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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 372**

**POLICE**

**The Police (Scotland) Amendment Regulations 2009**

*Made* - - - - 28th October 2009  
*Laid before the Scottish Parliament* - - - - 29th October 2009  
*Coming into force* - - 10th December 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 26 of the Police (Scotland) Act 1967(1) and all other powers enabling them to do so.

In accordance with section 26(9) of the 1967 Act, they have submitted a draft of the Regulations to the Police Advisory Board for Scotland and have taken into consideration representations made on the draft by that Board.

In accordance with section 62(1A) of the Police Act 1996(2), they have taken into consideration any recommendation made by the Police Negotiating Board for the United Kingdom and have supplied the Board with a draft of the Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Police (Scotland) Amendment Regulations 2009 and come into force on 10th December 2009.

**Amendments of the Police (Promotion) (Scotland) Regulations 1996**

2.—(1) The Police (Promotion) (Scotland) Regulations 1996(3) are amended as follows.

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- (1) 1967 c.77; section 26(1) was amended by the Police and Magistrates' Courts Act 1994 (c.29) ("the 1994 Act"), section 53(1)(a); sections 26(1A) and (10) were inserted by the Police and Criminal Evidence Act 1984 (c.60), section 111; section 26(2) was amended by the 1994 Act, sections 47(5) and 52(2) and Schedule 9, and by the Police Act 1996 (c.16) ("the 1996 Act"), section 103 and Schedule 7, paragraph 14(2); sections 26(2A) to (2C) were inserted by the 1994 Act, section 52(3); section 26(2A)(b) was amended by section 75(4) of the Criminal Justice (Scotland) Act 2003 (asp 7); section 26(2C) was repealed by section 101 and paragraph 1(3) of schedule 6 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10); section 26(5A) was inserted by the 1994 Act, section 53(1)(b); section 26(7) was repealed by the 1994 Act, section 52(4) and Schedule 9; section 26(8) was repealed by the Police Act 1969 (c.63), section 4(8); section 26(9) was amended by the Police Negotiating Board Act 1980 (c.10), section 2(4) and by the 1996 Act, section 103(1) and Schedule 7, paragraph 14(3). Section 26 is modified by section 17 of the Sex Discrimination Act 1975 (c.65). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
- (2) 1996 c.16; section 62(1A) was inserted by S.I. 1999/1820, article 4 and Schedule 2, paragraph 124(b), and amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 101 and schedule 6, paragraph 5. A previous version of section 62(1A) was repealed by the Criminal Justice and Police Act 2001 (c.16), section 128 and Schedule 6, paragraph 77.
- (3) S.I. 1996/221; as amended by S.S.I. 2004/257 and 2007/528.

(2) In regulation 1(2) (citation, commencement and interpretation) in the definition of “qualifying examination” for “on and after 1st March 1996” substitute “during the period beginning on 1st March 1996 and ending on 9th December 2009”.

(3) In regulation 2 (qualification for promotion) omit paragraph (2).

(4) In regulations 8(2) (recognition of service and examinations in certain police forces) and 9 (recognition of examinations in the British Transport Police) omit the words “the qualifying examination or” where they occur.

### **Amendment of the Police (Special Constables) (Scotland) Regulations 2008**

3.—(1) The Police (Special Constables) (Scotland) Regulations 2008(4) are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of “inquiry officer” for “regulation 20” substitute “regulation 19”.

(3) In regulation 8 (retirement)—

(a) in paragraph (2) after “Subject to” insert “paragraph (3) and”; and

(b) after paragraph (2) insert—

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

### **Amendment of the Police (Scotland) Regulations 2004**

4.—(1) The Police (Scotland) Regulations 2004(5) are amended as follows.

(2) In regulation 11(3) (appointment of senior officers) for “a senior officer rank” substitute “the rank of chief constable or deputy chief constable”.

(3) In regulation 31 (deductions from pay of social security benefits and statutory sick pay) after paragraph (1)(b) insert—

“(c) any contributory employment and support allowance to which he is entitled under the Welfare Reform Act 2007(6).”.

### **Consequential provision**

5.—(1) A person who at the time these Regulations come into force holds the rank of assistant chief constable in a police force shall cease to hold that rank subject to a fixed term.

(2) Paragraph (1) is without prejudice to any provision whereby a term of appointment comes to an end on retirement, promotion, dismissal, resignation, the conclusion of disciplinary proceedings or transfer to another police force.

St Andrew’s House,  
Edinburgh  
28th October 2009

*KENNY MACASKILL*  
A member of the Scottish Executive

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(4) [S.S.I. 2008/117](#).

(5) [S.S.I. 2004/257](#); to which there are no relevant amendments.

(6) [2007 c.5](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Police (Promotion) (Scotland) Regulations 1996 (S.I. 1996/221) (“the 1996 Regulations”), the Police (Special Constables) (Scotland) Regulations 2008 (S.S.I. 2008/117) (“the 2008 Regulations”) and the Police (Scotland) Regulations 2004 (S.S.I. 2004/257) (“the 2004 Regulations”).

Regulation 2 amends the 1996 Regulations so that qualifying examinations will no longer take place and the only formal means to obtain a new qualification for eligibility for promotion is by way of qualifying diploma. Any constable who passed the qualifying examination on or before 9th December 2009 will continue to be eligible for promotion after that date. Recognition of examinations or courses passed by police officers from other forces continues but they are now deemed to be equivalent to a pass in the qualifying diploma.

Regulation 3(2) corrects an erroneous cross reference in the definition of an “inquiry officer” in regulation 2 of the 2008 Regulations.

Regulation 3(3) amends regulation 8 of the 2008 Regulations so that the chief constable can postpone the retirement of a special constable beyond the age of 60 years.

Regulation 4 amends regulations 11 and 31 of the 2004 Regulations to remove the requirement that assistant chief constables hold rank on a fixed term basis, and to add contributory employment and support allowance awarded under the Welfare Reform Act 2007 (c.5) to the list of social security benefits that are to be deducted from police pay. The effect is that the same amount as any payment of the allowance which is made to a member of a police force who is in receipt of full pay is deducted from the member’s salary.

Regulation 5 makes consequential provision so that any member of a police force holding the rank of assistant chief constable at the time these Regulations come into force ceases to hold that rank on a fixed term basis, but will hold it subject to the normal rules on retirement, promotion, dismissal, resignation or transfer.