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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 43**

**The Police Service of Scotland  
(Special Constables) Regulations 2013**

**PART 2**

**GOVERNMENT**

**Restrictions on the private life of special constables**

**3.—**(1) Schedule 1 has effect.

(2) No other restrictions, except those designed to secure the proper exercise of the functions of a special constable, may be imposed by the chief constable on the private life of a special constable.

**Business interests**

**4.—**(1) A special constable must not have a business interest without the consent of the chief constable.

(2) If a special constable is likely to acquire a business interest that special constable must forthwith give written notice of that interest to the chief constable, unless that special constable has previously disclosed that interest to the chief constable.

(3) An individual applying for appointment as a special constable must give written notice to the chief constable of any business interest which that individual has or is likely to acquire after appointment.

(4) For the purposes of this regulation—

(a) an individual or special constable is regarded as having a business interest if—

(i) that individual or special constable, or any member of that individual's or special constable's family living with that individual or special constable, holds any licence, certificate or permit granted in pursuance of the laws relating to liquor licensing, betting and gaming or regulating places of entertainment in Scotland or has any pecuniary interest in such licence, certificate or permit;

(ii) that individual or special constable is employed in any occupation or holds any appointment;

(b) "member of that individual's or special constable's family" includes a parent, son, daughter, dependant, brother, sister, spouse (not being separated from that individual or special constable), civil partner (not being separated from that individual or special constable) or cohabitant (not being separated from that individual or special constable); and

(c) "cohabitant" means a member of a couple consisting of—

(i) a man and a woman who are living together as if they were husband and wife; or

(ii) two individuals of the same sex who are living together as if they were civil partners.

## **Qualifications for appointment as a special constable**

5.—(1) A candidate for appointment as a special constable must—

- (a) produce satisfactory references as to character, and, if that candidate has served in any police force, in the armed forces, in the civil service of the State or as a seaman, produce satisfactory proof of good conduct while so serving;
- (b) have attained the age of 18 years;
- (c) be certified by a registered medical practitioner approved by the Authority to be fitted both physically and mentally to perform the duties on which that candidate will be employed after appointment;
- (d) meet the standard of eyesight determined by the Scottish Ministers;
- (e) if the Scottish Ministers have determined a standard, meet the standard of hearing so determined;
- (f) satisfy the chief constable that he or she is sufficiently educated, including being sufficiently competent in written and spoken English and sufficiently numerate, by passing an assessment to a standard approved by the chief constable and the Scottish Ministers after consultation with those persons mentioned in section 54(2)(a)(i) to (vi) of the 2012 Act;
- (g) give to the chief constable such information as to his or her current employment, previous history of employment or any other matter relating to his or her appointment as may be required.

(2) A candidate for appointment as a special constable must be given a notice in terms approved by the Scottish Ministers drawing attention to the terms and conditions of service.

(3) An individual who is appointed as a special constable must not be appointed for a fixed term.

(4) In this regulation “armed forces” means the naval, military or air forces of the Crown including any women’s service administered by the Defence Council.

## **Retirement**

6.—(1) A special constable who wishes to retire voluntarily must give such written notice of intention to retire to the chief constable as may be specified in a determination made by the Scottish Ministers or such shorter notice as may have been accepted by the chief constable.

(2) Subject to paragraph (3), a special constable must retire at the age of 60 years.

(3) The chief constable may postpone the time at which a special constable must retire under paragraph (2).

## **Personal records**

7.—(1) The chief constable must maintain a personal record for each special constable.

(2) The personal record must contain—

- (a) the home address of, and contact telephone number (if any) for, the special constable;
- (b) a photograph not more than 10 years old of the special constable taken in accordance with the directions of the chief constable and at the expense of the Authority;
- (c) a personal description of the special constable;
- (d) particulars of the special constable’s place and date of birth;
- (e) particulars of the special constable’s marriage or civil partnership (if any) and children and other dependants (if any) or, where none, particulars of the special constable’s next of kin;

- (f) a record of the special constable's service (if any) in any branch of Her Majesty's naval, military or air forces or in the civil service or as a seaman;
  - (g) a record of the special constable's service (if any) in any other police force including previous service with the Police Service (if any);
  - (h) a record of whether the special constable passed or failed to pass any qualifying examination at which the special constable was a candidate; and
  - (i) a record of the special constable's service in the Police Service, including postings, transfers, removals, injuries received, periods of illness, attendances at training courses, commendations, rewards, punishments, disposals and the date of the special constable ceasing to be a special constable with the reason, cause or manner thereof.
- (3) The chief constable must expunge from the personal record of a special constable—
- (a) any record of any disposal made by the misconduct officer under regulation 17(2)(e) after 3 years from the relevant date; and
  - (b) any record of any other final disposals made under regulation 17 or 18, after 3 consecutive years free, from the relevant date, of any such disposal being imposed on that special constable in relation to another matter.
- (4) Where any such record as is mentioned in paragraph (3) is expunged from a special constable's record, so much of that personal record as relates to any such expunged record must be destroyed and a new part made out so as not to disclose that the expunged record existed.
- (5) A special constable is entitled to inspect his or her personal record.
- (6) Where a special constable ceases to be a special constable, that special constable's personal record must be kept for such time as the chief constable thinks fit and must then be destroyed.
- (7) In this regulation "relevant date" means—
- (a) if the chief constable was not requested to review the matter in accordance with regulation 18, the date on which the disposal was, or disposals were, imposed on the special constable concerned by the misconduct officer; or
  - (b) if the chief constable is requested to review the matter in accordance with regulation 18, the date on which the disposal was, or disposals were, imposed on the special constable concerned by the chief constable.

### **Personal record of special constable leaving the Police Service**

- 8.—**(1) When a special constable ceases to be a special constable that special constable must be given a certificate setting out the period of that special constable's service as a special constable in—
- (a) the Police Service; and
  - (b) any police force.
- (2) The chief constable may append to the certificate any recommendation which the chief constable feels justified in giving in respect of that special constable's service with the Police Service.

### **Fingerprints and samples**

- 9.—**(1) All special constables must on appointment and in accordance with the directions of the chief constable have their fingerprints and a sample taken.
- (2) Fingerprints, samples or the information derived from samples of members of the Police Service taken in accordance with this regulation must be kept separate from the fingerprints, samples or the information derived from samples—
- (a) taken in accordance with—

- (i) sections 18(1), 19(2), 19A(3) and 19AA(4) of the Criminal Procedure (Scotland) Act 1995;
  - (ii) section 56 of the Criminal Justice (Scotland) Act 2003(5);
  - (iii) in the case of fingerprints, section 87(5A)(b) of the Sexual Offences Act 2003(6);
  - (iv) in the case of samples or the information derived from samples, section 87(5A)(c) of the Sexual Offences Act 2003; or
- (b) otherwise lawfully taken and held by or on behalf of the Police Service or in connection with or as a result of an investigation of an offence.
- (3) Fingerprints and samples may only be taken for the purpose of enabling a check to be carried out against any other fingerprint, sample or information derived from a sample taken by or on behalf of the Police Service or in connection with or as a result of an investigation of an offence.
- (4) The fingerprints, samples or information derived from samples of a special constable taken in accordance with paragraph (1), and all copies and records thereof must be destroyed on that special constable ceasing to be a special constable of the Police Service.
- (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.

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- (1) Section 18 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 47 and 62 and Schedule 3; the Crime and Disorder Act 1998 (c.37), section 119 and Schedule 8, paragraph 117; the Terrorism Act 2000 (c.11), section 41 and Schedule 8, paragraph 20; the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 83 and schedule 6, paragraph 4; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 77(2); and the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(1) and schedule 7, paragraph 12(3).
  - (2) Section 19 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 47, 48 and 62 and the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 203 and schedule 7, paragraph 31; and the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 128(1) and schedule 7, paragraph 12(7).
  - (3) Section 19A was added by section 48 of the Crime and Punishment (Scotland) Act 1997 (c.48) and has been amended by the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77 and schedule 6, paragraph 4; the Sexual Offences (Scotland) Act 2009 (asp 9), schedule 5, paragraph 2; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 81, section 203 and schedule 7, paragraph 32; and S.S.I. 2005/465, Schedule 1, paragraph 27.
  - (4) Section 19AA was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.
  - (5) 2003 asp 7.
  - (6) Section 87(5A) was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.