

## SCHEDULE 2

Regulation 29

### Revocations, savings and transitional provisions

#### Interpretation

**1.** In this Schedule—

“investigating officer” has the meaning given by regulation 3 of the 1996 Regulations as modified by paragraph 10(2)(c); and

“the 1996 Regulations” means the Police (Conduct) (Scotland) Regulations 1996(1).

#### Revocation, savings and modification of the 1996 Regulations

**2.—**(1) Subject to the sub-paragraphs (2) and (3) and paragraph 3, the 1996 Regulations are revoked.

(2) Sub-paragraph (1) does not apply to regulation 25 (revocations, savings and transitional provisions) of, and Schedule 2 (revocations) to, the 1996 Regulations.

(3) In regulation 25(2) of the 1996 Regulations, for “is below the rank of assistant chief constable” substitute “was a constable of a police force below the rank of assistant chief constable”.

**3.—**(1) Despite their revocation by paragraph 2, the 1996 Regulations continue to have effect on and after 1st April 2013 as they had effect immediately before that date, subject to the modifications set out in paragraph 10, where—

- (a) a report, allegation or complaint to which those Regulations applied before 1st April 2013 was received by a police force before that date;
- (b) any proceedings under the 1996 Regulations in relation to that report, allegation or complaint have not been concluded before 1st April 2013; and
- (c) the individual in respect of whom that report, allegation or complaint was made is a transferred constable.

(2) For the purpose of sub-paragraph (1)(b), in cases where no misconduct hearing has taken or is to take place, proceedings in relation to a report, allegation or complaint are to be treated as having been concluded—

- (a) in relation to allegations of misconduct of a minor or trivial nature dealt with under or by virtue of regulation 5(2) and (3) of the 1996 Regulations, when a warning was given;
- (b) when a decision was taken under regulation 6(3) of those Regulations that the individual in relation to whom the report, allegation or complaint was made was not to be required to appear before a misconduct hearing; or
- (c) when a decision was taken under regulation 7A of those Regulations that an allegation of misconduct was not to be considered at a misconduct hearing.

(3) For the purpose of sub-paragraph (1)(b), in cases where a misconduct hearing has taken place, proceedings in relation to a report, allegation or complaint are to be treated as having been concluded—

- (a) where a finding was made that the conduct of the individual in relation to whom the report, allegation or complaint was made does not amount to misconduct, on the date the misconduct form was sent in accordance with regulation 17(4) of the 1996 Regulations; or
- (b) where a finding of misconduct and a disposal made were recorded in accordance with regulation 17(3) of those Regulations—

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(1) S.I. 1996/1642, amended by S.I. 1997/1072 and S.S.I. 2004/257.

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- (i) unless regulation 20(8) of those Regulations applies, on the date on which the period specified in regulation 20(6) of those Regulations for sending a notice of appeal has expired; or
- (ii) where a notice of appeal was sent within that period or is accepted late in accordance with regulation 20(8) of those Regulations, on the date on which the document recording the decision was sent under regulation 21(7) of those Regulations.

(4) The reference in paragraph (3)(b) to a finding of misconduct and disposal includes a reference to any admission and disposal made in the circumstances described in regulation 13(6) of the 1996 Regulations.

### **Transitional provisions**

4. Any proceedings commenced under the 1996 Regulations in relation to a case in relation to which those Regulations continue to have effect by virtue of paragraph 3—

- (a) may be continued under those Regulations as modified by paragraph 10; and
- (b) where continued, are to be treated as proceedings under those Regulations as so modified.

5. In relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3—

- (a) anything done before 1st April 2013 under those Regulations by or in relation to a chief constable of a police force is to be treated, on and after that date, as having been done by or in relation to the chief constable of the Police Service; and
- (b) anything done before 1st April 2013 under those Regulations by or in relation to an assistant chief constable of a police force (including anything done by or in relation to two or more assistant chief constables acting jointly under regulation 23 of those Regulations) is to be treated, on and after that date, as having been done by or in relation to the deputy chief constable.

6.—(1) Sub-paragraph (2) applies to an individual who—

- (a) before 1st April 2013, was appointed under regulation 5(4) of the 1996 Regulations as an investigating officer in relation to a case in relation to which those Regulations continue to have effect by virtue of paragraph 3; and
- (b) is—
  - (i) a transferred constable; or
  - (ii) engaged in service as a constable of the Police Service by virtue of paragraph 8(2) of schedule 5 to the Act.

(2) An individual to whom this sub-paragraph applies is to continue to be the investigating officer in relation to the case in relation to which that individual's appointment was made.

(3) Sub-paragraphs (4) and (5) apply where an individual appointed before 1st April 2013 to act as the investigating officer in relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3 is not—

- (a) a transferred constable; or
- (b) engaged in service as a constable of the Police Service by virtue of paragraph 8(2) of schedule 5 to the Act.

(4) Where this paragraph applies, the deputy chief constable must appoint a constable of at least the rank of inspector and of at least the rank of the constable under investigation to replace as investigating officer the individual who has not transferred to the Police Service.

(5) Anything done before 1st April 2013 by or in relation to an investigating officer who has not transferred to the Police Service is, on and after that date, to be treated as having been done by or in relation to the constable appointed to replace that investigating officer.

7.—(1) Sub-paragraph (2) applies to an individual who—

- (a) before 1st April 2013, was appointed to act as a chairman of a misconduct hearing in relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3; and
- (b) is—
  - (i) a transferred constable; or
  - (ii) engaged in service as a constable of the Police Service by virtue of paragraph 8(2) of schedule 5 to the Act

(2) An individual to whom this sub-paragraph applies is to continue to act as the chairman of the misconduct hearing in relation to which that person's appointment was made.

(3) Sub-paragraphs (4) and (5) apply where an individual appointed before 1st April 2013 to act as the chairman of a misconduct hearing in relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3 is not—

- (a) a transferred constable; or
- (b) engaged in service as a constable of the Police Service by virtue of paragraph 8(2) of schedule 5 to the Act.

(4) Where this paragraph applies, the deputy chief constable must appoint a constable of at least the rank of superintendent to replace as chairman the individual who has not transferred to the Police Service.

(5) Anything done before 1st April 2013 by or in relation to a chairman who has not transferred to the Police Service is to be treated, on and after that date, as having been done by or in relation to the constable appointed to replace that chairman.

8.—(1) This paragraph applies to—

- (a) a decision to dismiss an individual from a police force made under regulation 18(1)(a) of the 1996 Regulations where—
  - (i) that decision was made before 1st April 2013;
  - (ii) the individual in relation to whom the decision was made has not been dismissed before 1st April 2013; and
  - (iii) that individual is a transferred constable; and
- (b) a requirement to resign from a police force by a specified date made under regulation 18(1)(b) of the 1996 Regulations where—
  - (i) that requirement was made before 1st April 2013;
  - (ii) the individual in respect of whom the requirement was made has not, in accordance with that requirement, resigned before 1st April 2013; and
  - (iii) that individual is a transferred constable.

(2) Where this paragraph applies—

- (a) a transferred constable who was to be dismissed from a police force is, on and after 1st April 2013, to be dismissed from the Police Service; and
- (b) a requirement to resign from a police force by a specified date is, on and after 1st April 2013, to be treated as a requirement to resign from the Police Service by that specified date.

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(3) Where a transferred constable has not resigned by the date specified in a requirement to which this paragraph applies made by the chairman of the misconduct hearing or, as the case may be, the chief constable, under regulation 18(1)(b) of the 1996 Regulations, the effect of that decision is to dismiss the constable from the Police Service on the specified date.

9.—(1) Sub-paragraph (2) applies to a transferred constable who, immediately before 1st April 2013, is suspended from duty under regulation 22 of the 1996 Regulations.

(2) A transferred constable to whom this sub-paragraph applies is to continue, on and after 1st April 2013, to be suspended from duty as a constable and may, on and after that date, be dealt with under that regulation as modified by this Schedule.

### **Modifications**

10.—(1) The 1996 Regulations are modified as follows.

(2) In regulation 3—

- (a) omit the definition of “the assistant chief constable”;
- (b) in the definition of “complainer”, for “a constable” substitute “a transferred constable”;
- (c) for the definition of “investigating officer” substitute—
  - ““investigating officer” means—
  - (a) a transferred constable appointed under regulation 5(4) as it had effect immediately before 1st April 2013; or
  - (b) a constable of the Police Service appointed under that regulation as it has effect on and after that date;”;
- (d) in the definition of “the constable”, for “constable of a police force” substitute “transferred constable”;
- (e) omit the definition of “constable of a police force”;
- (f) in the definition of “representative”, for “a police force” substitute “the Police Service”; and
- (g) in the appropriate places, insert—
  - ““constable of the Police Service” means an individual holding the office of constable who is serving as a constable of the Police Service, but does not include a special constable;”;
  - ““deputy chief constable” means the deputy chief constable of the Police Service designated under regulation 4 of the Police Service of Scotland (Conduct) Regulations 2013;”;
  - ““Police Service” means the Police Service of Scotland;”;
  - and
  - ““transferred constable” means an individual who—
  - (a) before 1st April 2013 was serving as a constable of a police force maintained immediately before that date under the Police (Scotland) Act 1967 (including any such individual who was, immediately before that date, engaged on relevant service within the meaning given by section 38A(1) of that Act);
  - (b) is transferred—
    - (i) to serve as a constable of the Police Service under paragraph 6 of schedule 5 to the Police and Fire Reform (Scotland) Act 2012; or
    - (ii) to be engaged in service outwith the Police Service by virtue of paragraph 8(4) of that schedule; and

- (c) is not a special constable.”.
- (3) In regulation 4, for “constable”, in each place it occurs, substitute “transferred constable”.
- (4) In regulation 5—
  - (a) in paragraph (1)—
    - (i) for “constable of the police force concerned” substitute “transferred constable”; and
    - (ii) in sub-paragraph (a), for “another constable of the same force” substitute “a constable of the Police Service”;
  - (b) in paragraphs (2)(b)(i) and (3)(a), for “same force”, in both places, substitute “Police Service”;
  - (c) in paragraph (5)(a)—
    - (i) for “police force concerned” substitute “Police Service”; and
    - (ii) omit the words from “or” to the end of paragraph (5)(a); and
  - (d) in paragraph (6)—
    - (i) for “any constable” substitute “a constable of the Police Service”; and
    - (ii) in sub-paragraph (b), for “the police force concerned” substitute “the Police Service”.
- (5) In regulation 6(6), for “same force” substitute “Police Service”.
- (6) In regulation 7(1), for “a constable of a police force” substitute “a transferred constable”.
- (7) In regulation 10, omit paragraph (3).
- (8) In regulation 12—
  - (a) in paragraph (1), after “a constable” insert “of the Police Service”;
  - (b) in paragraph (2), for “a police force” substitute “the Police Service”; and
  - (c) in paragraph (3), for “member of a police force” substitute “constable of the Police Service or a member of the police staff within the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012”.
- (9) In regulation 13—
  - (a) in paragraph (1)—
    - (i) for the first “a constable” substitute “a transferred constable”; and
    - (ii) after the second “a constable” insert “of the Police Service”;
  - (b) for paragraph (2)(a) substitute—
    - “(a) a constable of the Police Service; and”; and
  - (c) in paragraph (3), after “constables” insert “of the Police Service”.
- (10) In regulation 18(1)(a) and (b), (2)(b) and (3), for “force”, in each place it occurs, substitute “Police Service”.
- (11) In regulation 19(4), for “force”, substitute “Police Service”.
- (12) In regulation 20, omit paragraph (15).
- (13) In regulation 21—
  - (a) in paragraph (4)(b), for “a police force” substitute “the Police Service”; and
  - (b) in paragraph (9)(a), for “force”, in both places, substitute “Police Service”.
- (14) In regulation 22—
  - (a) in paragraph (1)—

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- (i) for “a constable” substitute “a transferred constable”; and
  - (ii) for “force” substitute “Police Service”; and
  - (b) in paragraph (2)(b), for “force”, in both places, substitute “Police Service”.
- (15) In regulation 24—
- (a) in paragraph (1), omit from the first “at” to the second “headquarters”; and
  - (b) in sub-paragraphs (a) and (b) of that paragraph—
    - (i) for “force”, in both places, substitute “Police Service”; and
    - (ii) omit the words “or, as the case may be, division concerned,” in both places.
- (16) In regulations 5, 6, 7, 7A, 8, 9, 10, 11, 12, 13, 14, 17, 22 and 24, for “assistant chief constable”, in each place it occurs, substitute “deputy chief constable”.
- (17) In regulations 20 and 21 after “the chief constable”, in each place it occurs, insert “of the Police Service”.
- (18) In regulations 20, 21 and 24 after “The Chief Constable,” in each place it occurs, insert “of the Police Service”.

## **Revocation**

- 11.** The Police (Conduct) (Scotland) Amendment Regulations 1999(2) are revoked.