person shall be regarded as having a business interest for the purpose of this regulation if—

- (a) that person, or any member of that person's family living with that person, holds any licence, certificate or permit granted in pursuance of the laws relating to liquor licensing, betting and gaming or regulating places of public entertainment in the police area of the force to which that person is applying for appointment to the office of special constable or has any pecuniary interest in such licence, certificate or permit; or
- (b) that person is employed in any occupation or holds any appointment which, in the opinion of the chief constable, may cause a conflict of interest with that person's appointment to the office of special constable.

(5) For the purpose of this regulation, the expression "member of that person's family" shall include a parent, son, daughter, brother, sister, spouse (not being separated from that person), civil partner (not being separated from that person) or a cohabitant (not being separated from that person).

(6) For the purpose of this regulation "cohabitant" means a member of a couple consisting of—

- (a) a man and a woman who are living together as if they were husband and wife; or
- (b) two persons of the same sex who are living together as if they were civil partners.

Qualifications for appointment as a special constable

6.—(1) A candidate for appointment to the office of special constable—

- (a) must, if not a national of an EEA State, have leave to enter or remain in the United Kingdom for an indefinite period;
 - (b) must 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;
 - (c) must have attained the age of 18 years;
 - (d) must be certified by a registered medical practitioner approved by the police authority to be fitted both physically and mentally to perform the duties on which that candidate will be employed after appointment;
 - (e) must meet the standard of eyesight determined by the Scottish Ministers;
 - (f) must satisfy the chief constable that he or she is sufficiently educated, including being sufficiently competent in written and spoken English and sufficiently numerate, by passing an examination of a standard approved by the chief constable and the Scottish Ministers after consultation with the Police Advisory Board of Scotland; and
 - (g) must give to the chief constable such information as to his or her current employment, previous history of employment or any other matter relating to his or her appointment as may be required.
- (2) A candidate for appointment to the office of special constable must be given a notice in terms approved by the Scottish Ministers drawing attention to the terms and conditions of service.
- (3) A person who is appointed to the office of special constable must not be appointed for a fixed term.
- (4) In 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) “seaman” has the same meaning as in section 313 of the Merchant Shipping Act 1995⁽¹⁾.

Declaration to be made on appointment

7. The terms of the declaration to be made under section 16 of the 1967 Act⁽²⁾ by a person appointed to the office of special constable shall be as follows—

“I hereby do solemnly and sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable.”.

Retirement

8.—(1) A special constable who wishes to retire voluntarily must give such written notice of intention to retire to the chief constable as may be specified in a determination made by the Scottish Ministers or such shorter notice as may have been accepted by the chief constable.

(2) Subject to regulation 30(2) and (3)(b), a special constable must retire at the age of 60 years.

Contents of personal records

9.—(1) The chief constable must maintain a personal record for each special constable.

(2) The personal record must contain—

- (a) the home address of the special constable;

(1) 1995 c. 21.

(2) 1967 c. 77.

- (b) a photograph of the special constable taken in accordance with the directions of the chief constable and at the expense of the police authority, provided that such photograph shall not be more than 10 years old;
 - (c) a personal description of the special constable;
 - (d) particulars of the special constable's place and date of birth;
 - (e) particulars of the special constable's marriage or civil partnership (if any) and children (if any);
 - (f) a record of the special constable's service (if any) in any branch of Her Majesty's naval, military or air forces or in the civil service;
 - (g) a record of the special constable's service (if any) in any other police force and transfers (if any) from one police force to another;
 - (h) a record of whether the special constable passed or failed to pass any qualifying examination at which the special constable was a candidate; and
 - (i) a record of the special constable's service in the police force, including postings, transfers, removals, injuries received, periods of illness, attendances at training courses, commendations, rewards, punishments, disposals and the date of the special constable ceasing to be a special constable with the reason, cause or manner thereof.
- (3) The chief constable must expunge from the personal record of a special constable—
- (a) any record of any disposal made by the misconduct officer under regulation 22(2)(e) after 3 years from the relevant date; and
 - (b) any record of any other final disposals made under regulation 22 or 23, after 3 consecutive years free, from the relevant date, of any such disposal being imposed on that special constable in relation to another matter.
- (4) Where any such record as is mentioned in paragraph (3) is expunged from a special constable's personal record, so much of that personal record as relates to any such expunged record must be destroyed and a new part made out so as not to disclose that the expunged record existed.
- (5) A special constable is entitled to inspect his or her personal record.
- (6) In this regulation "relevant date" means—
- (a) if the chief constable was not requested to review the matter in accordance with regulation 23, the date on which the disposal was, or disposals were, imposed on the special constable concerned by the misconduct officer; or
 - (b) if the chief constable is requested to review the matter in accordance with regulation 23, the date on which the disposal was, or disposals were, imposed on the special constable concerned by the chief constable.

Transfer of personal records

10. Where a special constable transfers to another police force that special constable's personal record must be transferred to the chief constable of that other police force.

Personal record of special constable leaving force

11.—(1) When a person ceases to be a special constable of a police force, otherwise than by transferring to another police force, that person must be given a certificate setting out the period of his or her service as a special constable in that police force and in any other police force.

(2) The chief constable may append to the certificate any recommendation which the chief constable feels justified in giving, such as that—

- (a) the special constable's conduct was exemplary;
- (b) the special constable's conduct was very good; or
- (c) the special constable's conduct was good.

(3) Where a person ceases to be a special constable of that police force, otherwise than by transferring to another police force, that person's special constable personal record must be kept for such time as the chief constable thinks fit and must then be destroyed.

Fingerprints

12.—(1) All special constables, except those who are appointed following their transfer from another police force, must on appointment and in accordance with the directions of the chief constable have their fingerprints taken.

(2) Fingerprints of special constables taken in accordance with this regulation must be kept separate from the fingerprints taken in accordance with sections 18, 19, 19A and 19AA of the Criminal Procedure (Scotland) Act 1995⁽³⁾, section 56 of the Criminal Justice (Scotland) Act 2003⁽⁴⁾, section 87(5A)(c) of the Sexual Offences Act 2003⁽⁵⁾ or otherwise lawfully taken and held by or on behalf of any police force, or in connection with or as a result of an investigation of an offence.

(3) The fingerprints shall be taken for the purpose of enabling a check to be carried out against any other fingerprint taken by or on behalf of any police force or in connection with or as a result of an investigation of an offence.

(4) The fingerprints of a special constable taken in accordance with this regulation and all copies and records must be destroyed upon that person ceasing to be a special constable of a police force, except that, where that person becomes a special constable of another police force, that person's fingerprints and all copies and records must be transferred to the chief constable of that other police force.

Samples

13.—(1) All special constables, except those who are appointed following their transfer from another police force, must on appointment and in accordance with the directions of the chief constable have a sample taken.

(2) Samples or the information derived from samples of special constables taken in accordance with this regulation must be kept separate from the samples or the information derived from samples taken in accordance with sections 18, 19, 19A and 19AA of the Criminal Procedure (Scotland) Act 1995⁽⁶⁾, section 56 of the Criminal Justice (Scotland) Act 2003⁽⁷⁾, section 87(5A)(c) of the Sexual Offences Act 2003⁽⁸⁾ or otherwise lawfully taken and held by or on behalf of any police force, or in connection with or as a result of an investigation of an offence.

(3) The samples shall be taken for the purpose of enabling a check to be carried out against any other sample or information derived from a sample taken by or on behalf of any police force or in connection with or as a result of an investigation of an offence.

(3) 1995 c. 46; section 19A was inserted by the Crime and Punishment Act 1997 (c. 48) ("the 1997 Act"), section 48(2); section 19AA was inserted by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) ("the 2006 Act"), section 77(2); section 18 was amended by the 1997 Act, section 47 and Schedule 3, the Criminal Justice (Scotland) Act 2003 (asp 7) ("the 2003 Act"), section 55, the 2006 Act, section 83(1) and schedule 6, paragraph 4; section 19 was amended by the 1997 Act, sections 47 and 48, the 2003 Act, section 55 and the 2006 Act, section 77(3); section 19A was amended by the 2006 Act, section 77(4) and schedule 6, paragraph 4.

(4) 2003 asp 7.

(5) 2003 c. 42; section 87(5A) was inserted by the 2006 Act, section 77(7).

(6) 1995 c. 46.

(7) 2003 asp 7.

(8) 2003 c. 42.

(4) The samples or the information derived from samples of a special constable taken in accordance with this regulation, and all copies and records, must be destroyed upon that person ceasing to be a special constable of that police force, except that, where that person becomes a special constable of another police force, that person's samples or information and all copies and records must be transferred to the chief constable of that other police force.

(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.