
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of special constables of the Police Service of Scotland.

Part 2 and Schedule 1 make provision about governance. Regulation 3 and Schedule 1 set out the restrictions which are imposed on the private life of a special constable. Regulation 4 provides that a special constable must not have a business interest without the consent of the chief constable. A special constable, or a person applying to become a special constable, must give written notice of any business interests to the chief constable. Paragraph (4) sets out what constitutes a business interest. Regulation 5 specifies the qualifications for appointment as a special constable. Regulation 6 makes provision about the retirement of a special constable from office and provides that a special constable must retire upon reaching the age of 60 years, though the chief constable may postpone that. Regulations 7 and 8 make provision about the personal record of a special constable. Regulation 9 provides that a special constable must have fingerprints and a sample taken on appointment. Those fingerprints and samples are to be kept separate from those taken by the Police Service using the powers mentioned in regulation 9(2) and they are to be used only for the purpose of checking against other fingerprints or samples in connection with the investigation of an offence. They must be destroyed on the special constable leaving the Police Service.

Part 3 requires the Scottish Ministers to determine the normal periods of duty of a special constable.

Part 4 and Schedule 2 make provision about misconduct in relation to special constables. Schedule 2 sets out the conduct which constitutes misconduct on the part of a special constable. Where a report, complaint or allegation is made against a special constable, the deputy chief constable (or if the deputy chief constable appoints a nominated officer, that nominated officer) considers the report, complaint or allegation and decides whether it contains a criminal allegation. If there are any allegations of criminality then the procedure in regulation 20 must be followed. If it appears there are no allegations of a criminal nature then the deputy chief constable or nominated officer, as the case may be, decides whether there should be an inquiry into the matter and, if so, selects an investigating officer to conduct the inquiry. If an inquiry is not considered necessary, no further action will be taken. Regulations 13, 14 and 16 set out who may be a nominated, inquiry or misconduct officer. Regulation 15 sets out the procedure for an inquiry and regulation 17 makes provision for actions after an inquiry, including disposals. A special constable may request a review by the chief constable under regulation 18. Regulation 20 requires the deputy chief constable or nominated officer to inform the procurator fiscal of the allegation if it is criminal and enables the misconduct investigation to be delayed until it is clear what is happening in relation to the criminal allegation.

Part 5 deals with allowances, periodic payments and expenses. The Scottish Ministers must determine the entitlement of special constables to such monies.

Part 6 makes provision about uniform and equipment. A special constable is entitled to be provided with such uniform and equipment as the Scottish Police Authority determines they need free of charge. Unless agreement is reached to the contrary, the uniform and equipment remain the property of the Authority.

Part 7 makes provision in relation to determinations which are made under these Regulations. Determinations are subject to consultation requirements.

Part 8 and Schedule 3 make transitional provision in respect of special constables who were previously special constables of police forces maintained under the Police (Scotland) Act 1967 and who have been transferred to become special constables of the Police Service of Scotland. It includes

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provision so that notice of retirement continues to run as if the reorganisation of the police had not taken place and any notice given under the previous law is valid for the purposes of the new law in these Regulations. Where a special constable was subject to ongoing misconduct proceedings under the Police (Scotland) Act 1967 then that process continues under the old law, subject to modifications of that law so that it may continue to operate. Where a special constable subject to such proceedings has a finding made against that special constable then it will be recorded on the personal record maintained by the chief constable of the Police Service.