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PROSPECTIVE

SCHEDULE 3

Regulation 35

TRANSITIONAL AND SAVING PROVISIONS

Interpretation

1. In this Schedule-

“police authority” means a police authority established under section 2 of the 1967 Act;

“police force” means a police force maintained under section 1 of the 1967 Act;

“the 1967 Act” means the Police (Scotland) Act 1967(1);

“the 2004 Regulations” means the Police (Scotland) Regulations 2004;

“transferred constable” means a constable of a police force who is transferred to the Police Service under schedule 5 to the 2012 Act.

Commencement Information

I1 Sch. 3 para. 1 in force at 1.4.2013, see [reg. 1](#)

Transitional: part-time service

2.—(1) A transferred constable who, immediately before 1st April 2013, was appointed under regulation 6 of the 2004 Regulations to perform part-time service or to perform part-time service immediately after performing full-time service is, on and after that date, to be regarded as if that transferred constable had been so appointed under regulation 3 of these Regulations.

(2) Any notice given under regulation 6(4) of the 2004 Regulations to the police authority before 1st April 2013 is to be regarded, on and after that date, as if it had been given under regulation 3(4) of these Regulations to the chief constable and the date the notice was received by the police authority is to be regarded as the date the notice was received by the chief constable.

Commencement Information

I2 Sch. 3 para. 2 in force at 1.4.2013, see [reg. 1](#)

Transitional: business interests

3.—(1) Any consent given by a police authority or chief constable of a police force under regulation 8(1) of the 2004 Regulations before 1st April 2013 is, on and after that date, to be regarded as if it had been given by the Authority or the chief constable respectively under regulation 5(1) of these Regulations.

(2) Any written notice given to a police authority or chief constable of a police force under regulation 8 of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date,

(1) 1967 c.77.

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as if it had been given to the Authority or the chief constable respectively under regulation 5 of these Regulations.

(3) Regulation 5(1) of these Regulations does not apply in respect of a business interest within the meaning of regulation 5(6)(c) or (d) of these Regulations which was, immediately before 1st April 2013, not regarded as being a business interest under regulation 8(5)(c) or (d) of the 2004 Regulations but which on that date is regarded as being a business interest under regulation 5(6)(c) or (d) of these Regulations only by virtue of the location of that business interest.

(4) In relation to a constable appointed before 1st April 2013, any consent by the Authority or notice by that constable to the Authority given before that date in respect of any business interest of that constable is to be regarded, on and after that date, as if it had been consented to or notified in accordance with regulation 5 of these Regulations.

Commencement Information

I3 Sch. 3 para. 3 in force at 1.4.2013, see [reg. 1](#)

Transitional: transferred senior officers

4.—(1) Regulation 7(3) of these Regulations applies to an individual to whom paragraph 5(2) of schedule 5 to the 2012 Act applies as it applies to an appointment to the office of deputy chief constable.

(2) Regulation 7(5) of these Regulations does not apply to an individual to whom paragraph 5(4) of schedule 5 to the 2012 Act applies but such an individual may be appointed by the Authority for a single further fixed term after the expiry of the contractual terms transferred by paragraph 3(6) of schedule 5 to the 2012 Act.

Commencement Information

I4 Sch. 3 para. 4 in force at 1.4.2013, see [reg. 1](#)

Transitional: probationary service in the rank of constable

5.—(1) This paragraph applies where a transferred constable is, immediately before 1st April 2013, on probation in accordance with regulation 12 of the 2004 Regulations.

(2) For the purposes of these Regulations, any period of probation served in accordance with regulation 12 of the 2004 Regulations by a transferred constable before that date is, on and after that date, to be regarded as if it had been served with the Police Service.

(3) Any determination by a chief constable of a police force of the required period of probation in a particular case in accordance with a determination made under regulation 12 of the 2004 Regulations made before 1st April 2013 is, on and after that date, to be regarded as if it had been determined by the chief constable in accordance with a determination made under regulation 8 of these Regulations.

Commencement Information

I5 Sch. 3 para. 5 in force at 1.4.2013, see [reg. 1](#)

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Transitional: discharge of probationer

6.—(1) Any written notice given by a chief constable of a police force in accordance with regulation 13(1) of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date, as if it had been given by the chief constable in accordance with regulation 9(1) of these Regulations and for the purposes of regulation 9 of these Regulations any such written notice expires on the same date as if the 2004 Regulations had continued in force.

(2) Any written notice given by a transferred constable to a police authority in accordance with regulation 13(3) of the 2004 Regulations before 1st April 2013 is to be regarded, on and after that date, as if it had been given by the transferred constable to the Authority in accordance with regulation 9(3) of these Regulations.

Commencement Information

16 Sch. 3 para. 6 in force at 1.4.2013, see [reg. 1](#)

Transitional: retirement

7.—(1) This paragraph applies in respect of any transferred constable who, before 1st April 2013, gave notice of intention to retire or had such shorter notice accepted in accordance with regulation 14 of the 2004 Regulations or a determination made thereunder.

(2) Any notice of intention to retire given or accepted in accordance with regulation 14 of the 2004 Regulations or a determination made thereunder is to be regarded as if it had been given or accepted in accordance with a determination made under regulation 10 of these Regulations and the transferred constable is to retire on the same date as if the 2004 Regulations had continued in force.

Commencement Information

17 Sch. 3 para. 7 in force at 1.4.2013, see [reg. 1](#)

Transitional: fingerprints and samples

8.—(1) Regulation 13(1) of these Regulations does not apply to any person transferred to the Police Service by schedule 5 to the 2012 Act whose fingerprints, samples or the information derived from samples have been transferred to the chief constable, unless the chief constable so requires in a particular case.

(2) Any fingerprints, samples or the information derived from samples taken in accordance with regulations 18 or 19 of the 2004 Regulations and transferred to the chief constable are to be regarded as having been taken in accordance with regulation 13 of these Regulations and are to be retained, used and destroyed in accordance with that regulation.

Commencement Information

18 Sch. 3 para. 8 in force at 1.4.2013, see [reg. 1](#)

Transitional: reckoning of service

9.—(1) Any service of a transferred constable reckoned or disregarded for the purposes of pay in accordance with regulation 24 or Part 7 of the 2004 Regulations before 1st April 2013 is to be

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regarded, on and after that date, as if it had been reckoned or disregarded for the purposes of pay in accordance with regulation 16 or Part 7 of these Regulations.

(2) For the purposes of regulation 16 and Part 7 of these Regulations service is not to be regarded as broken or discontinuous where it would be so regarded solely by virtue of a constable having transferred to the Police Service under schedule 5 to the 2012 Act.

(3) Any period of maternity, maternity support, adoption, adoption support or parental leave being taken immediately before 1st April 2013 is to be reckoned, on or after that date, for the purposes of regulation 16 and Part 7 of these Regulations as if the whole period had taken place in accordance with these Regulations.

Commencement Information

I9 Sch. 3 para. 9 in force at 1.4.2013, see [reg. 1](#)

Transitional: overtime

10. Any overtime, within the meaning of regulation 25(1) of the 2004 Regulations, served by a transferred constable before 1st April 2013 in respect of which compensation was not paid before that date is to be regarded, on and after that date, as if it was overtime for the purposes of regulation 17 of these Regulations and is to be paid in accordance with that regulation and any determination made thereunder.

Commencement Information

I10 Sch. 3 para. 10 in force at 1.4.2013, see [reg. 1](#)

Transitional: temporary salary

11. Any transferred constable entitled, or accruing an entitlement, to temporary salary immediately before 1st April 2013 in accordance with a determination made under regulation 27 of the 2004 Regulations is, on that date, to be regarded as if entitled to or accruing entitlement in accordance with a determination made under regulation 19 of these Regulations.

Commencement Information

I11 Sch. 3 para. 11 in force at 1.4.2013, see [reg. 1](#)

Transitional: temporary promotion

12.—(1) This paragraph applies to any transferred constable of the rank of chief inspector who, immediately before 1st April 2013, was temporarily performing the duties of the rank of superintendent but who had not been temporarily promoted by virtue of a determination made under regulation 27 of the 2004 Regulations.

(2) The unbroken period ending with 1st April 2013 during which the transferred constable was temporarily performing the duties of the rank of superintendent is to be regarded for the purposes of any determination made under regulation 20 of these Regulations as time spent temporarily performing the duties of the rank of superintendent and is to be regarded as continuous with any unbroken period of time beginning with 1st April 2013 during which the constable was temporarily performing the duties of the rank of superintendent in the Police Service.

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Commencement Information

I12 Sch. 3 para. 12 in force at 1.4.2013, see [reg. 1](#)

Transitional: sick pay

13. Any entitlement to sick pay under regulation 28 of the 2004 Regulations or any determination made thereunder existing immediately before 1st April 2013 is, on and after date, to be regarded as existing under regulation 21 of these Regulations and any determination made thereunder and any decision of a chief constable of a police force to pay a higher rate of sick pay is to be regarded as having been taken by the chief constable.

Commencement Information

I13 Sch. 3 para. 13 in force at 1.4.2013, see [reg. 1](#)

Transitional: maternity, maternity support leave, adoption and adoption support leave pay

14. A transferred constable who, immediately before 1st April 2013, is in receipt of maternity, maternity support, adoption or adoption support leave pay in respect of that leave under regulation 29 of the 2004 Regulations is, on and after date, to continue to receive such pay in accordance with regulation 22 of these Regulations and any determination made thereunder.

Commencement Information

I14 Sch. 3 para. 14 in force at 1.4.2013, see [reg. 1](#)

Saving: university scholars

15. Notwithstanding the revocation of regulation 32 of the 2004 Regulations, that regulation and any determination made thereunder (including any provision of the 2004 Regulations applied by it) continue to have effect on and after 1st April 2013 in respect of any university scholar, within the meaning of regulation 4(1) thereto, existing immediately before that date until that university scholar completes his or her course of study.

Commencement Information

I15 Sch. 3 para. 15 in force at 1.4.2013, see [reg. 1](#)

Transitional: leave

16.—(1) Any transferred constable on leave of any type or a career break immediately before 1st April 2013 granted in accordance with regulation 33 of the 2004 Regulations is entitled to continue on that leave or career break on or after that date as if it had been granted in accordance with regulation 25 of these Regulations.

(2) Any balance of annual leave not taken by a transferred constable existing immediately before 1st April 2013 by virtue of regulation 33 of the 2004 Regulations or any determination made thereunder is to be regarded as a balance of annual leave not taken for the purposes of regulation 25

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of these Regulations and any determination made thereunder and accordingly able to be taken under that regulation or determination.

(3) Any additional days of leave granted by a chief constable of a police force under regulation 33(2) of the 2004 Regulations before 1st April 2013 are to be regarded as if they had been granted by the chief constable under regulation 25(2) of these Regulations.

(4) Any compensation due to a transferred constable in respect of a recall to duty in accordance with regulation 33(3) of the 2004 Regulations which occurred before 1st April 2013 but which remained unpaid on that date is to be regarded, on and after that date, as compensation due to the transferred constable in accordance with regulation 25(3) of these Regulations.

Commencement Information

I16 Sch. 3 para. 16 in force at 1.4.2013, see [reg. 1](#)

Transitional: uniform and equipment

17. Any uniform and equipment with which a transferred constable was issued under regulation 45 of the 2004 Regulations is to be regarded as if it was issued under regulation 33 of these Regulations.

Commencement Information

I17 Sch. 3 para. 17 in force at 1.4.2013, see [reg. 1](#)

Saving: replacement allowance

18. Notwithstanding the revocation of the 2004 Regulations by paragraph 20, those Regulations continue to have effect as they had effect immediately before 1st April 2013, subject to the modifications in paragraph 19, for the purpose of administering the entitlement, reduction, increase or termination of replacement allowance payable by virtue of Schedule 3 to those Regulations.

Commencement Information

I18 Sch. 3 para. 18 in force at 1.4.2013, see [reg. 1](#)

19.—(1) For the purpose of paragraph 18, Schedule 3 to the 2004 Regulations is modified as follows.

(2) In paragraph 1(2)—

- (a) for “member of a police force” where it first occurs substitute “constable of the Police Service of Scotland”; and
- (b) in head (a) for “that or another police force” substitute “a police force maintained under section 1 of the Police (Scotland) Act 1967”.

(3) In paragraph 1(3) and (4) for “a police force in Scotland” substitute “the Police Service of Scotland”.

(4) In paragraph 1(6) for head (d) substitute—

- “(d) a period of service in accordance with section 72(1)(b) or 73(1)(b) of the Police and Fire Reform (Scotland) Act 2012 as an assistant inspector of constabulary or, as the case may be, as a staff officer of the inspectors of constabulary;

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(e) a period of service under the Crown in connection with research or other services connected with the police provided by the Scottish Ministers,”.

Commencement Information

I19 Sch. 3 para. 19 in force at 1.4.2013, see [reg. 1](#)

Commencement Information

I18 Sch. 3 para. 18 in force at 1.4.2013, see [reg. 1](#)

I19 Sch. 3 para. 19 in force at 1.4.2013, see [reg. 1](#)

Revocations

20. The Regulations mentioned in column 1 of the Table are revoked to the extent specified in column 2.

Table

<i>Column 1</i>	<i>Column 2</i>
The Police (Scotland) Regulations 2004 (S.S.I.2004/257)	The whole Regulations
The Police (Minimum Age for Appointment) Regulation 2 (Scotland) Regulations 2006 (S.S.I. 2006/552)	Regulation 2
The Police (Scotland) Amendment Regulations 2007 (S.S.I. 2007/134)	The whole Regulations
The Police (Scotland) Amendment Regulations 2009 (S.S.I. 2009/372)	Regulation 4
The Scottish Crime and Drug Enforcement Agency (Scotland) Regulations 2011 (S.S.I. 2011/61)	Regulations 11, 12(4), (7) and (8) and 33 and paragraph 4 of Schedule 2

Commencement Information

I20 Sch. 3 para. 20 in force at 1.4.2013, see [reg. 1](#)

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Changes and effects yet to be applied to :

- Sch. 3 para. 1 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 2 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 3 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 4 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 5 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 6 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 7 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 8 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 9 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 10 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 11 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 12 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 13 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 14 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 15 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 16 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 17 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 18 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 19 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 20 coming into force by [S.S.I. 2013/35 reg. 1](#)
- Sch. 3 para. 20 Table words omitted by [S.S.I. 2013/125 reg. 2\(6\)](#)
- Regulations applied by [S.S.I. 2013/60 reg. 6\(4\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 6(1)(i) inserted by [S.S.I. 2013/122 reg. 2\(3\)\(c\)](#)
- reg. 6(1)(i) words inserted by [S.I. 2019/745 reg. 35\(a\)](#)
- reg. 6(4) inserted by [S.I. 2019/745 reg. 35\(b\)](#)
- reg. 11(3A) inserted by [S.S.I. 2016/51 reg. 41\(3\)](#)
- reg. 22(d) and word inserted by [S.S.I. 2016/419 reg. 1\(2\)\(c\)](#)