
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 43

The Police Service of Scotland
(Special Constables) Regulations 2013

PART 1

COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. These Regulations may be cited as the Police Service of Scotland (Special Constables) Regulations 2013 and come into force on 1st April 2013.

Commencement Information

II [Reg. 1](#) in force at 1.4.2013, see [reg. 1](#)

Interpretation

2.—(1) In these Regulations—

“the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012;

“the deputy chief constable” means the deputy chief constable designated under regulation 4 of the Police Service of Scotland (Conduct) Regulations 2013⁽¹⁾;

[^{F1}“EEA State” means—

- (a) a State which is a member State of the EU; or
- (b) any other State which is a party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993;]

“inquiry officer” means a constable who is selected under regulation 14;

“misconduct” is construed in accordance with regulation 11;

“misconduct officer” means a constable who is selected under regulation 16;

“nominated officer” means a constable who is selected under regulation 13;

“police force” means, except in relation to Schedule 3—

- (a) a police force maintained under section 2(1) of the Police Act 1996⁽²⁾;
- (b) a police force maintained before 1st April 2013 under the Police (Scotland) Act 1967⁽³⁾;
- (c) the metropolitan police force;

(1) [S.S.I. 2013/60](#).

(2) [1996 c.16](#); section 2 was amended by the Police Reform and Social Responsibility Act 2011 ([c.13](#)), section 99 and Schedule 16, paragraph 4.

(3) [1967 c.77](#).

- (d) the City of London police force;
 - (e) the Police Service of Northern Ireland;
 - (f) the British Transport Police Force;
 - (g) the Ministry of Defence Police, that is to say the force established by section 1 of the Ministry of Defence Police Act 1987(4) or, before the coming into force of that Act, comprising constables appointed under section 3 of the Special Constables Act 1923(5) on the nomination of the Defence Council;
 - (h) the Port of Tilbury Constabulary or before the coming into force of the Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992(6), the Port of London Authority's police force, that is to say the force of constables appointed under section 154 of the Port of London Act 1968(7);
 - (i) an aerodrome constabulary within the meaning given by section 31(1) of the Aviation Security Act 1982(8);
 - (j) the States of Jersey Police Force;
 - (k) the salaried police force of the Island of Guernsey; and
 - (l) the Isle of Man Constabulary;
- “seaman” has the same meaning as in section 313 of the Merchant Shipping Act 1995(9); and
“special constable” means an individual appointed under section 9 of the 2012 Act.

(2) Nothing in these Regulations is to be construed as retrospectively reducing any allowance payable to or in respect of any special constable.

F1 Words in [reg. 2\(1\)](#) inserted (13.5.2013) by [The Police Service of Scotland \(Amendment\) Regulations 2013 \(S.S.I. 2013/122\)](#), [regs. 1, 3\(2\)](#)

Commencement Information

I2 [Reg. 2](#) in force at 1.4.2013, see [reg. 1](#)

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.

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- (4) [1987 c.4](#). Section 1 has been amended by the Police Act [1996 \(c.16\)](#), Schedule 7, paragraph 41; the Police (Northern Ireland) Act [1998 \(c.32\)](#), section 74 and Schedule 4, paragraph 16; and the Police Reform Act [2002 \(c.30\)](#), section 79.
 - (5) [1923 c.11](#).
 - (6) [S.I. 1992/284](#).
 - (7) [1968 c.xxxii](#).
 - (8) [1982 c.36](#). Section 31 has been amended by the Greater London Authority Act [1999 \(c.29\)](#), sections 325 and 423, Schedule 27, paragraph 46 and Schedule 34, Part VII; the Police (Northern Ireland) Act [2000 \(c.32\)](#), section 78 and Schedule 6, paragraph 8; the Police and Justice Act [2006 \(c.48\)](#), Schedule 14, paragraph 8; and the Policing and Crime Act [2009 \(c.26\)](#), Schedule 6, paragraph 12 and Schedule 8, Part 7.
 - (9) [1995 c.21](#); there are no relevant amendments.

Commencement Information

I3 [Reg. 3](#) in force at 1.4.2013, see [reg. 1](#)

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.

Commencement Information

I4 [Reg. 4](#) in force at 1.4.2013, see [reg. 1](#)

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 [^{F2}; and]
 - [^{F3}(h) if not a national of [^{F4}the United Kingdom or] an EEA State, have leave to enter or remain in the United Kingdom for an indefinite period.]
- (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.
- [^{F5}(5) For the purposes of this regulation, “national of the United Kingdom” means—
- (a) a British citizen;
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.]

- F2** Word in [reg. 5\(1\)\(g\)](#) inserted (13.5.2013) by [The Police Service of Scotland \(Amendment\) Regulations 2013 \(S.S.I. 2013/122\)](#), [regs. 1, 3\(3\)\(a\)](#)
- F3** [Reg. 5\(1\)\(h\)](#) inserted (13.5.2013) by [The Police Service of Scotland \(Amendment\) Regulations 2013 \(S.S.I. 2013/122\)](#), [regs. 1, 3\(3\)\(b\)](#)
- F4** Words in [reg. 5\(1\)\(h\)](#) inserted (31.12.2020) by [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019 \(S.I. 2019/745\)](#), [regs. 1\(2\), 36\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F5** [Reg. 5\(5\)](#) inserted (31.12.2020) by [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019 \(S.I. 2019/745\)](#), [regs. 1\(2\), 36\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I5** [Reg. 5](#) in force at 1.4.2013, see [reg. 1](#)

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).

Commencement Information

I6 Reg. 6 in force at 1.4.2013, see **reg. 1**

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); [^{F6}and]
 - ^{F7}(h)
 - (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.

- F6** Word in [reg. 7\(2\)\(g\)](#) inserted (18.5.2013) by [The Police Service of Scotland \(Amendment\) \(No. 2\) Regulations 2013 \(S.S.I. 2013/125\)](#), regs. 1, [4\(2\)\(a\)](#)
- F7** [Reg. 7\(2\)\(h\)](#) omitted (18.5.2013) by virtue of [The Police Service of Scotland \(Amendment\) \(No. 2\) Regulations 2013 \(S.S.I. 2013/125\)](#), regs. 1, [4\(2\)\(b\)](#)

Commencement Information

- I7** [Reg. 7](#) in force at 1.4.2013, see [reg. 1](#)

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.

Commencement Information

- I8** [Reg. 8](#) in force at 1.4.2013, see [reg. 1](#)

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\(10\)](#), [19\(11\)](#), [19A\(12\)](#) and [19AA\(13\)](#) of the Criminal Procedure (Scotland) Act 1995;
 - (ii) section 56 of the Criminal Justice (Scotland) Act 2003([14](#));
 - (iii) in the case of fingerprints, section [87\(5A\)\(b\)](#) of the Sexual Offences Act 2003([15](#));

(10) 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).

(11) 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).

(12) 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.

(13) Section 19AA was added by the Police, Public Order and Criminal Justice (Scotland) Act [2006 \(asp 10\)](#), section 77.

(14) [2003 asp 7](#).

(15) Section [87\(5A\)](#) was added by the Police, Public Order and Criminal Justice (Scotland) Act [2006 \(asp 10\)](#), section 77.

- (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.

Commencement Information

19 [Reg. 9](#) in force at 1.4.2013, see [reg. 1](#)

PART 3

DUTY

Duty

- 10.**—(1) The Scottish Ministers must determine—
- (a) the normal periods of duty of a special constable;
 - (b) the periods allowed for refreshment; and
 - (c) the circumstances in which travelling time may be treated as duty.
- (2) In making a determination under this regulation the Scottish Ministers may confer—
- (a) such functions on the chief constable as they think fit; and
 - (b) a discretion on the chief constable to fix a limit on the travelling time which is to be treated as duty.
- (3) In this regulation “travelling time” means time spent by a special constable in travelling to and from that special constable’s home or place of employment to any place where that special constable is required to attend for the purpose of, or in connection with, carrying out his or her duties.

Commencement Information

110 [Reg. 10](#) in force at 1.4.2013, see [reg. 1](#)

PART 4

MISCONDUCT

Misconduct

11. For the purposes of these Regulations, an act or omission of a special constable amounts to misconduct if it is conduct of a type mentioned in Schedule 2.

Commencement Information

I11 [Reg. 11](#) in force at 1.4.2013, see [reg. 1](#)

Preliminary procedures

12.—(1) The deputy chief constable must prepare and maintain procedures for the consideration and handling of any report, complaint or allegation from which it may reasonably be inferred that an act, omission or an alleged act or omission of a special constable amounts, or may amount, to misconduct.

(2) Where a report, complaint or allegation of the type specified in paragraph (1) has been received, the deputy chief constable may—

- (a) consider that report, complaint or allegation in the first instance and, unless regulation 20 applies, decide whether an inquiry into the matter should take place; or
- (b) select a nominated officer to consider the report, complaint or allegation in the first instance who will, unless regulation 20 applies, decide whether an inquiry into the matter should take place.

(3) Where it is decided that an inquiry into the report, complaint or allegation should not take place, the deputy chief constable or, if paragraph (2)(b) is applicable, the nominated officer may conclude the matter in accordance with any procedures set down by the deputy chief constable under paragraph (1).

(4) Where it is decided that an inquiry into the report, complaint or allegation should take place, the deputy chief constable or, if paragraph (2)(b) is applicable, the nominated officer must select an inquiry officer to carry out an inquiry into the matter.

Commencement Information

I12 [Reg. 12](#) in force at 1.4.2013, see [reg. 1](#)

The nominated officer

13.—(1) The nominated officer must be selected by the deputy chief constable.

(2) The nominated officer must be a constable—

- (a) other than a special constable; and
- (b) holding such rank as the deputy chief constable considers to be appropriate.

(3) The nominated officer must not be—

- (a) the chief constable;
- (b) a deputy chief constable;

- (c) any constable who the deputy chief constable considers is or appears to be a material witness to the complaint, report or allegation which has been received; or
- (d) any other constable who the deputy chief constable considers is or appears to be an interested party.

Commencement Information

I13 [Reg. 13](#) in force at 1.4.2013, see [reg. 1](#)

The inquiry officer

- 14.**—(1) The inquiry officer must be selected by the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer.
- (2) The inquiry officer must be a constable of at least the rank of inspector.
 - (3) The inquiry officer must not be—
 - (a) the chief constable;
 - (b) a deputy chief constable;
 - (c) the misconduct officer;
 - (d) any constable who the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer considers is or appears to be a material witness to the report, complaint or allegation which has been received; or
 - (e) any other constable who the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer considers is or appears to be an interested party.

Commencement Information

I14 [Reg. 14](#) in force at 1.4.2013, see [reg. 1](#)

Inquiry procedure

- 15.**—(1) Subject to regulation 20, and unless it would be prejudicial to the carrying out of an inquiry, the inquiry officer must as soon as reasonably practicable after his or her selection give oral or written notice to the special constable concerned—
- (a) of the nature of the report, complaint or allegation;
 - (b) that there is to be an inquiry into the report, complaint or allegation;
 - (c) of that special constable’s right to make written or oral comments on the report, complaint or allegation but that any comments which are made may be used in evidence in relation to any misconduct matter considered in accordance with these Regulations; and
 - (d) of that special constable’s right to be accompanied by a representative whom he or she may select, who must not be an interested party, to any meeting, interview or hearing with the inquiry officer.
- (2) The inquiry officer must give notice of the information specified in paragraph (1) to the special constable concerned before submitting a written report to the misconduct officer in accordance with paragraph (3).
- (3) After completing the inquiry into the report, complaint or allegation, the inquiry officer must submit a written report to the misconduct officer in relation to the matter.

Commencement Information

I15 Reg. 15 in force at 1.4.2013, see [reg. 1](#)

The misconduct officer

16.—(1) The misconduct officer must be selected by the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer.

(2) The misconduct officer must be a constable of at least the rank of superintendent.

(3) The misconduct officer shall not be—

- (a) the chief constable;
- (b) a deputy chief constable;
- (c) the inquiry officer;
- (d) any constable who the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer considers is or appears to be a material witness to the report, complaint or allegation which has been received; or
- (e) any other constable who the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer considers is or appears to be an interested party.

Commencement Information

I16 Reg. 16 in force at 1.4.2013, see [reg. 1](#)

Procedure on receipt of inquiry officer's report

17.—(1) After considering the report submitted by the inquiry officer, the misconduct officer may—

- (a) take no further action; or
- (b) record a finding of misconduct and impose any of the disposals in paragraph (2).

(2) The disposals are—

- (a) dismissal from the Police Service;
- (b) requirement to resign from the Police Service, either forthwith or at such date as is specified in the decision, as an alternative to dismissal;
- (c) warning;
- (d) requirement to attend any counselling which the misconduct officer considers to be necessary; or
- (e) requirement to attend any training which the misconduct officer considers to be necessary,

and separate disposals may be made in relation to separate findings.

(3) The special constable concerned must be notified in writing of—

- (a) the finding of the misconduct officer;
- (b) any disposal which has been imposed by the misconduct officer; and
- (c) the reasons why the misconduct officer has made such a finding and imposed any such disposal,

within 7 days of such a decision being made.

(4) The misconduct officer must not make a finding of misconduct and impose a disposal specified in paragraph (2) unless the special constable concerned has—

- (a) been given the opportunity of being heard at a meeting before the misconduct officer;
- (b) been provided with at least 21 days written notice of—
 - (i) the date, place and time of such a meeting;
 - (ii) the nature of the report, complaint or allegation; and
 - (iii) the disposals which are available to the misconduct officer under paragraph (2); and
- (c) been informed of his or her right to be accompanied by a representative whom he or she may select, who must not be an interested party, to any meeting with the misconduct officer.

(5) Where the special constable concerned—

- (a) has been given written notice of a meeting with the misconduct officer in accordance with paragraph (4)(b); and
- (b) does not attend that meeting with the misconduct officer,

the misconduct officer may make a finding of misconduct and impose a disposal under paragraph (2) without having heard from the special constable, if it appears to the misconduct officer just and proper to do so.

Commencement Information

I17 [Reg. 17](#) in force at 1.4.2013, see [reg. 1](#)

Review by the chief constable

18.—(1) Where a finding of misconduct has been recorded and a disposal has been imposed on a special constable under regulation 17(2)(a), (b) or (c), the special constable concerned is entitled to request the chief constable to review that finding or that disposal or both.

(2) A request for a review must be made in writing to the chief constable within 28 days of the special constable concerned receiving written notification from the misconduct officer of the matters specified in regulation 17(3).

(3) The request for a review must state the grounds on which the review is requested.

(4) A review which is requested by a special constable in accordance with this regulation must not be carried out by the chief constable unless that special constable has—

- (a) been given the opportunity of being heard before the chief constable; and
- (b) been informed in writing of his or her right to be accompanied by a representative whom he or she may select, who must not be an interested party, to any meeting or interview with the chief constable.

(5) The chief constable may—

- (a) confirm or overturn the finding of the misconduct officer;
- (b) decide to overturn a disposal which has been imposed by the misconduct officer because he or she considers that it is not necessary to take any action in relation to the finding;
- (c) impose a different disposal which is specified in regulation 17(2) but may not impose a sanction which is greater than that imposed by the misconduct officer,

and separate disposals may be made in relation to separate findings.

(6) The special constable concerned must be notified in writing of the decision of the chief constable under paragraph (5) and must be provided with a written statement of the reasons made for making such a decision, within 7 days of the decision being made.

(7) The decision of the chief constable under paragraph (5) takes effect by substituting the decision or, as the case may be, part of the decision of the misconduct officer from the date on which that decision was made.

(8) Where a special constable decides to request a review of the finding made or the disposal imposed by the misconduct officer, the decision of the chief constable following such a review is final.

Commencement Information

I18 Reg. 18 in force at 1.4.2013, see [reg. 1](#)

Suspension

19.—(1) Where a report, complaint or allegation is received from which it may reasonably be inferred that an act, omission or an alleged act or omission of a special constable concerned—

- (a) may amount to misconduct; or
- (b) may constitute a criminal offence,

the special constable concerned may be suspended from duty by the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer.

(2) The deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer—

- (a) may terminate a suspension imposed on the special constable under paragraph (1), with effect from the date of the suspension or any subsequent date;
- (b) must terminate a suspension imposed on the special constable concerned under paragraph (1) when—
 - (i) it is decided, in accordance with regulation 12(2)(b), that there will not be an inquiry into the report, complaint or allegation, unless the special constable concerned has submitted his or her resignation; or
 - (ii) misconduct proceedings have been completed but have not resulted in a disposal of dismissal from the Police Service or a requirement to resign from the Police Service as an alternative to dismissal, unless the special constable concerned submitted his or her resignation before misconduct proceedings were concluded.

(3) Where the deputy chief constable or the nominated officer have terminated the suspension of the special constable concerned, that special constable may not be suspended again in respect of the report, complaint or allegation which led to the initial suspension, unless further information comes to light and the deputy chief constable or the nominated officer, after considering that information, determine that it would be in the best interests of the Police Service to suspend that special constable for a further period.

(4) Subject to the provisions of this regulation, these Regulations apply to a special constable who has been suspended from duty.

Commencement Information

I19 Reg. 19 in force at 1.4.2013, see [reg. 1](#)

Alleged criminal offence

20.—(1) Despite anything in regulations 11 to 19, where a report, complaint or allegation is received from which it may reasonably be inferred that a special constable may have committed a criminal offence, the deputy chief constable must, as soon as possible, refer the matter to the procurator fiscal.

(2) If the matter is referred to the procurator fiscal, the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer, may decide—

- (a) not to select an inquiry officer, in accordance with regulation 14, for the purpose of inquiring into the matter; or
- (b) where an inquiry officer has been selected in accordance with regulation 14, to instruct that officer not to give written notice to the special constable concerned of the matters specified in regulation 15(1) and not to carry out an inquiry into any matter arising out of or referred to in that report, complaint or allegation, in so far as it might be the subject of criminal proceedings,

until the procurator fiscal has intimated either that criminal proceedings are not to be brought in respect of any matter arising out of or referred to in that report, complaint or allegation or, if he or she has intimated that criminal proceedings are to be brought, those proceedings are completed.

(3) If the deputy chief constable or, if regulation 12(2)(b) is applicable, the nominated officer decides to exercise the power conferred by paragraph (2), he or she must ensure that the special constable concerned is informed in writing that misconduct proceedings may be taken, irrespective of whether or not criminal proceedings are brought against him or her or of the disposal of any such proceedings.

(4) Where the criminal offence referred to in paragraph (1) may have been committed in any part of the United Kingdom (other than Scotland) or in any of the Channel Islands or the Isle of Man, the references to “procurator fiscal” are to be construed as references to the person who either has responsibility for considering whether to institute criminal proceedings in relation to the matter or has instituted such proceedings.

Commencement Information

I20 [Reg. 20](#) in force at 1.4.2013, see [reg. 1](#)

PART 5

ALLOWANCES, PERIODIC PAYMENTS AND EXPENSES

Allowances and periodic payments

21.—(1) The Scottish Ministers must determine the entitlement of special constables to any allowances and periodic payments.

(2) Without prejudice to the generality of paragraph (1), in making a determination under that paragraph, the Scottish Ministers must determine—

- (a) the total amount of periods of duty which a special constable must serve within a given period, in order to receive a periodic payment;
- (b) the amount of a periodic payment; and
- (c) any conditions which may be placed on the payment of a periodic payment.

(3) With exception to paragraph (2), in making a determination under this regulation, the Scottish Ministers may confer such functions on the chief constable as they think fit in relation to—

- (a) the calculation of any allowance; and
- (b) any conditions which may be placed on the payment of an allowance which is specified in the determination.

(4) A special constable must not be paid an allowance or periodic payment except as provided by or under these Regulations or approved by the Scottish Ministers and the amounts and conditions of payment of such allowances or period payments must be as so provided or approved.

(5) Nothing in this regulation applies to the reimbursement of expenses incurred by a special constable in the execution of that special constable's duty which have been authorised either generally or specifically by the chief constable where no allowance or periodic payment is payable under these Regulations and no determination has been made under regulation 22.

(6) In this regulation “periodic payment” has the meaning given by section 9(b) of the 2012 Act.

Commencement Information

I21 [Reg. 21](#) in force at 1.4.2013, see [reg. 1](#)

Expenses

22.—(1) The Scottish Ministers must determine the entitlement of a special constable to reimbursement of any expenses incurred by that special constable in, or in connection with, the execution of that special constable's duty.

(2) In making a determination under this regulation, the Scottish Ministers may confer such functions on the chief constable as they think fit in relation to any conditions which may be placed on the payment of an allowance which is specified in the determination.

Commencement Information

I22 [Reg. 22](#) in force at 1.4.2013, see [reg. 1](#)

PART 6

UNIFORM AND EQUIPMENT

Issue of uniform and equipment

23.—(1) Special constables are entitled to receive from the Authority such uniform and equipment that the Authority determines they need free of charge and in a clean and serviceable condition.

(2) Uniform and equipment issued to a special constable must only be used for the purpose of carrying out that individual's duties as a special constable.

(3) Unless the Authority and special constable agree, such uniform and equipment remains the property of the Authority and must be returned when the special constable leaves the Police Service.

Commencement Information

I23 [Reg. 23](#) in force at 1.4.2013, see [reg. 1](#)

PART 7

DETERMINATIONS

Determinations

24.—(1) Before making a determination under any provision of these Regulations the Scottish Ministers must consult and share a draft of the determination with the persons mentioned in section 54(2)(a)(i) to (vi) of the 2012 Act and consider any representations made by those persons.

(2) A determination under any provision of these Regulations may—

- (a) in relation to allowances, be made with retrospective effect to any date specified in the determination but must not retrospectively reduce any allowance payable to or in respect of any special constable;
- (b) make different provision for different cases and circumstances;
- (c) vary or revoke earlier determinations under these Regulations.

Commencement Information

I24 [Reg. 24](#) in force at 1.4.2013, see [reg. 1](#)

PART 8

TRANSITIONALS, SAVINGS AND REVOCATIONS

Transitionals, savings and revocations

25. Schedule 3 has effect.

Commencement Information

I25 [Reg. 25](#) in force at 1.4.2013, see [reg. 1](#)

St Andrew's House,
Edinburgh

KENNY MACASKILL
A member of the Scottish Government

Changes to legislation:

There are currently no known outstanding effects for the The Police Service of Scotland (Special Constables) Regulations 2013.