

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE (AMENDMENT NO. 4) REGULATIONS 2012**

**2012 No. 2712**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty

2. **Purpose of the instrument**

2.1 This instrument amends the Police Regulations 2003 (“the 2003 Regulations”) for two purposes. First, in order to implement recommendations of the Independent Review of Police Officer and Staff Remuneration and Conditions: Part 1 Report (“the Part 1 Report”). The relevant recommendations are in relation to the offer of full-time posts to part-time police officers, the treatment of public holidays for the purposes of leave and pay, and the rate of the allowance paid in lieu of certain obsolete housing allowances. And second, to make changes to the provisions in relation to extension of fixed term appointments of senior police officers.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 Under section 50 of the Police Act 1996 the Home Secretary has the power to make regulations as to the government, administration and conditions of service of police forces. The current regulations under this power are the 2003 Regulations.

4.2 Regulation 5 of the 2003 Regulations concerns part-time service in a police force. Regulation 5(4) requires a part-time police officer who previously served full-time and gives written notice of his intention to return to full-time service to be re-appointed as a full-time officer within one month of the date of receipt of the notice, if a suitable vacancy exists, and after 3 months (or from an earlier date if reasonably practicable) if there is no such vacancy.

4.3 Regulation 11 of the 2003 Regulations concerns the appointment of senior police officers. Regulation 11(2) provides that appointments to specified ranks shall be for a fixed term. Regulation 11(2A) and (2B) makes provision in relation to the initial duration and extension of the fixed term.

4.4 Regulation 26(1) of the 2003 Regulations allows the Secretary of State to determine the circumstances and manner in which a police officer is to be

granted leave or otherwise compensated in respect of time spent on duty on public holidays and rostered rest days.

4.5 Schedule 3 to the 2003 Regulations makes provision for the replacement allowance – an allowance payable to police officers who were previously in receipt of various allowances and emoluments in relation to housing that have been abolished. Paragraph 7 of Schedule 3 provides for a replacement allowance to be increased in circumstances where the obsolete allowance would have been increased (other than in the case of the biennial uprating of the old housing allowance).

## **5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 This instrument brings into effect changes that the Home Secretary announced in a Written Ministerial Statement on 30 January 2012 in relation to Part 1 of Tom Winsor's Independent Review of Police Officer and Staff Remuneration and Conditions. The Review was asked to make recommendations on providing pay and conditions that are fair to officers and staff and to the taxpayer, support forces in maximising deployment to the frontline, and enable modern management practices.

7.2 The Part 1 Report, on short-term improvements, was published on 8 March 2011 and recommendations were referred to the negotiating machinery to consider. The Home Secretary announced on 30 January 2012 that she was accepting the recommendations of the Police Arbitration Tribunal and Police Negotiating Board on police officers' pay and conditions. Changes to the 2003 Regulations are needed to implement certain recommendations.

7.3 Regulation 3 of this instrument implements recommendation 59 of the Part 1 Report. This stated that regulation 5(4) of the 2003 Regulations should be amended so that a police officer giving written notice to return from part-time to full-time working must be appointed within 2 months if the force has a suitable vacancy, and otherwise within 4 months.

7.4 Regulation 5 of this instrument implements (in part) recommendation 8 of the Part 1 Report. This stated that the determination made under regulation 26 of the 2003 Regulations should be amended to allow the payment of overtime at double time for 25 December and 7 other days chosen for the next financial year by the officer before 31 January. Cancellation with fewer than

15 days' notice would require the authority of an Assistant Chief Constable. Before making the necessary determination, an amendment is required to regulation 26(1) of the 2003 Regulations in order to allow the Home Secretary to determine pay in respect of days treated as public holidays, as well as in respect of public holidays as defined in regulation 3(1) of the 2003 Regulations.

7.5 Regulation 6 of this instrument implements recommendation 43 of the Part 1 Report. This states that the amount of the replacement allowance should not increase with changes in personal circumstances, such as promotion. The intention, as stated at 5.1.65 of the Part 1 Report, is that for each entitled officer the allowance should be frozen.

7.6 Regulation 4 of this instrument amends regulation 11 of the 2003 Regulations, in relation to fixed term appointments of senior officers. These changes do not arise from the Winsor Review. They reflect changes made to policing governance by the Police Reform and Social Responsibility Act 2011 ("the 2011 Act"). The 2011 Act gives chief constables and the Commissioner of the Metropolitan Police the power to appoint senior officers in their forces – that power has previously been exercised by the relevant police authority. The 2011 Act also removes requirements for the Secretary of State to approve these appointments.

7.7 This instrument removes the requirement for the Secretary of State to approve the extension of a fixed term appointment. It also gives chief constables and the Commissioner of the Metropolitan Police the power to agree to the extension of fixed term appointments made by police authorities.

7.8 Finally, the instrument prevents a senior police officer who is standing in for the chief constable or Commissioner of the Metropolitan Police from agreeing to the extension of the senior officer's own fixed term appointment. Instead, the fixed term appointment is automatically extended. It comes to an end if the senior officer is substantively appointed as chief constable or Commissioner (at which point a new fixed term appointment in the higher rank would commence). If another person is appointed as chief constable or Commissioner (and thus the senior officer reverts to his or her substantive rank), the senior officer's fixed term appointment comes to an end six months later. This six month period is intended to give the newly-appointed chief constable or Commissioner the opportunity to consider whether they will agree to any extension of the senior officer's fixed term appointment under the existing provisions of regulation 11, and to give the officer sufficient notice of their intention.

- ***Consolidation***

7.9 These Regulations make only limited amendments to the Police Regulations 2003. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to the Police Regulations 2003.

## **8. Consultation outcome**

8.1 A draft of these Regulations was supplied to the Police Negotiating Board and the Police Advisory Board for England and Wales as part of the consultation process. The comments received from the Boards have been taken into consideration and changes have been made to the draft as a result.

## **9. Guidance**

9.1 The Regulations are intended to be self-explanatory to the lay reader, and no guidance will be issued.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal. The Regulations make minor changes to police officer conditions of service.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The Police Regulations 2003 make extensive provision about the terms and conditions of service of police officers in England and Wales, and the effective operation of the Regulations is the subject of ongoing attention by the Home Office.

## **13. Contact**

Neil Pattinson at the Home Office Tel: 020 7035 1846 or email: [Neil.Pattinson@homeoffice.gsi.gov.uk](mailto:Neil.Pattinson@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.