

## **POLICY NOTE**

### **THE POLICE SERVICE OF SCOTLAND REGULATIONS 2013**

#### **SSI 2013/35**

1. The above instrument was made in exercise of the powers conferred by section 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”).

#### **Policy Objectives**

2. The 2012 Act, which received Royal Assent on 7 August 2012, changes the policing landscape in Scotland. It brings together the current eight forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency into a single Police Service of Scotland from 1 April 2013.

3. This instrument forms part of a suite of regulations to be made under section 48 of the Act, relating to the governance and administration of the Police Service of Scotland. It is required to put in place terms and conditions of service for constables in the Police Service, and make provision in relation to governance of the service from appointment as a constable to retirement.

4. The overall policy aim is to ensure that constables retain their current terms and conditions on transfer to the Police Service of Scotland, and to maintain those terms and conditions for constables appointed on and after 1 April 2013. The provisions of these Regulations therefore reflect the pre-existing legislation, the Police (Scotland) Regulations 2004, with only such technical changes as are necessary to ensure that they are up to date and fit for purpose in the context of the 2012 Act.

#### **Provisions**

5. These Regulations apply generally to constables of the Police Service of Scotland, with limited exceptions. The exceptions are for categories of constable whose conditions of service are regulated by other enactments – constables on certain types of outward temporary service by virtue of regulations under section 15 of the 2012 Act; constables of other police forces who are on inward temporary service with the Police Service, who remain subject to the regulations governing their home force; and special constables who are subject to the Police Service of Scotland (Special Constables) Regulations 2013.

6. Part 2 makes provision for the governance of the Police Service. This Part ensures that constables appointed to the Police Service are sufficiently educated and both mentally and physically fit to serve, places certain limitations on constables’ private lives and their and their families’ business interests to avoid any conflict with their police duties, and requires all constables to complete a period of probation determined by the Scottish Ministers (with the exception of constables who have moved from specified police forces which are considered to have equivalent probationary periods). Regulation 3 allows constables to be appointed to perform part-time service but only with their consent. Candidates for appointment to senior officer ranks must also satisfy any requirements determined by the Scottish Ministers and any post-specific requirements determined by the Scottish Police Authority. Temporary

appointments to Assistant and Deputy Chief Constable ranks are also allowed, similar to temporary promotion to lower ranks under the Police Service of Scotland (Promotion) Regulations 2013.

7. Regulations 11 and 13 enable the chief constable to obtain information (for personal records), fingerprints and samples relating to serving constables and hold them for specified purposes throughout the constable's service.

8. Constables are entitled to voluntarily retire under regulation 10 and associated determination and regulation 12 requires the chief constable to provide a certificate at the end of the constable's service.

9. Part 3 gives the Scottish Ministers powers to determine constables' normal periods of duty, periods allowed for refreshment, rosters and travelling time which may be treated as duty, and to confer certain discretion on the chief constable. This includes powers to determine variable shift and flexible working arrangements which the chief constable may bring into operation. Attendance at certain meetings of the Police Federation for Scotland are also treated as police duty.

10. Part 4 regulates constables' pay as well as overtime, public holidays and rest days. The Scottish Ministers have powers to set rates of pay and make other provision about pay, public holidays and rest days by determination. In addition to setting ordinary rates of pay, Ministers must also determine constables' entitlement to a temporary salary (e.g. when 'acting up' in a higher rank without having been temporarily promoted to that rank), rates of pay for constables who are temporarily promoted, and entitlements to pay during periods of sick leave as well as maternity, maternity support, adoption, adoption support and paternity leave. Determinations under this Part may confer certain functions in relation to pay and overtime on the chief constable or, in relation to senior officers, the Scottish Police Authority. Schedule 2 clarifies the effect of disciplinary action under the Police Service of Scotland (Conduct) Regulations 2013 and the Police Service of Scotland (Conduct) (Senior Officers) Regulations 2013 on pay and allowances.

11. Part 5 ensures constables are entitled to annual leave and gives the Scottish Ministers powers to determine circumstances in which constables are entitled to maternity and paternity leave, and circumstances in which they may be granted maternity support, parental, adoption and adoption support leave. Regulation 25(13) also allows for constables to take career breaks, in accordance with a determination made by Ministers. Determinations under this Part may confer certain functions or discretion on the chief constable and, in relation to career breaks, the Scottish Police Authority.

12. Part 6 allows the Scottish Ministers to determine constables' entitlement to allowances and expenses in connection with their duties. Again, those determinations may confer certain functions on the Scottish Police Authority and the chief constable.

13. Part 7 sets out how service in any rank in the Police Service and other police forces and constabularies in the UK, as well as specified overseas police service, will be reckoned for the purposes of pay. Periods of temporary promotion are reckonable as are periods of maternity, paternity and adoption leave are also reckonable in accordance with determinations made by the Scottish Ministers. However, periods of 'acting up' (i.e. where a temporary salary is payable under regulation 19), unpaid leave or service in a rank ending

with that constable being reduced in rank as a punishment are not reckonable. In addition to service in the Police Service and other police forces, a constable's service is to be treated as unbroken by and including any period of service in HM naval, military or air forces which are reckonable as pensionable service under relevant pensions legislation.

14. Part 10 and Schedule 3 make transitional and saving provisions, to ensure a smooth transition from the old policing structures under the Police (Scotland) Act 1967 to the new landscape introduced by the 2012 Act. These generally do no more than to ensure that anything done under the 2004 Regulations is treated as having been done under these Regulations.

15. There are however a few exceptions, where more substantive provision is made. Paragraph 4(2) ensures that constables who transfer to the Police Service in the rank of Assistant Chief Constable by virtue of paragraph 5(4) of schedule 5 to the 2012 Act, whose previous appointments were for a fixed term, will transfer on that same fixed term appointment. This reflects the policy that constables should transfer to the Police Service on their pre-existing terms and conditions. Paragraph 15 ensures that any university scholar who transfers to the Police Service may complete his or her course of study. These Regulations do not make tailored provision for university scholars in the Police Service, as it is considered that future arrangements for constables to undertake university study will not require specific provision. Paragraphs 18 and 19 save Schedule 3 to the 2004 Regulations relating to replacement allowance, so that any constable in receipt of an allowance under that Schedule will continue to receive it in accordance with those provisions on and after 1 April.

## **Consultation**

16. The Scottish Government established a stakeholder Reference Group to inform policy development for these Regulations. The Scottish Government then carried out a public consultation from 14 December 2012 until 11 January 2013.

## **Impacts**

17. A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government  
Safer Communities Directorate  
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