
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 257

The Police (Scotland) Regulations 2004

PART 2

GOVERNMENT

Ranks

5. The ranks which may be held by members of a police force shall be known by the following designations—

- Chief Constable;
- Deputy Chief Constable;
- Assistant Chief Constable;
- Chief Superintendent;
- Superintendent;
- Chief Inspector;
- Inspector;
- Sergeant;
- Constable.

Part-time appointments

6.—(1) A chief constable may, after consultation with local representatives of the representative bodies, appoint persons to perform part-time service in any rank.

(2) In these Regulations a person appointed to perform part-time service includes a person appointed to share a job with another person.

(3) A person appointed to perform part-time service may not be appointed to serve as a full-time member without that person's consent.

(4) A person appointed to perform part-time service immediately after serving as a full-time member may give notice in writing of that person's intention to be re-appointed as a full-time member and shall be so appointed—

- (a) within one month of the date the notice is received by the police authority, where the authority has a suitable vacancy; or
- (b) except where sub-paragraph (a) applies, when 3 months have elapsed since the day the notice was received, or from an earlier date if reasonably practicable.

(5) A person serving as a full-time member of a police force may not be appointed to perform part-time service without that person's consent.

(6) In this regulation "full-time member" means a member appointed otherwise than under this regulation.

- (7) In relation to persons appointed under this regulation to perform part-time service—
- (a) regulation 12(1) has effect as if the words “other than such a person who transferred to the force having completed the required period of probation therein” were omitted; and
 - (b) regulation 25 has effect as if—
 - (i) in paragraph (1) for all the words after “compensated in respect of time” there were substituted “spent on duty in excess of such period as the Scottish Ministers may determine”; and
 - (ii) paragraph (2) were omitted.

Restrictions on the private life of members

7.—(1) The restrictions on private life contained in Schedule 1 shall apply to all members of a police force.

(2) No other restrictions except those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or the chief constable on the private life of members of a police force.

Business Interests

8.—(1) A constable shall not have a business interest without the consent of—

- (a) the police authority in the case of a senior officer;
- (b) the chief constable in the case of any such other constable, provided that, in the case of any such other constable in whose case the chief constable has an interest in otherwise than as chief constable, the constable shall if either the constable or the chief constable so elect, obtain the consent of the chief constable of such other police force as may be determined.

(2) If a constable acquires or is likely to acquire, or in the case of a constable appointed to the office of chief constable or promoted to the rank of deputy chief constable or assistant chief constable has, a business interest he shall forthwith give written notice of that interest to the chief constable, or, as the case may be, the police authority unless that constable has previously disclosed that interest to that authority.

(3) A person applying for appointment to a police force, other than a person referred to in paragraph (4), shall give written notice to the chief constable of any business interest.

(4) A person applying for appointment to the office of chief constable, deputy chief constable, or assistant chief constable in a police force shall give written notice to the police authority responsible for the appointment of any business interest which that constable has or is likely to acquire after appointment.

(5) A person shall be regarded as having a business interest if—

- (a) that person carries on any business or holds any office of employment for hire or gain (otherwise than as a constable); or
- (b) that person resides at any premises where any member of that person’s family keeps a shop or carries on any like business; or
- (c) that person holds, or any member of that person’s family living with that person holds, any licence, certificate or permit granted in pursuance of the laws relating to liquor licensing or betting and gaming or regulating places of public entertainment in the police area of the force of which that person is a constable to which that person is applying for appointment or has any pecuniary interest in such licence, certificate of permit; or

- (d) that person's spouse (not being separated from that person) keeps a shop or carries on any like business in the police area of the force of which that person is a constable or to which that person is applying for appointment.
- (6) For the purposes of this regulation, the expression "member of that person's family" shall include parent, son, daughter, brother, sister or spouse (not being separated from that person).

Qualifications for appointment to a police force

- 9.—(1) A candidate for appointment to a police force—
- (a) must, if not a national of an EEA State⁽¹⁾ have leave to enter or remain in the United Kingdom for an indefinite period;
 - (b) must produce satisfactory references as to character, and, if that candidate has served in any police force, in the armed forces, in the civil service or as a seaman, produce satisfactory proof of good conduct while so serving;
 - (c) must have attained the age of 18 years 6 months;
 - (d) must be certified by a registered medical practitioner approved by the police authority to be fitted both physically and mentally to perform the duties on which that candidate will be employed after appointment;
 - (e) must meet the standard of eyesight determined by the Scottish Ministers;
 - (f) must, if a candidate for appointment in the rank of constable, satisfy the chief constable that that candidate is sufficiently educated, including being sufficiently competent in written and spoken English and sufficiently numerate, by passing an examination of a standard approved by the chief constable and the Scottish Ministers after consultation with the Police Advisory Board of Scotland;
 - (g) must, if a candidate for appointment in the rank of sergeant, or inspector, be qualified for promotion to such rank in accordance with the provisions of the Police (Promotion) (Scotland) Regulations 1996⁽²⁾;
 - (h) must give such information as may be required as to his previous history or employment or any other matter relating to his appointment to the police force.
- (2) A candidate for appointment to a police force shall be given a notice in terms approved by the Scottish Ministers drawing attention to the terms and conditions of service.
- (3) For the purposes of this regulation—
- (a) "armed forces" means the naval, military or air forces of the Crown including any women's service administered by the Defence Council; and
 - (b) "seaman" has the same meaning as in the Merchant Shipping Act 1995⁽³⁾.

Declaration to be made on appointment

10. The terms of the declaration to be made under section 16 of the 1967 Act by a person appointed to the office of constable of a police force shall be as follows—

"I hereby do solemnly and sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable."

(1) EEA State means a Member State, Norway, Iceland or Liechtenstein.
(2) 1996/221.
(3) 1995 c. 21.

Appointment of senior officers

11.—(1) Subject to section 4(1) of the 1967 Act and regulation 9, no person shall be appointed as chief constable or qualified as appointment as a deputy chief constable or assistant chief constable of a police force unless that person holds or has held such rank and for such period as the Scottish Ministers shall determine in respect of such appointments.

(2) The Scottish Ministers may determine any other requirements that must be satisfied in respect of such appointments. The police authority may determine any additional requirements that must be satisfied in respect of any particular appointment.

(3) An appointment to a senior officer rank in a police force maintained under section 2 of the 1967 Act shall be for a fixed term. The Scottish Ministers shall determine the range within which a fixed term must fall and the circumstances in which a fixed term appointment may be extended.

(4) Paragraph (3) is without prejudice to any provision whereby a term of appointment comes to an end on promotion, dismissal, the conclusion of disciplinary proceedings or transfer to another police force and regulation 14.

(5) The Scottish Ministers shall determine the circumstances in which a vacancy in a senior officer rank shall be advertised; if a vacancy is to be advertised, the advertisement shall contain such detail and be published in such manner as the Scottish Ministers may determine. The Scottish Ministers may determine that no appointment shall be made until after a date to be specified in the advertisement.

Probationary service in the rank of constable

12.—(1) Subject to paragraphs (2) and (3), a member of a police force appointed in the rank of constable, other than such a person who transferred to the force from another police force having completed the required period of probation therein, shall be on probation for such period as the Scottish Ministers shall determine in respect of such appointments.

(2) In making a determination under paragraph (1), the Scottish Ministers may, subject to paragraph (3), confer on the chief constable discretion to determine the required period of probation in a particular case.

(3) For the purposes of a determination under paragraph (1), the periods to be counted or disregarded in reckoning service shall be such as may be determined by the Scottish Ministers.

Discharge of probationer

13.—(1) Subject to the provisions of this regulation, during a constable's period of probation in the force the services of that constable may be dispensed with at any time by written notice given by the chief constable if the chief constable considers that that constable is not fitted, physically or mentally, to perform the duties of office of constable, or that that constable is not likely to become an efficient or well conducted constable.

(2) A constable whose services are dispensed with under this regulation shall be—

- (a) informed in writing of the provisions of paragraph (3); and
- (b) entitled to receive a month's notice or a month's pay in lieu thereof.

(3) A constable's services shall not be dispensed with in accordance with this regulation and any notice given for the purposes thereof shall cease to have effect if that constable gives written notice to the police authority of that constable's intention to retire and retires in pursuance of the said notice on or before the date on which that constable's services would otherwise be dispensed with; and such a notice taking effect on that date shall be accepted by the police authority notwithstanding that less than a month's notice is given.

(4) Where a constable has received a notice under this regulation that the services of the constable are to be dispensed with and that constable gives written notice of intention to retire and retires under paragraph (3), that constable shall nevertheless be entitled to receive pay up to and until the date on which the month's notice that constable has received would have expired or where that constable has received or is due to receive a month's pay in lieu of notice that constable shall remain entitled to that pay notwithstanding the notice that constable has given under paragraph (3).

Retirement

14. Members of a police force may retire in such circumstances as shall be determined by the Scottish Ministers, and in making such a determination the Scottish Ministers may require such notice of intention to retire as may be specified in the determination, or such shorter notice as may have been accepted by the police authority, to be given to that authority.

Contents of personal records

15.—(1) The chief constable shall cause a personal record of each member of the police force to be kept.

(2) The personal record shall contain—

- (a) the home address of the member;
- (b) a photograph not more than 10 years older of the member taken in accordance with the directions of the chief constable and at the expense of the police authority;
- (c) a personal description of the member;
- (d) particulars of the member's place and date of birth;
- (e) particulars of the member's marriage (if any) and children (if any);
- (f) a record of the member's service (if any) in any branch of Her Majesty's naval, military or air forces or in the civil service;
- (g) a record of the member's service (if any) in any other police force and transfers (if any) from one police force to another;
- (h) a record of whether the member passed or failed to pass any qualifying examination at which the member was a candidate; and
- (i) a record of the member's service in the police force, including particulars of all promotions, changes of pay, postings, transfers, removals, injuries received, periods of illness, attendances at training courses, commendations, rewards, punishments, disposals other than cautions, and the date of the member ceasing to be a member of the police force with the reason, cause or manner thereof.

(3) The chief constable shall cause to be expunged from the personal record—

- (a) any record of punishment made in terms of the Police (Scotland) (Discipline) Regulations 1967(4) after 3 years free from punishment other than a caution;
- (b) any record of a disposal made in terms of the Police (Conduct) (Scotland) Regulations 1996 after 3 years free from any disposal other than a caution; and
- (c) in the case of any proceedings taken against the member under the Police (Efficiency) (Scotland) Regulations 1996(5), any record of proceedings (including any disposal made under those Regulations) after 2 years have elapsed since the date of the last event to

(4) S.I.1967/1021 amended by S.I. 1971/843, 1975/843, 1975/1544, 1976/1073, 1982/902, 1987/2226 and 1995/647. The Regulations were repealed by S.I. 1996/1642 but continue to have effect for existing cases by virtue of regulation 25 of S.I. 1996/1642 and S.I. 1996/1648. An existing case is defined in regulation 1(2) of S.I. 1996/1646.

(5) S.I. 1996/1432.

take place in terms of those Regulations in relation to any proceedings taken against the member.

(4) Where any such record as is mentioned in paragraph (3) is expunged from a member's personal record, so much of that personal record as relates to any such record shall be destroyed and a new part made out so as not to disclose that the expunged record existed.

(5) A member of a police force shall, if that member so requests, be entitled to inspect that member's personal record.

Transfer of personal records

16. Where a member of a police force transfers to another police force that member's personal record shall be transferred to the chief constable of that other police force.

Personal record of member leaving force

17.—(1) Where a member of a police force ceases to be a member of that police force the member shall, unless that member transfers to another police force, be given a certificate showing that member's rank and setting out the period of that member's service in that police force and in any other police force.

(2) The chief constable may append to the certificate any recommendation which the chief constable feels justified in giving, such as that—

the member's conduct was exemplary;

the member's conduct was very good;

the member's conduct was good.

(3) Where a member of a police force ceases to be a member of that police force, otherwise than by transferring to another police force, that member's personal record shall be kept for such time as the chief constable may think fit and shall then be destroyed.

Fingerprints

18.—(1) All members of a police force shall in accordance with the directions of the chief constable have their fingerprints taken.

(2) Fingerprints of members of a police force taken in accordance with paragraph (1) shall be kept separate from the fingerprints of persons whose fingerprints have been taken otherwise than in accordance with that paragraph.

(3) The fingerprints of a member of a police force taken in accordance with paragraph (1) and all copies and records thereof shall be destroyed on that member ceasing to be a member of that force, except that, where that member becomes a member of another force, that member's fingerprints and all copies and records thereof shall be transferred to the chief constable of that other police force.

Samples

19.—(1) All members of a police force, except those members appointed following their transfer from another police force, shall on appointment and in accordance with the directions of the chief constable have a sample taken.

(2) Samples or the information derived from samples of members of a police force taken in accordance with this regulation shall be kept separate from the samples or the information derived from samples taken in accordance with sections 18, 19 and 19A of the Criminal Procedure (Scotland)

Act 1995(6) or section 56 of the Criminal Justice (Scotland) Act 2003(7) or otherwise lawfully taken and held by or on behalf of any police force or in connection with or as a result of an investigation of an offence.

(3) The samples shall be taken for the purpose of enabling a check to be carried out against any other sample or information derived from a sample taken by or on behalf of any police force or in connection with or as a result of the investigation of a criminal offence.

(4) The samples or information derived from samples of a member of a police force taken in accordance with paragraph (1), and all copies and records thereof shall be destroyed on that member ceasing to be a member of that force except that where that member becomes a member of another force, that member's samples or information and all copies and records thereof shall be transferred to the chief constable of that other force.

(5) In this regulation "sample" means—

- (a) a sample of hair, other than pubic hair, complete with roots;
- (b) saliva; or
- (c) a swab taken from the mouth.

(6) 1995 c. 46. Section 19A of the Criminal Procedure (Scotland) Act 1995 was inserted by section 48(2) of the Crime and Punishment (Scotland) Act 1997 c. 48. Sections 18, 19 and 19A were amended by section 55 of the Criminal Justice (Scotland) Act 2003 (asp 7).

(7) 2003 asp 7.