

2013 No. 39

POLICE

The Police Service of Scotland (Promotion) Regulations 2013

Made - - - - *6th February 2013*

Laid before the Scottish Parliament *8th February 2013*

Coming into force - - *1st April 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012(a) and all other powers enabling them to do so.

In accordance with section 54(2) of that Act, they have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) and have considered any representations made.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Police Service of Scotland (Promotion) Regulations 2013 and come into force on 1st April 2013.

(2) These Regulations apply only in relation to promotions to the ranks below that of assistant chief constable.

Interpretation

2.—(1) In these Regulations (except where the context otherwise requires)—

“the 1968 Regulations” means the Police (Promotion) (Scotland) Regulations 1968(b);

“the 1996 Regulations” means the Police (Promotion) (Scotland) Regulations 1996(c);

“constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012, except that it does not include—

(a) the chief constable;

(b) other senior officers; or

(c) any special constable (being an individual appointed under section 9 of that Act);

“qualifying diploma” has the meaning given by regulation 4(1);

“qualifying examination A (elementary)” means an examination, a pass in which being a qualification for promotion from the rank of constable to that of sergeant, held before

(a) 2012 asp 8.

(b) S.I. 1968/717, amended by S.I. 1971/344, 1976/1073, 1981/86, 1984/648, 1988/260, 1993/251 and 1994/1953, and revoked by S.I. 1996/221.

(c) S.I. 1996/221, amended by S.S.I. 2004/257, 2007/528 and 2009/372.

8th March 1993 under arrangements made by the Police (Scotland) Examinations Board in accordance with the Schedule to the 1968 Regulations(a);

“qualifying examination A (advanced)” means an examination, a pass in which being a qualification for promotion from the rank of sergeant to that of inspector, held before 8th March 1993 under arrangements made by the Police (Scotland) Examinations Board in accordance with the Schedule to the 1968 Regulations(b);

“qualifying examination B” means the Police (Scotland) Promotion Examination, a pass in which being a qualification for promotion, held at any time during the period beginning on 8th March 1993 and ending on 29th February 1996 under arrangements made by the Police (Scotland) Examinations Board in accordance with the Schedule to the 1968 Regulations(c);

“qualifying examination C” means the Police (Scotland) Promotion Examination, a pass in which being a qualification for promotion, held at any time during the period beginning on 1st March 1996 and ending on 9th December 2009 in accordance with Schedule 1 to the 1996 Regulations.

(2) In these Regulations, except where otherwise indicated, any reference to—

- (a) a numbered regulation, is reference to the regulation so numbered in these Regulations;
- (b) a numbered paragraph in a regulation or Schedule to these Regulations, is a reference to the paragraph so numbered in that regulation or, as the case may be, in that Schedule; and
- (c) a numbered Schedule, is a reference to the Schedule to these Regulations so numbered.

Qualification for promotion

3. A constable qualifies for promotion only if the constable has obtained the qualifying diploma.

Qualifying diploma

4.—(1) The qualifying diploma is the Diploma in Police Service Leadership and Management, obtained on or after 1st April 2013.

(2) A constable is eligible to take the course to obtain the qualifying diploma (“the qualifying diploma course”), only if the constable has—

- (a) completed the required period of probation in the rank of constable; and
- (b) successfully applied for a place on the course.

(3) For the purpose of paragraph (2)(a)—

- (a) “required period of probation” means the period of probation determined under regulation 8 of the Police Service of Scotland Regulations 2013(d);
- (b) a constable is taken to have completed the required period of probation if the constable has completed such period of probation, in any police force specified in regulation 8(4) of those Regulations, as is required of constables appointed to the rank of constable in that police force.

(4) The qualifying diploma course is to be held at least once in each calendar year.

(5) The Scottish Ministers must determine—

- (a) the application process and procedures in relation to the qualifying diploma course; and
- (b) the content and format of the syllabus upon which the qualifying diploma course will be based.

(6) The Scottish Ministers may, in making a determination under paragraph (5), confer such functions on the Authority or the chief constable in relation to that determination as they think fit.

(a) The Schedule was relevantly amended by S.I. 1971/344.

(b) The Schedule was relevantly amended by S.I. 1971/344.

(c) The Schedule was relevantly amended by S.I. 1971/344 and 1993/251.

(d) S.S.I. 2013/35.

Selection for promotion

5.—(1) Promotion from one rank to another rank is to be by selection.

(2) The fact that a constable qualifies for promotion does not entitle the constable to promotion, or to promotion before another constable who qualified for promotion at a later date.

Period of probation for constable promoted to the rank of sergeant

6.—(1) A constable who is promoted to the rank of sergeant (“a sergeant”) is to be on probation in that rank for a period of—

- (a) one year; or
- (b) for such longer period, not exceeding two years, as the chief constable (whether at the time of the promotion or at any time during the period of probation) considers is appropriate in the circumstances of a particular case.

(2) Any period of temporary promotion by virtue of regulation 7(2) is to be disregarded in calculating the period of probation.

(3) The chief constable may demote a sergeant to the rank of constable at any time during the period of probation if the chief constable considers that the officer is not likely to perform satisfactorily a sergeant’s duties.

Temporary promotion

7.—(1) Paragraph (2) applies to a constable who—

- (a) is required to perform the duties of a higher rank; and
- (b) has obtained the qualifying diploma.

(2) A constable to whom this paragraph applies may be promoted temporarily to that higher rank, for such period and on such conditions as the chief constable may determine.

Accelerated Promotion Programme

8.—(1) Paragraph (2) applies to a constable of the rank of constable who—

- (a) is selected to participate in an Accelerated Promotion Programme; and
- (b) at the beginning of the Programme, has either—
 - (i) obtained the qualifying diploma; or
 - (ii) passed a previous qualifying examination.

(2) A constable to whom this paragraph applies is to be promoted temporarily to the rank of sergeant on the first day of the constable participating in the Programme, for such period and on such conditions as the chief constable may determine.

(3) In this regulation—

“Accelerated Promotion Programme” means a programme for the time being designated by the Scottish Ministers, for the purpose of this regulation, as the Accelerated Promotion Programme;

“previous qualifying examination” means—

- (a) qualifying examination A (elementary);
- (b) qualifying examination B; or
- (c) qualifying examination C.

Recognition of examinations in certain police forces

9.—(1) If, during any previous service in a police force specified in paragraph (2), a constable has passed an examination or course which would qualify the constable for promotion in that police force—

- (a) from the rank of constable to that of sergeant, the constable is taken to have obtained the qualifying diploma to qualify for promotion up to (and including) the rank of inspector for the purposes of regulations 3, 7 and 8; or
- (b) from the rank of sergeant to that of inspector, the constable is taken to have obtained the qualifying diploma to qualify for promotion to any rank below that of assistant chief constable for the purposes of regulations 3 and 7.

(2) The police forces are—

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

(3) Paragraph (1) does not apply in the case of a constable who has passed an examination which would qualify the constable for promotion in the Isle of Man Constabulary where that examination was taken before 1st January 1983.

Determinations

10.—(1) Before making a determination under these Regulations, the Scottish Ministers must—

- (a) consult and share a draft of that determination with the persons mentioned in section 54(2)(a)(i) to (vi) of the Police and Fire Reform (Scotland) Act 2012^(b); and
- (b) consider any representations made.

(2) A determination under these Regulations may—

- (a) make different provision for different cases and circumstances;
- (b) vary or revoke earlier determinations under these Regulations.

^(a) 1996 c.16; section 2 was amended by paragraph 4 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c.13).

^(b) 2012 asp 8.

Revocations and transitional provisions

11.—(1) The instruments specified in column 1 of Schedule 1 are revoked to the extent specified in column 3 of that Schedule.

(2) Schedule 2 (transitional provisions) has effect.

St Andrew's House,
Edinburgh
6th February 2013

KENNY MACASKILL
A member of the Scottish Government

SCHEDULE 1
REVOCATIONS

Regulation 11(1)

<i>Column 1</i> <i>Instrument</i>	<i>Column 2</i> <i>Citation</i>	<i>Column 3</i> <i>Extent of Revocation</i>
The Police (Promotion) (Scotland) Regulations 1996	S.I. 1996/221 (amended by S.S.I. 2004/257, 2007/528 and 2009/372)	The whole Regulations
The Police (Scotland) Regulations 2004	S.S.I. 2004/257	Regulation 49
The Police (Promotion) (Scotland) Amendment Regulations 2007	S.S.I. 2007/528	The whole Regulations
The Police (Scotland) Amendment Regulations 2009	S.S.I. 2009/372	Regulation 2

SCHEDULE 2

Regulation 11(2)

TRANSITIONAL PROVISIONS

1. A constable, who before 1st April 2013 has passed (or, by virtue of either the 1968 Regulations or the 1996 Regulations, was deemed to have passed) a previous qualifying examination specified in column 1 of the Table below, is taken to have obtained the qualifying diploma to qualify for promotion to the rank specified in column 2 of the Table for the purposes of regulations 3 and 7.

<i>Column 1</i> <i>Qualifying examination</i>	<i>Column 2</i> <i>Rank</i>
Qualifying examination A (elementary)	Up to (and including) the rank of inspector
Qualifying examination A (advanced)	To any rank below that of assistant chief constable
Qualifying examination B	To any rank below that of assistant chief constable
Qualifying examination C	To any rank below that of assistant chief constable

2.—(1) A constable who has obtained the diploma mentioned in sub-paragraph (2) is taken to have obtained the qualifying diploma for the purposes of regulations 3, 7 and 8.

(2) The diploma is the Diploma in Police Service Leadership and Management, being a qualification for promotion obtained at any time during the period beginning on 28th January 2008 and ending on 31st March 2013 for the purposes of (and in accordance with) the 1996 Regulations.

3. Any of the following acts done, before 1st April 2013, for the purposes of (and in accordance with) a provision of the 1996 Regulations, continues to have effect on and after that date as if it had been done for the purposes of (and in accordance with) the corresponding provision of these Regulations—

- (a) any application, selection or promotion made;
- (b) any place obtained; or
- (c) any course held.

4. Any period of probation served, before 1st April 2013, as a constable of a police force maintained under the Police (Scotland) Act 1967^(a) for the purpose of (and in accordance with) regulation 2(2A)(a) or 4(1) of the 1996 Regulations, continues to have effect on and after that date as if it had been service on probation in the Police Service for the purpose of (and in accordance with) regulation 4(2)(a) or 6(1), respectively.

(a) 1967 c.77.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the eligibility and procedure for the promotion of constables of the Police Service of Scotland.

These Regulations—

- (a) apply only to promotions to the ranks below that of assistant chief constable, which are promotions the chief constable makes under section 11(3) of the Police and Fire Reform (Scotland) Act 2012 (regulation 1(2));
- (b) define “constable” so as to apply to constables (other than the chief constable, other senior officers and special constables) of the Police Service of Scotland, including those on temporary service under section 15 or 16 of that Act (regulation 2(1));
- (c) require such constables to have obtained the qualifying diploma to qualify for promotion (regulation 3);
- (d) make provision in relation to the qualifying diploma, including eligibility to take the qualifying diploma course and the Scottish Ministers’ function of determining certain matters (subject to a consultation requirement) (regulations 4 and 10);
- (e) provide that promotion is to be by selection, and that qualification for promotion is not an entitlement to promotion (regulation 5);
- (f) require a constable, who is promoted to the rank of sergeant, to serve a period of probation in that rank, and authorise the chief constable to demote any such constable, during the period of probation, if satisfied that the constable is not likely to perform satisfactorily a sergeant’s duties (regulation 6);
- (g) provide for temporary promotion, both generally (regulation 7) and in relation to constables, holding the rank of constable, who are selected to participate in an Accelerated Promotion Programme (regulation 8);
- (h) recognise examinations passed in certain other UK police forces as relevant qualification for promotion in the Police Service of Scotland (regulation 9);
- (i) revoke the Police (Promotion) (Scotland) Regulations 1996 (“the 1996 Regulations”) and the enactments that have amended those Regulations (regulation 11(1) and Schedule 1); and
- (j) make transitional provisions, including provision that constables, who before 1st April 2013 were qualified for promotion under the 1996 Regulations, are taken to have obtained the qualifying diploma to qualify for promotion in the Police Service of Scotland; and that periods of probation served as a constable of a police force maintained under the Police (Scotland) Act 1967 for the purposes of the 1996 Regulations, continue to have effect as if they had been service on probation in the Police Service of Scotland for the purposes of these Regulations (regulation 11(2) and Schedule 2).

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