

POLICY NOTE

THE POLICE SERVICE OF SCOTLAND (SPECIAL CONSTABLES) REGULATIONS 2013

SSI 2013/43

1. The above instrument was made in exercise of the powers conferred by section 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 (“the Act”). The instrument is subject to negative procedure.

Policy Objectives

2. The Act received Royal Assent on 7 August 2012, changing the policing landscape in Scotland, bringing together the current eight forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency into a single Police Service of Scotland from 1 April 2013. There is a suite of Police Regulations to be made under section 48 of the Act, relating to the governance and administration of the Police Service of Scotland. They are as follows:-

- The Police Service of Scotland Regulations
- The Police Service of Scotland (Special Constables) Regulations
- The Police Service of Scotland (Conduct) Regulations
- The Police Service of Scotland (Conduct) (Senior Officers) Regulations
- The Police Service of Scotland (Performance) Regulations
- The Police Service of Scotland (Promotion) Regulations
- The Police Service of Scotland (Police Cadets) Regulations

The overall policy aim is to ensure that constables retain their current terms and conditions on transfer to the Police Service of Scotland, with only such technical changes as are necessary to ensure that they are up to date and fit for purpose in the context of the Act, and to ensure effective processes for handling conduct and performance issues. New appointments of constables on and after 1 April 2013 will also be subject to these same terms and conditions.

3. The Police Service of Scotland (Special Constables) Regulations 2013 regulate the appointment and terms and conditions of special constables. These are the main regulations setting out the terms and conditions for all special constables, who are voluntary, unpaid officers who are not subject to the same terms and conditions, benefits and entitlements as regular officers.

4. The Police Service of Scotland (Special Constables) Regulations 2013 largely mirror the Police Service of Scotland Regulations 2013, but with amendments to reflect the voluntary status of special constables. The policy intent is that, where appropriate, provisions relating to special constables are consistent with those relating to regular constables such as restrictions on their private life, their rights and duties in respect of any business interests, their qualification for appointment and treatment in respect of misconduct. However, to reflect the voluntary status of special constables there are no provisions in respect of pay and leave.

A key policy objective of the regulations is to facilitate the transition from the current eight forces to the single Police Service of Scotland. Following the reform, conditions for appointment, and terms and conditions of service for special constables largely reflect the

pre-existing conditions for special constables in the former eight forces under the Police (Scotland) Act 1967.

5. Some of the key policies delivered through the regulations are described below:-

6. Part 2- Regulations 3 to 9 and Schedule 1- make provision about governance, setting out restrictions on the constables private life and detailing criteria which must be fulfilled for appointment. Other matters addressed include retirement from office, this provision enables the chief constable at his discretion to allow special constables to continue to serve beyond age 60 if appropriate. Further, Part 2 sets out rules in respect of the holding of personal records, to ensure that the Police Service is able to obtain and hold on record key information about serving special constables, as well as rules on fingerprints and samples to be taken on appointment which must be destroyed on leaving the Police Service.

7. Part 3 – Regulation 10- makes provision for Ministers to make determinations regarding periods of duty to be carried out by special constables. However, functions may be conferred by Ministers upon the Chief Constable, particularly in relation to the normal periods of duty, the periods allowed for refreshment and circumstances under which travelling time may be treated as duty.

8. Part 4 – Regulations 11-20- make provision about misconduct, such as procedures and reports. The meaning of misconduct mirrors that for regular constables under the Police Service of Scotland (Conduct) Regulations 2013; this is to deliver the clear policy intention that special constables should be held to the same standards of conduct as regular constables.

9. Part 5 – Regulations 21 and 22- Section 9 of the Act states that special constables are not entitled to be paid, however, at Ministers’ discretion, they may receive allowances and periodic payments and expenses under these two regulations.

10. Part 6 – Regulation 23- makes provision about uniform and equipment. A uniform, and equipment is to be provided free of charge. Unless agreed otherwise, the uniform and equipment remain the property of the Authority and must be returned at the end of the special constable’s service.

11. Part 7- Regulation 24- makes provision in relation to determinations which are made under these Regulations. Determinations aim to further develop the powers contained in the regulations.

12. Schedule 2 sets out the conduct which constitutes misconduct and mirrors that of the Police Service of Scotland (Conduct) Regulations 2013.

Transitionals, savings and revocations

13. Schedule 3 makes transitional provisions in respect of transfers to the Police Service of Scotland. It includes provision so that notice of retirement continues to run as if given under the previous law. Where there are ongoing misconduct proceedings under the Police (Scotland) Act 1967, that process continues subject to modifications of the old law so that it may continue to operate. Where, subject to such proceedings, a finding is made against a special constable then it will be recorded on the personal record maintained by the chief constable of the Police Service.

Consultation

14. The Scottish Government established a stakeholder Reference Group to inform policy development for these regulations. The Scottish Government then carried out a public consultation from 14 December 2012 until 11 January 2013.

Impact Assessment

15. A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government
Safer Communities Directorate
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