



Police and Fire Reform (Scotland) Act 2012

2012 asp 8

PART 1

POLICE REFORM

CHAPTER 2

THE POLICE SERVICE OF SCOTLAND

Constables: appointment, ranks and terms of office

7 Senior officers

- (1) The Authority must appoint—
 - (a) the chief constable,
 - (b) one or more deputy chief constables, and
 - (c) one or more assistant chief constables.
- (2) An appointment of a chief constable has effect only if approved by the Scottish Ministers.
- (3) The Authority must consult the chief constable before appointing a deputy or assistant chief constable.

8 Regular constables

It is for the chief constable to appoint constables (other than senior officers).

9 Special constables

The chief constable may appoint special constables, being constables who are not entitled to be paid but who may, in accordance with regulations made under section 48, be entitled to receive—

- (a) allowances,
- (b) periodic payments which acknowledge the giving of, or a commitment to give, services.

10 Constable's declaration

- (1) An appointment of an individual as a constable has effect only where the individual has made a declaration in the following terms before a sheriff or justice of the peace—

“I, do solemnly, sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable with fairness, integrity, diligence and impartiality, and that I will uphold fundamental human rights and accord equal respect to all people, according to law.”.
- (2) The Scottish Ministers may by order modify the declaration.

11 Ranks

- (1) The ranks which a constable may hold are—
 - (a) chief constable,
 - (b) deputy chief constable,
 - (c) assistant chief constable,
 - (d) chief superintendent,
 - (e) superintendent,
 - (f) chief inspector,
 - (g) inspector,
 - (h) sergeant,
 - (i) constable.
- (2) Constables appointed as senior officers under section 7 are to hold the rank corresponding to the office to which they are appointed.
- (3) It is for the chief constable to assign, and to make promotions to, ranks below that of assistant chief constable.
- (4) A constable may be demoted in rank only—
 - (a) if the constable consents, or
 - (b) in accordance with regulations made under section 48.
- (5) The Scottish Ministers may by regulations modify subsection (1) to add or remove any rank below that of chief constable.
- (6) Regulations made under subsection (5) may make such provision in consequence of the addition or removal of a rank as the Scottish Ministers consider appropriate including (in particular) provision—
 - (a) creating or removing an office corresponding to the rank,
 - (b) relating to the functions of senior officers,
 - (c) modifying this or any other enactment.
- (7) Before making regulations, the Scottish Ministers must consult—
 - (a) the chief constable,
 - (b) the Authority,

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- (c) the joint central committee of the Police Federation for Scotland,
- (d) such persons as appear to them to be representative of senior officers,
- (e) such persons as appear to them to be representative of superintendents (including chief superintendents), and
- (f) such other persons as they consider appropriate.

12 Constables: terms of office

A constable is to hold and vacate office in accordance with—

- (a) regulations made under section 48, and
- (b) any other enactment (for example, the Police Pensions Act 1976 (c.35) or section 14 of this Act) which makes provision in that regard.

13 Rewards

The Authority may, on the recommendation of the chief constable, pay such sums by way of reward as it thinks fit to—

- (a) a constable (other than the chief constable) who in its opinion has carried out the constable's functions with exceptional diligence or in a specially meritorious manner, or
- (b) a person who in its opinion has made a substantial contribution to the carrying out of police functions.

14 Senior officers: resignation or retirement for efficiency or effectiveness

- (1) The Authority may call on a senior officer to resign or, where appropriate, retire from office in the interests of efficiency or effectiveness of the Police Service.
- (2) Before calling on a senior officer to resign or retire, the Authority must—
 - (a) give the senior officer—
 - (i) a written explanation of the reason why the Authority proposes to call on the senior officer to resign or retire, and
 - (ii) an opportunity to make written representations,
 - (b) consider any written representations made, and
 - (c) where the chief constable is to be called on to resign or retire, consult the Scottish Ministers.
- (3) Where—
 - (a) a senior officer is called on to resign or retire, and
 - (b) the officer has made written representations under subsection (2)(a)(ii),the Authority must provide the officer with written reasons for its decision.
- (4) A senior officer called on to resign or retire must do so with effect from—
 - (a) the date determined by the Authority when calling on the senior officer to resign or retire, or
 - (b) such earlier date as may be agreed between the senior officer and the Authority.

15 Temporary service outwith the Police Service of Scotland

- (1) The chief constable may make arrangements, or give consent, for constables to be engaged on temporary service outwith the Police Service.
- (2) A constable on temporary service outwith the Police Service—
 - (a) is to continue to hold the office of constable, and
 - (b) except where contrary provision is made by regulations under subsection (3) or by or under any other enactment, is to continue to—
 - (i) have all the functions conferred on a constable by virtue of this or any other enactment or by rule of law,
 - (ii) have the powers and privileges of a constable throughout Scotland, and
 - (iii) be under the direction and control of the chief constable in relation to the constable's performance of policing functions.
- (3) The Scottish Ministers may by regulations—
 - (a) prescribe types of temporary service in respect of which a constable—
 - (i) may not be engaged in pursuance of subsection (1),
 - (ii) may be so engaged only with the consent of the Authority or the Scottish Ministers (or both),
 - (iii) is not to have any of the functions, powers or privileges of a constable,
 - (iv) is not to be under the direction and control of the chief constable, and
 - (b) make such further provision in respect of constables on temporary service as they consider appropriate.
- (4) Regulations made under subsection (3) may in particular make provision—
 - (a) modifying any provision of this Act or any other enactment relating to constables (including any such provision or other enactment creating offences against or as regards constables) in relation to constables on temporary service,
 - (b) about the liability for unlawful conduct of a constable while on temporary service.
- (5) At the end of a period of temporary service outwith the Police Service, a constable—
 - (a) is entitled to revert to serve as a constable of the Police Service in the rank in which the constable was serving immediately before the period began, and
 - (b) is to be treated as if the constable has served as a constable of the Police Service during the period of temporary service for the purposes of any scale prescribed by virtue of regulations made under section 48 fixing the constable's rate of pay by reference to length of service.
- (6) Subsection (5) does not apply where a pension, allowance or gratuity becomes payable to the constable during the period of temporary service by virtue of regulations made under the Police Pensions Act 1976 (c.35).
- (7) A constable may, during any period of temporary service, be promoted to a higher rank and in such a case—
 - (a) the reference in subsection (5)(a) to the rank in which the constable was serving immediately before the period began is to be construed as a reference to the rank to which the constable is promoted, and

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- (b) the constable is, for the purposes of subsection (5)(b), to be treated as having served in that rank from the time of promotion.

16 Temporary service as constable of the Police Service of Scotland

- (1) The chief constable may make arrangements for any individual falling within subsection (2) to be engaged on temporary service as a constable of the Police Service.
- (2) An individual falls within this subsection if the individual is a member of—
 - (a) a police force maintained under section 2 of the Police Act 1996 (c.16),
 - (b) the metropolitan police force,
 - (c) the City of London police force,
 - (d) the Police Service of Northern Ireland,
 - (e) the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c.4),
 - (f) the British Transport Police Force,
 - (g) the Civil Nuclear Constabulary,
 - (h) the States of Jersey Police Force,
 - (i) the salaried police force of the Island of Guernsey, or
 - (j) the Isle of Man Constabulary.
- (3) An individual may be engaged on temporary service under arrangements made under this section only where the individual has made the declaration specified in section 10 before a sheriff or justice of the peace.
- (4) An individual engaged on temporary service under such arrangements holds the office of constable.