

EXPLANATORY MEMORANDUM TO
THE POLICE (AMENDMENT) REGULATIONS 2018
2018 No. 1191

1. Introduction

- 1.1 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 The amendments to the Police Regulations 2003 made by this Statutory Instrument will enable police forces in England and Wales to recruit ex-officers at the same rank to which they were last appointed, or to higher or lower ranks, irrespective of the amount of time that has elapsed since they left the service.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 In laying this Instrument the Secretary of State exercises the power to lay amendments to the Police Regulations 2003. The Police Regulations in 2003 were made in exercise of the Secretary of State's powers conferred on him by section 50 of the Police Act 1996.

7. Policy background

What is being done and why?

- 7.1 The Police Regulations 2003 ensure the police are governed and protected by terms and conditions. Regulation 10B currently provides a power which allows former police officers to rejoin, so long as they passed probation in the rank of constable or

other period of probation on the condition that it is within 5 years since they last served, and that they are recruited back to the same rank at which they most recently served.

- 7.2 Amending Regulation 10B will ensure greater police workforce flexibility as well as ensure individuals who re-join continue to receive the governance and protection arrangements as for other officers. It will also provide clarity to forces as to the terms and condition which apply to re-joiners, including the probation terms and reckoning of service.
- 7.3 These changes create a more flexible re-entry route back into policing. Recruitment back at higher ranks enables people who left and have since gained further experience, skills and knowledge, to be recruited back at higher ranks – so long as they have relevant skills, qualifications and knowledge. It will also be possible to re-join at a lower rank than the rank the re-joiner last served in.
- 7.4 The provision of a more flexible structure of entry, exit and re-entry points was a recommendation of the College of Policing Leadership Review in 2015.
- 7.5 This review can be found at the following link: http://www.college.police.uk/Whwe-do/Development/Promotion/the-leadership-review/Documents/Leadership_Review_Final_June-2015.pdf. The relevant pages are 27-28, ‘recommendation 4’ and paragraph 5.4.19 in particular. This document can also be obtained by contacting the College of Policing on telephone number 0800 496 3322 or writing to College of Policing, 1-7 Old Queen Street, London, SW1H 9HP.
- 7.6 The review set out that introducing more flexible exit and entry, together with a positive attitude towards these career decisions, will encourage greater recognition of the value that external experience can bring. The aim is to provide the largest pool of people to select from to increase the opportunities for selection to support positive changes to police culture.
- 7.7 The College of Policing considers this flexibility will support the current workforce needs and demands. In the 2017 Effectiveness Report, <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/peel-police-effectiveness-2017-1.pdf>, Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services noted that there were severe shortages of detectives and investigators (over 75% of forces reported as such) (see pages 5, 15-16, 28, 45, 54-56 and 84). Current approaches to filling these vacancies has been to recruit from retired officers and transferees from other forces – however more needs to be done to attract back others with necessary skills at higher ranks. This document can also be received by post by contacting: Chief Operating Officer, HMICFRS, 6th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.
- 7.8 In addition, the Government Equalities Office has granted the College of Policing £117,000 to attract re-joiners into investigator posts with a focus on attracting those who have left the workplace due to caring responsibilities. This forms part of a wider government agenda on equalities and supporting those with caring responsibilities back into the workplace to which policing is also committing.
- 7.9 There is a reasonably large pool of leavers from which re-joiners could be recruited. In 2017-18 alone around 8,500 officers left the police service, around 4,700 of these retired and around 2,000 voluntarily resigned, and 500 took medical retirements (from whom it is anticipated re-joiners would be drawn rarely). These individuals may have

since entered alternative employment gaining new skills and experience, and/or be seeking work.

- 7.10 The changes made by the regulations are needed to ensure appointments are lawful and provide clarity and consistency with other police regulations.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument makes reasonably limited amendments to the Police Regulations 2003 and is therefore not an appropriate instrument in which to consolidate previous changes. The case for consolidating the Police Regulations 2003 is kept under review.

10. Consultation outcome

- 10.1 In 2016, the College of Policing consulted their Leadership Review Programme Board and Leadership Review Oversight Group. Key policing stakeholders including the Police Federation for England and Wales are members of these forums. In 2017, a detailed proposal was considered by the College of Policing's Professional Reference Group.

- 10.2 Formal consultation on a draft statutory instrument was undertaken in June 2017 through the College of Policing's Regulatory Consultative Group (CRCG) which has a specific remit to consider regulations in this area. The majority of consultees were broadly content with the proposals, however the Police Federation for England and Wales and the Superintendents Association, whilst supportive, raised a number of technical issues. A College of Policing cross-stakeholder working group was set up in late 2017 to work through these issues, and these have been addressed and resolved in the final version of this instrument.

- 10.3 The Police Advisory Board reviewed and supported the changes and its views were taken into consideration gave consent to proceed in July 2018. The College of Policing's Police Consultative Forum was also asked to review and comment on the proposed changes in July 2018.

- 10.4 The College of Policing Board approved the draft changes to the regulations on 19 September 2018. The College then consulted a range of interested parties on a final iteration in October 2018, via the College's Regulatory Consultative Group, including the National Crime Agency, the Police Federation for England and Wales, and the Police Superintendents Association. The devolved administrations were made aware of this change, although it does not directly affect them.

11. Guidance

- 11.1 Guidance on the new Regulation 10B will be produced by the College of Policing. This guidance will be published by the College of Policing on 22 February 2019. The instrument and accompanying changes to determinations made under the amended regulation 10B will come into force on that date as well.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is limited to an anticipated positive impact on the police workforce by facilitating greater flexibility in that workforce.
- 12.3 An Impact Assessment has not been prepared for this instrument because the SI relates to existing regulatory standards and businesses are not affected.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that an evidence base will be created by the College of Policing creating a record of re-joiners.

15. Contact

- 15.1 Kimberley Reed at the Home Office. Telephone: 0207 035 1853 or email: Kimberley.Reed1@homeoffice.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Rachel Watson is the relevant Deputy Director responsible for this Instrument.
- 15.3 Nick Hurd is the policing minister and so is responsible for this Instrument.