
STATUTORY INSTRUMENTS

1995 No. 596 (S.47)

POLICE

The Police (Scotland) Amendment (No.2) Regulations 1995

<i>Made</i>	- - - -	<i>7th March 1995</i>
<i>Laid before Parliament</i>		<i>10th March 1995</i>
<i>Coming into force</i>		
<i>except regulation 10</i>		<i>1st April 1995</i>
<i>regulation 10</i>		<i>13th April 1995</i>

The Secretary of State, in exercise of the powers conferred upon him by section 26 of the Police (Scotland) Act 1967(1), and of all other powers enabling him in that behalf, after taking into consideration any representations made by the Police Advisory Board for Scotland following the submission of a draft of the Regulations in accordance with section 26(9) of the said Act of 1967 and after taking into consideration any recommendations of the Police Negotiating Board for the United Kingdom having furnished the Board with a draft of these Regulations in accordance with section 2(1) of the Police Negotiating Board Act 1980(2), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police (Scotland) Amendment (No.2) Regulations 1995.

(2) These Regulations, except regulation 10, shall come into force on 1st April 1995 but regulation 12(5) shall have effect from 1st September 1994.

(3) Regulation 10 shall come into force on 13th April 1995.

(4) In these Regulations “the principal Regulations” means the Police (Scotland) Regulations 1976(3).

(1) 1967 c. 77; section 26(9) was amended by the Police Negotiating Board Act 1980 (c. 10), section 2(4); section 26(1A) and (10) were inserted by the Police and Criminal Evidence Act 1984 (c. 60) (“the 1984 Act”), section 111 and section 26(7) was amended by the 1984 Act, Schedule 6, paragraph 32; section 26(1) was amended by the Police and Magistrates' Courts Act 1994 (c. 29) (“the 1994 Act”), section 53(1); section 26(2B) was inserted by the 1994 Act, section 52(3); section 26(5A) was inserted by the 1994 Act, section 53(1).

(2) 1980 c. 10.

(3) S.I. 1976/1073; relevant amendments are S.I. 1982/1628, 1985/111, 1985/1325, 1987/423, 1987/1914, 1988/1501, 1990/469, 1992/1432, 1992/3170 and 1995/137.

Amendment of the interpretation provisions of the principal Regulations

2. In regulation 1 of the principal Regulations—
 - (a) in paragraph (2)(g), the definition of “superintendent” is omitted; and
 - (b) in paragraph (3)(4), the words “a deputy chief constable,” are omitted.

Ranks

3. For regulation 2 of the principal Regulations there is substituted the following regulation:—

“Ranks

2.—(1) The ranks which may be held by constables of police forces shall be known by the following designations:—

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

Business interests

4. In regulation 5 of the principal Regulations(5) the words “deputy chief constable or” are omitted where they appear in paragraphs (2) and (4).

Qualifications for appointment of assistant chief constable, superintendent or chief inspector

5. For regulation 7 of the principal Regulations(6), there is substituted the following regulation:
—

“Qualifications for appointment of assistant chief constable, superintendent or chief inspector

7.—(1) No person shall be qualified for appointment as an assistant chief constable of a police force unless—

- (a) he has had at least 2 years' experience in the substantive rank of superintendent or in a higher rank—
 - (i) in a police force;
 - (ii) as a central police officer; or
 - (iii) as a constable assigned to duty with the Scottish Crime Squad, before the date on which the appointment shall take effect; and
- (b) he has been certified by a registered medical practitioner approved by the police authority to be in good health, of sound constitution and fitted both physically and mentally to perform the duties of the rank of assistant chief constable.

(4) Relevant amendment is [S.I. 1985/111](#).

(5) Relevant amendment is [S.I. 1985/111](#).

(6) Relevant amendments are [S.I. 1987/1914](#) and [1992/3170](#).

(2) No person shall be qualified for appointment as superintendent or chief inspector in a police force unless he has had previous police experience in the rank of inspector.”

Appointment of chief constable

6. For regulation 8 of the principal Regulations, there shall be substituted:

“Appointment of chief constable

8. Subject to section 4(1) of the Police (Scotland) Act 1967, no person shall be appointed as chief constable of a police force unless for a period of not less than two years he holds or has held the rank of assistant chief constable or above—

- (a) in some other police force;
- (b) on relevant service within the meaning of section 38A of the said Act of 1967(7);
or
- (c) partly in one of the capacities described in paragraphs (a) and (b) above and partly in another.”

Fixed term appointments for certain ranks

7. After regulation 8 of the principal Regulations, there shall be inserted the following regulations:—

“Fixed term appointments for certain ranks

8A.—(1) This regulation applies to every appointment on or after 1st April 1995 of a person to the rank of chief constable or assistant chief constable of a police force maintained under section 1 of the Police (Scotland) Act 1967(8).

(2) Where it is proposed to vary by agreement the conditions of service of a person who on 1st April 1995 holds either of the ranks specified in paragraph (1) indefinitely so that he holds that rank instead for a fixed term—

- (a) that term shall be for a period authorised by paragraph (3) or, as the case may be, paragraph (4); and
- (b) this regulation shall apply to such a variation as it applies to an appointment and as if the variation was an appointment.

(3) Subject to paragraphs (5) to (9), a person appointed to the rank of chief constable shall be appointed for a term of not less than four years and not more than seven years.

(4) Subject to paragraphs (5) to (9), a person appointed to the rank of assistant chief constable shall be appointed for a term of not less than four years and not more than either—

- (a) ten years; or
- (b) a period expiring with the date at which the person concerned reaches minimum retirement age or, if that period is less than four years, four years,

whichever of the periods in sub-paragraphs (a) and (b) is the shorter.

(5) The term of an appointment to which this regulation applies may be for a period of less than four years with the consent of the Secretary of State.

(7) Section 38A was inserted by the Police and Magistrates' Courts Act 1994, section 60.

(8) Section 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), section 146(2) and (3).

(6) The term of an appointment to which this regulation applies may, with the consent of the Secretary of State, be extended by agreement for a single period not exceeding one year where, in the opinion of the Secretary of State, the particular circumstances in which such an extension is sought are such as to justify it.

(7) The term of an appointment to which this regulation applies may be extended by agreement for a period or periods up to the time when the person appointed—

- (a) has completed 30 years' pensionable service for the purposes of the Police Pensions Regulations 1987⁽⁹⁾; or
- (b) has completed 25 years' pensionable service for those purposes and has attained the age of 50,

whichever is the earlier.

(8) Subject to paragraph (10), where the term of appointment of a person who—

- (a) has been appointed under this regulation; and
- (b) is subsequently engaged on relevant service within the meaning of section 38A of the Police (Scotland) Act 1967,

would otherwise expire whilst he is so engaged, that term shall expire one day after the end of the period of relevant service.

(9) This regulation is without prejudice to any provision whereby a term of appointment comes to an end on promotion or transfer to another police force and to the provisions of—

- (a) section 4(4)(d) (and that provision as read with section 5(3)) of the Police (Scotland) Act 1967⁽¹⁰⁾ relating to retirement in the interests of efficiency;
- (b) regulation 13 (resignation) below;
- (c) section 23(3) of the Police (Scotland) Act 1967⁽¹¹⁾ relating to retirement of chief constables affected by amalgamations or local government reorganisation;
- (d) the Police Pensions Regulations 1987 relating to compulsory retirement; and
- (e) the Police (Discipline) (Senior Officers) (Scotland) Regulations 1990⁽¹²⁾ relating to resignations as an alternative to dismissal.

(10) Paragraph (8) shall not apply where the exception specified in section 38A(3) of the Police (Scotland) Act 1967 applies.

(11) A person does not cease to be eligible for an appointment to which this regulation applies by reason only of the fact that he has completed a term determined in accordance with this regulation.

(12) In this regulation “minimum retirement age” means—

- (a) in the case of a person who, on attaining the age of 55, will be entitled to reckon not less than 25 years' pensionable service for the purposes of the Police Pensions Regulations 1987, that age; or
- (b) in the case of a person who, on attaining that age, will not be entitled to reckon 25 years' pensionable service for the purposes of those Regulations, the age at which he will be so entitled or the age at which he will be required to retire under regulation A18(1) of those Regulations, whichever is the earlier.

⁽⁹⁾ S.I. 1987/257, to which there are amendments not relevant to these Regulations.

⁽¹⁰⁾ Section 5 was substituted by the Police and Magistrates' Courts Act 1994 (c. 29), section 48.

⁽¹¹⁾ Section 23(3) was amended by the 1994 Act, section 53(2).

⁽¹²⁾ S.I. 1990/1017.

(13) For the purposes of determining an entitlement under paragraph (12), an election under regulation G4 of the Police Pensions Regulations 1987(13) (election not to pay pension contributions) shall be disregarded.

Requirement to advertise vacancies in certain ranks

8B.—(1) Subject to paragraph (4), where on or after 1st April 1995, a vacancy exists in either of the ranks specified in regulation 8A(1), a notice of the vacancy which complies with paragraph (2) shall be published by the police authority for the relevant police force.

(2) The notice referred to in paragraph (1) must—

- (a) invite applications to fill the vacancy;
- (b) be published in—
 - (i) not less than one newspaper circulating throughout Great Britain;
 - (ii) not less than one newspaper whose circulation is mainly throughout Scotland; and
 - (iii) not less than one journal which deals with police matters; and
- (c) specify the date, which shall not be less than three weeks after the date of the publication of the notice, by which applications must be made.

(3) Subject to paragraph (4), no appointment shall be made to fill a vacancy in either of the ranks specified in regulation 8A(1) until after the date specified in accordance with paragraph (2)(c) in a notice in respect of that vacancy.

(4) Paragraphs (1) and (3) shall not apply where—

- (a) the term of appointment of the person who currently holds the rank in which the vacancy would otherwise occur is extended under regulation 8A(6) or (7); or
- (b) that person is appointed for a further term and the conditions set out in paragraph (5) below are satisfied.

(5) The conditions referred to in paragraph (4) are that—

- (a) the person who currently holds the rank in which the vacancy would otherwise occur does so by virtue of an appointment under regulation 8A;
- (b) the relevant appointment of that person was for a term which was less than the maximum term authorised in respect of that person by paragraph (3) or, as the case may be, (4) of regulation 8A; and
- (c) the term for which is proposed to appoint that person (and for which that person is subsequently appointed) is such that, when taken together with—
 - (i) the term for which he was appointed by the relevant appointment; and
 - (ii) the term for which he was appointed by any subsequent appointment,the terms in total do not exceed the maximum term of appointment to which he could have been appointed at the time of the relevant appointment under paragraph (3) or, as the case may be, (4) of regulation 8A.

(6) In paragraph (5) “relevant appointment” means—

- (a) an appointment made under regulation 8A after the procedures required by paragraphs (1) and (3) of this regulation have been complied with; or
- (b) a variation in the conditions of service in accordance with regulation 8A(2).”.

Overtime

8.—(1) Regulation 22 of the principal Regulations(14) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1) for the word “superintendent” there is substituted “inspector”.

(3) In paragraph (3) for the words from the beginning to “subject to paragraphs (4) and (6),” there is substituted “Subject to paragraphs (4) and (6), a constable of a police force below the rank of inspector shall”.

(4) In paragraph (8) after the definition of “constable recalled to duty” there is inserted—
 ““normal daily period of duty” shall be construed in accordance with regulation 21;”.

Public holidays and rest days for lower ranks

9. In regulation 23(7) of the principal Regulations(15)—

(a) for sub-paragraph (b) there is substituted:

“(b) “a day’s pay” means the constable’s pay for the week in question divided by five;”;

(b) in sub-paragraph (f) the words “in paragraph (2)” are omitted.

Deductions from pay of social security benefits and statutory sick pay

10. For paragraph (1) of regulation 37 of the principal Regulations there is substituted the following paragraph:—

“(1) There shall be deducted from the pay of a constable of a police force—

(a) the amount of any short-term or long-term incapacity benefit to which he is entitled under the Social Security (Incapacity for Work) Act 1994(16); and

(b) any statutory sick pay to which he is entitled under the Social Security and Housing Benefits Act 1982(17),

and for the purposes of sub-paragraph (a) above any increase for adult and child dependants shall be treated as forming part of the benefit or allowance to which it relates.”.

Removal allowance

11. In regulation 47(7)(a) of the principal Regulations, the word “chief” is omitted.

Determination of pay

12.—(1) Schedule 3 to the principal Regulations(18) shall be amended in accordance with paragraphs (2) to (7).

(2) In paragraph 2 (pay points for superintendents and chief superintendents), the words “and chief superintendents” are omitted.

(3) In paragraph 3 (pay categories for superintendents and chief superintendents)—

(a) the words “and chief superintendents” are omitted;

(b) for pay categories F to I there shall be substituted:—

(14) Regulation 22 was replaced by [S.I. 1985/1325](#) and further amended by [S.I. 1990/469](#).

(15) Regulation 23 was replaced by [S.I. 1985/1325](#) and further amended by [S.I. 1987/423](#) and [1988/1501](#).

(16) [1994 c. 18](#).

(17) [1982 c. 24](#).

(18) Schedule 3 was substituted by [S.I. 1995/137](#).

- “F The constable is a superintendent—
- (a) whose pay category would otherwise be C, D or E, but who has been assigned by the chief constable to this category, or
 - (b) who was a chief superintendent on 31st August 1994, but since his promotion to that rank has not completed one year’s service (including subsequent service as a superintendent), or
 - (c) who was appointed in the rank of superintendent after 31st August 1994 and has completed one year’s service in it at pay category E, or
 - (d) who has completed one or more year’s service in this pay category and who does not qualify for pay category G, H or I.
- G The constable is a superintendent—
- (a) whose pay category would otherwise be C, D, E or F, but who has been assigned by the chief constable to this category, or
 - (b) who was a chief superintendent on 31st August 1994 and, since his promotion to that rank, has completed one year’s service (including subsequent service as a superintendent), or
 - (c) who has been assigned to pay category F by virtue of a decision under paragraph (a) of the description of that category and who has completed one year’s service at that pay category, or
 - (d) who has completed one or more year’s service in this pay category and who does not qualify for pay category H or I.
- H The constable is a superintendent—
- (a) whose pay category would otherwise be C, D, E, F or G, but who has been assigned by the chief constable to this category, or
 - (b) who was a chief superintendent on 31st August 1994 and, since his promotion to that rank, has completed two years’ service (including subsequent service as a superintendent), or
 - (c) who has been assigned to pay category G by virtue of a decision under paragraph (a) of the description of that category and who has completed one year’s service at that pay category, or
 - (d) who has completed one or more year’s service in this pay category and who does not qualify for pay category I.
- I The constable is a superintendent—
- (a) whose pay category would otherwise be H but who has been assigned by the chief constable to this category, or
 - (b) who was a chief superintendent on 31st August 1994 and, since his promotion to that rank, has completed three or more years’ service (including service as a superintendent), or
 - (c) who has been assigned to pay category H by virtue of a decision under paragraph (a) of the description of that category and who has completed one year’s service at that pay category, or
 - (d) who has completed one or more year’s service in this pay category.”.

(4) In paragraph 5 (pay categories for inspectors and chief inspectors) at the end of pay category G, there shall be added—

“or

(d) who has completed one or more year’s service in this pay category and who does not qualify for pay category H or I.”.

(5) In paragraph 5(2) (pay categories for inspectors and chief inspectors), for pay categories H and I there shall be substituted—

“**H** The member is a chief inspector who held that rank on 31st August 1994 and—

- (a) who has completed three years' service in that rank, or
- (b) to whom on that date sub-paragraph (2), (3) or (4) applied and who has completed two, but not three, years' service in that rank.

I The member is a chief inspector who held that rank on 31st August 1994 and—

- (a) who has completed four or more years' service in that rank, or
- (b) to whom on that date sub-paragraph (2), (3) or (4) applied and who has completed three, but not four, years' service in that rank.”.

St Andrew’s House,
Edinburgh
7th March 1995

Fraser of Carmyllie
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police (Scotland) Regulations 1976 (“the principal Regulations”).

Regulation 6 of these Regulations replaces the qualifications set out in the principal Regulations for appointment as chief constable.

Regulation 7 of these Regulations inserts two regulations into the principal Regulations. New regulation 8A requires appointments on or after 1st April 1995 to the rank of chief constable and assistant chief constable to be for a fixed term determined in accordance with that regulation. It also makes provision requiring those who hold those ranks on 1st April 1995 on an indefinite basis and who transfer to a fixed term appointment to do so in accordance with that regulation. New regulation 8B requires any vacancy in such a rank occurring on or after 1st April 1995 to be advertised in accordance with regulation 8B(2) except in the circumstances set out in regulation 8B(4) and (5).

Regulations 2, 3, 4, 11 and some of regulation 12 make amendments to the principal Regulations consequent on the abolition of the ranks of deputy chief constable and chief superintendent as from 1st April 1995 by Part II of the Police and Magistrates' Courts Act 1994.

Regulations 8 and 9 and the remainder of regulation 12 make minor drafting changes. By virtue of regulation 1(2), regulation 12(5) has effect from 1st September 1994. Retrospection is authorised by section 26(3) of the Police (Scotland) Act 1967.

Regulation 10 makes a change consequent on the changes made by the Social Security (Incapacity for Work) Act 1994.