

EXECUTIVE NOTE

THE SCOTTISH CRIME AND DRUG ENFORCEMENT AGENCY (SCOTLAND) REGULATIONS 2011

SSI 2011/61

Introduction

The above instrument is made in exercise of the powers conferred by section 26(1) of the Police (Scotland) Act 1967 and section 23 (1), (3), (4) and (6) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 ('the 2006 Act'). The instrument is subject to negative resolution procedure.

Background

The 2006 Act put in place powers to allow the Scottish Police Services Authority (SPSA) to appoint police members to work at the Scottish Crime and Drug Enforcement Agency (SCDEA), either through secondment arrangements or through direct recruitment. These powers have not yet been exercised and so no regulatory framework to enable the direct recruitment of police members to SCDEA through appointment by SPSA currently exists. Therefore, at present the SCDEA can only staff police member roles, appointed through SPSA, through secondments, and can not directly recruit and appoint through SPSA.

Staffing of police roles in SCDEA solely through secondment arrangements is no longer sustainable, not least due to the risks arising in respect of SCDEA operational capability, business continuity and business outcomes and consequential implications for Scottish policing more generally.

The implementation of direct recruitment, made possible by paragraph 7(2)(c) of schedule 2 to the 2006 Act, will provide more robust staffing arrangements, greater stability, knowledge and skill retention to ensure operational effectiveness and business continuity.

This instrument forms a key part of the regulatory framework that will underpin the provisions of the 2006 Act and enable the implementation of the direct recruitment of police members to SCDEA, through the SPSA as provided for in paragraph 7(2)(c) of schedule 2 to the 2006 Act.

Policy objectives

The purpose of this instrument is to put in place the main regulatory framework that will apply to the SCDEA, directly recruited police members, appointed by SPSA, under paragraph 7(2)(c) of schedule 2 to the 2006 Act.

Although this is a new instrument its terms largely mirror those of The Police (Scotland) Regulations 2004 that apply to constables of a police force in Scotland. The intention is that police members appointed under paragraph 7(2)(c) of schedule 2 to the 2006 Act, who are under paragraph 7(5)(b) of that schedule appointed to the office of constable of the SCDEA, should be subject to the same regulations as constables of a police force.

In places the text of the regulations differs from the 2004 regulations to reflect the management structure of SCDEA, rather than that of a Scottish police force and to reflect the relationship between SCDEA and the SPSA rather than that of a police force and a police authority. However the overriding principles of the regulations are the same.

The Regulations make an additional provision for service as a constable of a force to be reckonable for the purposes of pay as an SCDEA police member, appointed through SPSA. Similarly, service as an SCDEA directly recruited police member, appointed through SPSA, will also be reckonable on moving to a police force in Scotland.

The Regulations also make clear that police members appointed under paragraph 7(2)(c) of schedule 2 to the 2006 Act will be appointed in ranks from Constable to Chief Superintendent. The qualifications for appointment are the same as those for constable of a force, but subject to an additional criterion requiring appointees to be serving officers who have successfully completed the period of probation as a constable of a force, as is the case for secondees.

SCDEA, through SPSA, retains the existing power to continue to resource police member posts through the use of secondments from forces and other law enforcement bodies. As a consequence not all posts will be filled through direct recruitment; some will continue to be appointed through secondment arrangements. Having the ability to recruit as intended under each of the provisions of schedule 2 7(2)(a)-(c) to the 2006 Act, will allow SCDEA to have a more flexible, sustainable and 'fit for purpose' workforce to deliver the key outcomes and priorities agreed with Scottish Government.

The Regulations do not impose any burdens on SCDEA or any requirement to implement direct recruitment but will provide the SCDEA with a key part of the regulatory framework enabling implementation, thereby providing the Agency with the option to implement.

Content of the Regulations

The Regulations set out the terms and conditions of appointment that will apply to SCDEA direct recruits appointed by SPSA under paragraph 7(2)(c) of schedule 2 to the 2006 Act on recruitment and throughout appointment, including:

- Rank and qualifications on appointment;
- Restrictions on private life and business interests;
- Retirement;
- Personal records and fingerprints and samples;
- Duty;
- Pay, overtime, leave, allowance and expenses;
- Allowances, expenses;
- Reckoning of service; and
- Uniforms and equipment.

These will be supplemented by determinations made by the Scottish Ministers where they are given powers to do so.

Consultation

As the provisions of the Regulations are intended to mirror those that apply to constables of a police force in Scotland, the consultation was confined to the Police Advisory Board for Scotland and the Police Negotiating Board for the UK and other stakeholder bodies.

The consultation sought views on the proposed policy for the regulations for SCDEA direct recruits to be consistent with those that apply to constables of a force in Scotland. Responses to the consultation were generally positive and supported the case for the regulations covering SCDEA directly recruited police members to be the same as those that apply to constables of a force in Scotland.

Impact Assessment

A Regulatory Impact Assessment (BRIA) has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. An equality impact assessment (EQIA) has been carried out, it raised no particular issues and will be published on the Scottish Government website in due course.

Financial Effects

Little financial effect arises from the Regulations in view of the fact that their terms mirror those that have applied to constables of a force in Scotland since 2004. Any resultant financial liability arising from the regulations is therefore already factored into Scottish Police Service funding. Also the Regulations do not seek to make change in police numbers, but instead simply introduce a new route of recruitment for the SCDEA, from an existing pool of police officers, which in the medium to longer term should provide financial savings, as the number of secondees reduce, and the number of directly recruited officers increases.

Some minor cost arises as a consequence of the implementation of direct recruitment, including provision for setting up payroll and pension administration, and other recruitment, staff welfare and equipment costs. This is estimated at approximately £30k spread over a three year period as the number of direct recruits increases. Any on-going additional cost is expected to be off-set from the savings arising through the reduction in secondees and turnover, and redistribution of budget allocations within existing SCDEA and SPSA funding provisions.

Scottish Government,
Safer Communities Directorate
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