

## SCOTTISH STATUTORY INSTRUMENTS

# 2013 No. 35

## The Police Service of Scotland Regulations 2013

PROSPECTIVE

### 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).

#### Commencement Information

II Reg. 3 in force at 1.4.2013, see [reg. 1](#)

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## 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.

### Commencement Information

**I2** Reg. 4 in force at 1.4.2013, see [reg. 1](#)

## 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),

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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.

#### **Commencement Information**

**I3** Reg. 5 in force at 1.4.2013, see [reg. 1](#)

### **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(1); 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.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### Commencement Information

**I4** Reg. 6 in force at 1.4.2013, see [reg. 1](#)

#### 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.

#### Commencement Information

**I5** Reg. 7 in force at 1.4.2013, see [reg. 1](#)

#### 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.

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

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) a police force maintained under section 2(1) of the Police Act 1996(2);
- (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.

#### Commencement Information

**I6** Reg. 8 in force at 1.4.2013, see [reg. 1](#)

#### 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).

#### Commencement Information

**I7** Reg. 9 in force at 1.4.2013, see [reg. 1](#)

#### 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

(2) [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.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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.

#### Commencement Information

**I8** Reg. 10 in force at 1.4.2013, see [reg. 1](#)

#### 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;
  - (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(3) 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(4), 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(5), any record of proceedings

(3) S.I. 1996/1642.

(4) S.I. 1996/1643.

(5) S.S.I. 2013/61.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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.

#### Commencement Information

**I9** Reg. 11 in force at 1.4.2013, see [reg. 1](#)

### 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.

#### Commencement Information

**I10** Reg. 12 in force at 1.4.2013, see [reg. 1](#)

### 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(6), 19(7), 19A(8) and 19AA(9) of the Criminal Procedure (Scotland) Act 1995;

- (6) 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).
- (7) 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).
- (8) 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

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (ii) section 56 of the Criminal Justice (Scotland) Act 2003<sup>(10)</sup>;
  - (iii) in the case of fingerprints, section 87(5A)(b) of the Sexual Offences Act 2003<sup>(11)</sup>;
  - (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.

#### Commencement Information

**III** Reg. 13 in force at 1.4.2013, see [reg. 1](#)

(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.

(9) Section 19AA was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.

(10) 2003 asp 7.

(11) Section 87(5A) was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police Service of Scotland Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- [Regulations applied by S.S.I. 2013/60 reg. 6\(4\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- [reg. 6\(1\)\(i\) inserted by S.S.I. 2013/122 reg. 2\(3\)\(c\)](#)
- [reg. 6\(1\)\(i\) words inserted by S.I. 2019/745 reg. 35\(a\)](#)
- [reg. 6\(4\) inserted by S.I. 2019/745 reg. 35\(b\)](#)
- [reg. 11\(3A\) inserted by S.S.I. 2016/51 reg. 41\(3\)](#)
- [reg. 22\(d\) and word inserted by S.S.I. 2016/419 reg. 1\(2\)\(c\)](#)