
STATUTORY INSTRUMENTS

1996 No. 3232 (S.244)

POLICE

The Police (Scotland) Amendment Regulations 1996

Made - - - - *19th December 1996*
Laid before Parliament *24th December 1996*
Coming into force - - *14th January 1997*

The Secretary of State, in exercise of the powers conferred on him by section 26 of the Police 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 made by the Police Negotiating Board for the United Kingdom and supplying the said Board with a draft of the Regulations in accordance with section 62(1) of the Police Act 1996(2), hereby makes the following Regulations:

Citation, commencement and interpretation

- 1.—(1) These Regulations may be cited as the Police (Scotland) Amendment Regulations 1996.
(2) These Regulations shall come into force on 14th January 1997, but—
(a) regulation 5(c) shall have effect from 16th October 1994 for the purposes of regulation 38 of the principal Regulations and the definition of “relevant service” in paragraph 4(1) of Schedule 2 to those Regulations;
(b) regulations 7 and 10 shall have effect from 18th July 1995; and
(c) regulations 8, 11 and 12 shall have effect from 1st September 1995.
(3) 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), section 111; section 26(1) was amended by the Police and Magistrates' Courts Act 1994 (c. 29) (“the 1994 Act”), section 53(1); section 26(2) was amended by the 1994 Act, section 47(5) and Schedule 9; section 26(2A) to (2C) were inserted by the 1994 Act, section 52(3); section 26(5A) was inserted by the 1994 Act, section 53(1); section 26(7) was repealed by the 1994 Act, section 52(4) and Schedule 9.
(2) 1996 c. 16.
(3) S.I. 1976/1073, relevant amending instruments are S.I. 1978/1170, 1982/1628, 1985/111, 1992/1432, 1992/3170, 1993/3081, 1995/137, 1995/596, 1995/2131 and 1995/3001.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1 of the principal Regulations (citation, commencement and interpretation)–
- (a) in paragraph (2)(g)–
- (i) after the definition of “central police officer” there is inserted–
- ““Conduct Regulations” means the Police (Conduct) (Scotland) Regulations 1996(4) or the Police (Conduct) (Senior Officers) (Scotland) Regulations 1996(5);” and
- (ii) after the definition of “joint branch board”(6) there is inserted–
- ““maternity leave” has the meaning assigned thereto by regulation 28ZA(1);” and
- (b) in paragraph (3) at the end there is inserted–
- “; and a reference to a constable includes such a constable who is suspended under the Discipline Regulations or the Conduct Regulations”.

Amendment of regulation 11 of the principal Regulations

3. In regulation 11 of the principal Regulations (probationary service in the rank of constable)(7)–
- (a) in paragraph (2)–
- (i) the words “, with the approval of the Secretary of State,” are omitted; and
- (ii) the words from “Provided that” to the end are omitted; and
- (b) in paragraph (4), after sub-paragraph (c) there is inserted–
- “(d) in reckoning service in the case of a female constable of a police force who has taken one or more periods of maternity leave–
- (i) where that leave has been for more than fourteen weeks, the first fourteen weeks whilst on maternity leave shall be treated as if it were service in the police force;
- (ii) where that leave has been for less than fourteen weeks, any period spent on maternity leave shall be treated as if it were service in the police force.”.

Substitution of regulation 28 of the principal Regulations

4. For regulation 28 of the principal Regulations (maternity leave) there are substituted the following regulations:–

“Leave for ante-natal care

28.—(1) A female constable of a police force who is pregnant and who, on the advice of a registered medical practitioner, registered midwife or registered health visitor, has made an appointment to attend at any place for the purpose of receiving ante-natal care shall, subject to the following provisions of this regulation, have the right not to be unreasonably refused special leave from duty to enable her to keep the appointment.

(2) Subject to paragraph (3), a chief constable shall not be required by virtue of this regulation to permit a female constable of a police force to take special leave from duty to keep an appointment unless, if he requests her to do so, she produces for his inspection–

(4) S.I. 1996/1642.

(5) S.I. 1996/1645.

(6) Inserted by S.I. 1993/3081.

(7) Regulation 11 was amended by S.I. 1992/3170.

- (a) a certificate from a registered medical practitioner, registered midwife or registered health visitor stating that she is pregnant; and
 - (b) an appointment card or other document showing that the appointment has been made.
- (3) Paragraph (2) shall not apply where the female constable of a police force's appointment is the first appointment during her pregnancy for which she seeks permission to take special leave from duty in accordance with paragraph (1).
- (4) A period of special leave from duty taken in accordance with paragraph (1) shall be treated as a period of duty.

Maternity leave

28ZA.—(1) In this regulation—

“expected date of birth” means, subject to paragraph (4), the date given in accordance with paragraph (2)(b);

“maternity leave” means leave taken in accordance with the provisions of this regulation by a qualified constable of a police force during the maternity period;

“maternity period”, in relation to such a constable, means the period beginning six months before the probable date of birth of the constable's child, as given under paragraph (2)(b) or, as the case may be, paragraph (4), and ending nine months after the date so given; and

“qualified constable” means a constable of a police force who qualifies under paragraph (2).

(2) Subject to the following provisions of this regulation, a female constable of a police force qualifies for maternity leave when she has given to the chief constable notice stating—

- (a) that she is pregnant;
- (b) the probable date of the birth of her child; and
- (c) the date on which she intends to commence maternity leave or, where she proposes to take more than one period of maternity leave before the probable date of the birth of her child, the proposed dates of those periods.

(3) A female constable of a police force does not qualify for maternity leave where the chief constable has requested a certificate from a registered medical practitioner, registered midwife or registered health visitor setting out the matters referred to in paragraph (2)(a) and (b) and she fails to produce such a certificate.

(4) Where a certificate produced under paragraph (3) sets out a different date as the probable date of the birth of the child of the female constable of a police force from the date given in accordance with paragraph (2)(b), the date given in the certificate shall have effect in place of the date given in the notice.

(5) A female constable of a police force who is pregnant shall give the notice required by paragraph (2) as soon as reasonably practicable after she becomes aware of the probable date of birth of her child.

(6) The date or dates given in accordance with paragraph (2)(c) may be amended by a subsequent notice to the chief constable, provided that not less than 21 days' notice is given of the qualified constable's intention to return to duty.

(7) A qualified constable shall take maternity leave no later than the date given in accordance with paragraph (2)(b) or, as the case may be, paragraph (4) and, subject to paragraphs (8) and (9), the leave shall continue until the last day of the maternity leave.

(8) Where a qualified constable intends to return to duty before the end of the maternity period after taking maternity leave, she shall give to the chief constable not less than 21 days' notice of her intention.

(9) A notice under paragraph (8) may be subsequently revoked, and any such revocation shall be without prejudice to the giving of another notice under that paragraph of an intention to return to duty before the end of the maternity period.

(10) During any period of maternity leave, a qualified constable shall not be entitled to any sick leave under regulation 27.

(11) In paragraph (10) "period of maternity leave" means the period—

(a) beginning on—

(i) the date given in accordance with paragraph (2)(c) as the date on which the qualified constable intends to commence maternity leave or, where she proposes to take more than one period of such leave, the first of those dates; or

(ii) where that date or, as the case may be, the first of those dates has been amended by a subsequent notice under paragraph (6), that date; and

(b) ending on—

(i) where a notice has been given under paragraph (8) and has not been subsequently revoked, the date so given; or

(ii) where no such notice has been given or remains in force, the last day of the maternity period.”.

Amendment of regulation 30 of the principal Regulations

5. Regulation 30(2) of the principal Regulations (rate of pay)(8) is amended as follows:—

(a) the words from “Provided that” to the end shall become a new paragraph numbered “(2A)”;

(b) for the words “Provided that” there are substituted the words “For the purposes of this regulation,”;

(c) after sub-paragraph (e) there is inserted—

“(f) in the case of a female constable of a police force who has taken one or more periods of maternity leave—

(i) where that leave has been for more than fourteen weeks, account shall be taken of the first fourteen weeks whilst on maternity leave;

(ii) where that leave has been for less than fourteen weeks, account shall be taken of any period spent on maternity leave,”; and

(d) for the words “this paragraph” there are substituted the words “paragraph 2”.

Amendment of regulation 30A of the principal Regulations

6.—(1) Regulation 30A of the principal Regulations (temporary salary)(9) is amended as follows.

(2) In paragraph (1)—

(a) for the word “duties” there are substituted the words “the duties”; and

(b) for the words “lowest rate of pay for” there are substituted the words “rate of pay of the constable in”.

(8) Regulation 30 was amended by S.I. 1978/1170, 1982/1628, 1985/111, 1995/137 and 1995/3001.

(9) Regulation 30A was inserted by S.I. 1982/1628 and amended by S.I. 1985/111 and 1992/1432.

(3) After paragraph (1) there is inserted the following paragraph:—

“(1A) A constable of a police force of the rank of superintendent who is required for a continuous period exceeding 7 days to perform the duties normally performed by such a constable whose pay category under paragraph 3 of Schedule 3 is higher than his own, otherwise (subject to paragraph (2)) than as the direct or indirect result of the absence of any constable of the force on a monthly or other leave day granted under regulation 25, shall be paid in respect of that period, other than the first 7 days thereof, at a rate equal to the rate of pay of the constable in that higher pay category.”.

(4) In paragraph (2), after the words “paragraph (1)” there are inserted the words “or (1A)”.

(5) In paragraph (3)—

- (a) at the beginning there are inserted the words “Subject to paragraph (3YA),”;
- (b) for the words “perform duties” there are substituted the words “perform the duties”; and
- (c) the words from “Provided that” to the end are omitted.

(6) After paragraph (3) there is inserted—

“(3ZA) Where—

- (a) a constable below the rank of inspector is entitled to be paid under paragraph (3);
- (b) the higher rank is that of inspector or above; and
- (c) the day on which the constable is required to perform the duties referred to in paragraph (3) is not a public holiday or rostered rest day,

there shall be no entitlement to an allowance or time off under regulation 22 in respect of such duties.

(3YA) Paragraph (3) shall not apply where—

- (a) a constable below the rank of inspector is required to perform the duties normally performed by a constable of the rank of inspector or above; and
- (b) the day on which the constable is so required to perform such duties is a public holiday or rostered rest day.”.

(7) In paragraph (3A)(a), for the word “duties” there are substituted the words “the duties”.

(8) In paragraph (4)(b) for the word “superintendent” there is substituted the word “inspector”.

Insertion of new regulation 30B of the principal Regulations

7. After regulation 30A of the principal Regulations (temporary salary) there is inserted the following regulation:—

“Pay during maternity leave

30B.—(1) Subject to the following provisions of this regulation, a female constable of a police force who satisfies the conditions in paragraph (2) is entitled to be paid as respects the first three months of any period or periods of maternity leave in any one maternity period (as defined by regulation 28ZA) taken in accordance with that regulation, but is not entitled to be paid thereafter.

(2) The conditions referred to in paragraph (1) are that—

- (a) at the beginning of the week in which the expected date of birth (as defined by regulation 28ZA(1)) occurs, the female constable of a police force will have served continuously for a period of not less than sixty-three weeks in that or any other police force; and

- (b) on the date (“the relevant date”) fifteen weeks before the expected date of birth (as so defined) she either—
- (i) remains pregnant; or
 - (ii) has given birth prematurely to a baby who is alive on the relevant date.
- (3) In this regulation “week” means a period of seven days beginning with Sunday.”.

Amendment of regulation 37 of the principal Regulations

8. In regulation 37(1) of the principal Regulations (deductions from pay of social security benefits and statutory sick pay)(**10**), after the word “force” there are inserted the words “who is in receipt of full pay (within the meaning of regulation 27A(4)(b))”.

Amendment of Schedule 1A to the principal Regulations

9. Sub-paragraphs (a) and (b)(ii) of paragraph 7 of Schedule 1A to the principal Regulations (modification of regulation 30A of those Regulations for temporary salary)(**11**) are omitted.

Amendment of Schedule 1B to the principal Regulations

10.—(1) Paragraph 12 of Schedule 1B to the principal Regulations (modification of regulation 28 of those Regulations for part-time service)(**12**) is omitted.

(2) After paragraph 15 of that Schedule there is inserted the following paragraph:—

“Modification of regulation 30B

15A. In regulation 30B (pay during maternity leave) after paragraph (3) insert—

“(4) A female constable below the rank of superintendent who satisfies the conditions in paragraph (2) is to be treated for the purposes of regulation 30(1) (pay) as having been on duty for the number of hours determined by multiplying the number of her determined hours by the length in days of the paid leave period and dividing the result by the length in days of the relevant period.”.

Amendment of Schedule 3 to the principal Regulations

11.—(1) Schedule 3 to the principal Regulations (determination of pay)(**13**) is amended as follows.

(2) The table in paragraph 2 shall be amended by substituting for the third column (which sets out the amounts payable in respect of pay categories A to I) the following:—

“£38,724
£39,678
£40,635
£41,589
£42,543
£43,497
£44,454

(10) Regulation 37(1) was substituted by S.I. 1995/596.

(11) Schedule 1A was inserted by S.I. 1993/3081 and amended by S.I. 1994/2231.

(12) Schedule 1B was inserted by S.I. 1995/3001.

(13) Schedule 3 was substituted by S.I. 1995/137 and amended by S.I. 1995/596 and 1995/2131.

£45,408
£46,362”.

(3) In paragraph 3–

- (a) sub-paragraph (c) of pay category E and the word “or” immediately before it are omitted;
- (b) in sub-paragraph (a) of pay category F the words “whose pay category would otherwise be C, D or E, but” are omitted;
- (c) in sub-paragraph (c) of pay category F the words “was appointed in the rank of superintendent after 31st August 1994 and” and “in it” are omitted;
- (d) in sub-paragraph (a) of pay category G the words “whose pay category would otherwise be C, D, E or F, but” are omitted; and
- (e) in sub-paragraph (a) of pay category H the words “whose pay category would otherwise be C, D, E, F or G, but” are omitted.

(4) The table in paragraph 4 is amended by substituting for the third column (which sets out the amounts payable in respect of pay categories A to I) the following:–

“£28,470
£29,310
£30,147
£30,984
£31,824
£32,478
£33,138
£33,795
£34,386”.

(5) The table in paragraph 6 is amended by substituting for the third column (which sets out the amounts payable in respect of pay categories A to F) the following:–

“£22,014
£22,809
£23,604
£24,402
£24,930
£25,674”.

(6) The table in paragraph 8 is amended by substituting for the third column (which sets out the amounts payable in respect of pay categories A to M) the following:–

“£14,412
£15,648
£16,525
£16,710
£17,082
£17,532
£18,141
£18,726

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£19,335
£19,893
£20,397
£21,057
£21,828
£22,809”.

(7) For the table in paragraph 11(2) there is substituted—

“TABLE

| 1 Population of police area | 2 Officer appointed under regulation 8A | 3 Officer not appointed under regulation 8A |
|--------------------------------|--|--|
| Up to 500,000 | £62,730 to £71,745 | £59,742 to £68,325 |
| 500,001 to 1,000,000 | £65,940 to £77,544 | £62,802 to £73,851 |
| 1,000,001 to 2,000,000 | £71,745 to £83,343 | £68,325 to £79,377 |
| Over 2,000,000 | £79,392 to £89,598 | £75,699 to £85,431”. |

(8) In paragraph 11(3)(a) for the words “£51,756 to £59,409” there are substituted “£53,310 to £61,191”.

(9) In paragraph 11(3)(b) for the words “£49,290 to £56,580” there are substituted “£50,769 to £58,278”.

(10) For the table in paragraph 11(4) there is substituted—

“TABLE

| 1 Population of police area | 2 Officer appointed under regulation 8A | 3 Officer not appointed under regulation 8A |
|--------------------------------|--|--|
| Up to 500,000 | £53,310 to £61,191 | £50,769 to £58,278 |
| 500,001 to 1,000,000 | £53,310 to £62,035 | £50,769 to £59,081 |
| 1,000,001 to 2,000,000 | £57,396 to £66,674 | £54,660 to £63,502 |
| Over 2,000,000 | £63,513 to £71,678 | £60,559 to £68,345”. |

Amendment of Schedule 10 to the principal Regulations

12. In paragraph 1(1) of Schedule 10 to the principal Regulations (dog handler’s allowance)(**14**), for the words “£957” and “£1,308” there are respectively substituted “£987” and “£1,347”.

Revocation

13. Regulation 4 of the Police (Scotland) Amendment Regulations 1995(**15**) is hereby revoked.

(14) The sum specified in paragraph 1(1) was substituted by [S.I. 1995/137](#).

(15) [S.I. 1995/137](#).

St Andrew's House,
Edinburgh
19th December 1996

James Douglas-Hamilton
Minister of State, Scottish Office

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EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 4 amends the principal Regulations to insert a new regulation conferring a right on a female constable of a police force to take special leave to receive ante-natal care. Together with the amendment made by regulation 7, regulation 4 also makes fresh provision in respect of maternity leave. Under regulation 30B, as inserted by regulation 7, the first three months of maternity leave continue to be paid, subject to the conditions in regulation 30B(2) being satisfied. However, the entitlement to maternity leave has been altered. The requirement in the existing regulation 28(3) of the principal Regulations for a certificate of pregnancy from a registered medical practitioner is no longer required. Under regulation 28ZA(2), as inserted, the female constable can give a notice stating that she is pregnant; if challenged, she would need to provide a certificate but that could be given by a registered midwife or registered health visitor as well as by a registered medical practitioner.

Regulations 3(b) and 5(c) amend the principal Regulations so that, in reckoning service for the purposes of probation and pay, account is taken of maternity leave.

Regulation 6 amends regulation 30A of the principal Regulations which concerns temporary salary when a constable of a police force acts for a constable of a higher rank. The omission of paragraph 7(b)(ii) of Schedule 1A to the principal Regulations (by regulation 9 of these Regulations) is consequential on this change and the remainder of regulation 9 of these Regulations omits a modification from Schedule 1A which is unnecessary.

Regulation 8 amends regulation 37 of the principal Regulations so that the deductions from pay in respect of certain social security benefits which are authorised by regulation 37 apply only when the constable of a police force is on full pay.

Regulation 10 amends Schedule 1B to the principal Regulations so as to make consequential changes to the modifications made to the principal Regulations in their application to part-time appointees.

Regulation 11 alters the rates of pay for all ranks and amends the categories which determine pay for constables of police forces of the rank of superintendent. Regulation 12 increases a dog handler’s allowance.

By virtue of regulation 1(2), the regulations there cited have effect from dates before the coming into force of these Regulations. Retrospection is authorised by section 26(3) of the Police (Scotland) Act 1967.