

## **POLICY NOTE**

### **THE POLICE SERVICE OF SCOTLAND (AMENDMENT) (No. 2) REGULATIONS 2013**

**SSI 2013/125**

The above instrument was made in exercise of the powers conferred by section 48 and section 125(1) of the Police and Fire Reform (Scotland) Act 2012. The instrument is subject to negative procedure.

#### **Policy Objectives**

1. These Regulations make corrections and clarifying amendments to various Regulations setting out conditions of service for constables, special constables and cadets of the Police Service of Scotland. Apart from regulation 5, these amendments have been made after consideration of comments made by the Subordinate Legislation Committee on the Regulations which are amended.
2. Regulation 2 amends the Police Service of Scotland Regulations 2013 (“the main Regulations”).
  - 2.1. Paragraph (2) amends the definition of ““qualifying diploma” and “qualifying examination””. This refers back to the Police Service of Scotland (Promotion) Regulations 2013, but there is no single definition of “qualifying examination” in those Regulations, only separate examinations A (elementary), A (advanced), B and C. This amendment therefore changes the definition in the main Regulations to refer to the four separate qualifying examinations.
  - 2.2. Paragraph (3) amends the structure of regulation 7(4) of the main Regulations to clarify that regulation 7(3) is without prejudice to regulation 10 (retirement) and a fixed term appointment coming to an end on any one of promotion, dismissal or the conclusion of disciplinary proceedings.
  - 2.3. Paragraph (4) makes a more direct reference in regulation 24(1)(a) to the legislation under which incapacity benefit is paid. It should be section 30A of the Social Security Contributions and Benefits Act 1992; that section was inserted by the Social Security (Incapacity for Work) Act 1994.
  - 2.4. Paragraph (5) updates the terminology in relation to overseas service which can be reckoned for pay. The British Nationality Act 1981 identified “dependent territories”, and these were renamed “British overseas territories” by the British Overseas Territories Act 2002. Since the maximum length of service for a constable is 30 years, there is no need to continue to refer to service with colonies, protectorates and protected states as they were defined under the British Nationality Act 1948 prior to 1981.
  - 2.5. Paragraph (6) removes an erroneous revocation of regulation 12(7) and (8) (which does not exist) of the Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011.

3. Regulation 3 amends the Police Service of Scotland (Police Cadets) Regulations 2013. The instrument revoked by Part 3 of the Schedule should be the Police (Minimum Age for Appointment) (Scotland) Regulations 2006.
4. Regulation 4 amends the Police Service of Scotland (Special Constables) Regulations 2013. Regulation 7(2)(h) refers to qualifying examinations, which are not relevant to special constables who cannot be promoted. The reference is therefore removed.
5. Regulation 5 corrects a small typographical error in the Police Service of Scotland (Conduct) Regulations 2013.
6. Regulation 6 amends the Police Service of Scotland (Performance) Regulations 2013.
  - 6.1. The amendment in paragraph (2) relates to appeals brought in relation to action taken against a constable on grounds of unsatisfactory performance. It provides that, in determining an appeal, the chief constable must take into account representations made by both the appellant and the chairing constable (the constable whose decision is being appealed). Previously only representations made by the appellant could be considered. Although this arrangement was carried forward from previous procedures, it has been identified as an anomaly, which this amendment removes.
  - 6.2. Paragraph (2) makes two minor corrections to the Schedule.

### **Consultation**

7. The amendments included in these Regulations deal with matters mentioned in section 61(1) of the Police Act 1996 and other matters. As required by section 54 of the Police and Fire Reform (Scotland) Act 2012, therefore, a draft of these Regulations was shared for consultation with the Police Negotiating Board for the UK and separately with the chief constable, the Scottish Police Authority, the Scottish Police Federation, the Association of Scottish Police Superintendents, the Scottish Chief Police Officers Staff Association and the Association of Chief Police Officers for Scotland.

### **Impact Assessments**

8. This Order has no effect on any equality issues.

### **Financial Effects**

9. The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.