

## SCHEDULE

Regulation 24

### Revocation, savings and transitional provisions

#### **Interpretation**

1. In this Schedule “inefficiency hearing”, “interviewing officer” and “senior officer” each have the meanings given by regulation 2 of the 1996 Regulations.

#### **Revocation, savings and transitional provisions**

2. Subject to paragraph 3, the 1996 Regulations are revoked.

3.—(1) Despite their revocation by paragraph 2, the 1996 Regulations continue to have effect on and after 1st April 2013 as they had effect immediately before that date, with the modifications set out in paragraph 10, where—

- (a) unsatisfactory performance by an individual to whom those Regulations applied (by virtue of regulation 3 of those Regulations) came to the attention of that individual’s reporting officer before 1st April 2013;
- (b) proceedings under those Regulations in relation to that individual’s performance were not concluded before that date; and
- (c) the individual in respect of whom those proceedings were taking place is a transferred constable.

(2) In this paragraph, “reporting officer” has the meaning given by regulation 2 of the 1996 Regulations as it applied immediately before 1st April 2013.

(3) For the purpose of sub-paragraph (1)(b), where the individual whose performance was being examined was not required to attend an inefficiency hearing, proceedings are to be treated as having been concluded—

- (a) in a case where that individual’s performance was, following a first interview, not found to be unsatisfactory, on the date on which the individual was informed of that outcome;
- (b) in a case where that individual’s performance was found to have improved sufficiently by the end of the period specified in accordance with regulation 6(3)(d) of those Regulations, on the date on which the individual was informed of that outcome; or
- (c) in a case where that individual’s performance was found to have improved sufficiently by the end of the period specified in accordance with regulation 10(4)(d) of those Regulations, on the date on which the individual was informed in writing in accordance with regulation 12(1)(b) of those Regulations.

(4) Sub-paragraph (5) applies where, at the conclusion of an inefficiency hearing—

- (a) the performance of the individual who was the subject of the hearing was found, in accordance with regulation 16(1) of those Regulations, to be unsatisfactory; and
- (b) a disposal other than that mentioned in regulation 17(1)(c) of those Regulations was made.

(5) Where this sub-paragraph applies, for the purpose of sub-paragraph (1)(b) proceedings are to be treated as having been concluded—

- (a) unless regulation 19(8) of the 1996 Regulations applies, on the date on which the period specified in regulation 19(6) of those Regulations for sending a notice of appeal has expired; or

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- (b) where a notice of appeal was sent within that period or has been accepted late in accordance with regulation 19(8) of those Regulations, on the date on which a decision was sent in accordance with regulation 21(7) of those Regulations.
- (6) Sub-paragraph (7) applies where at the conclusion of an inefficiency hearing—
  - (a) the performance of the individual who was the subject of the hearing was found, in accordance with regulation 16(1) of the 1996 Regulations, to be unsatisfactory; and
  - (b) the disposal mentioned in regulation 17(1)(c) of those Regulations was made.
- (7) Where this sub-paragraph applies, for the purpose of sub-paragraph (1)(b) proceedings are to be treated as having been concluded—
  - (a) where no notice of appeal was sent in accordance with regulation 19(6) of the 1996 Regulations or, as the case may be, received late in accordance with regulation 19(8) of those Regulations, on the date on which a copy of the decision of the chairman of the inefficiency hearing was sent in accordance with regulation 18(4) of those Regulations; or
  - (b) where such a notice was sent or, as the case may be, received late—
    - (i) in a case where the disposal was quashed in accordance with regulation 21(4)(b) (i) of the 1996 Regulations, on the date that decision was sent in accordance with paragraph (7) of that regulation; or
    - (ii) in any other case, on the date on which a copy of the decision of the chairman of the inefficiency hearing was sent in accordance with regulation 18(4) of those Regulations.

#### **Transitional provisions**

- 4. Any proceedings commenced under the 1996 Regulations in relation to which those Regulations continue to have effect by virtue of paragraph 3—
  - (a) may be continued under those Regulations as modified by paragraph 10; and
  - (b) where continued, are to be treated as proceedings under those Regulations as so modified.
- 5. In relation to proceedings in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3—
  - (a) anything done before 1st April 2013 under those Regulations by or in relation to a chief constable of a police force is to be treated, on and after that date, as having been done by or in relation to the chief constable of the Police Service;
  - (b) anything done before 1st April 2013 under those Regulations by or in relation to an assistant chief constable of a police force are to be treated, on and after that date, as having been done by or in relation to the deputy chief constable designated under regulation 4 of these Regulations;
  - (c) anything done before 1st April 2013 under those Regulations by or in relation to a senior officer (within the meaning given by regulation 2 of those Regulations as it had effect immediately before that date) is, where the senior officer was the commander of the division to which the constable in respect of whom proceedings under those Regulations were taken, on and after that date to be treated as having been done by or in relation to the local commander in relation to the division to which that constable is assigned.
- 6.—(1) Sub-paragraph (2) applies to an individual who—
  - (a) before 1st April 2013, was an interviewing officer in relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3; and
  - (b) is—

- (i) a transferred constable; or
- (ii) engaged in service as a constable of the Police Service by virtue of paragraph 8(2) of schedule 5 to the Act.

(2) An individual to whom this sub-paragraph applies is to continue to carry out the functions of an interviewing officer in relation to the proceedings in relation to which that individual's appointment was made.

(3) Sub-paragraphs (4) and (5) apply where an individual appointed before 1st April 2013 to act as interviewing officer in relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3 has not transferred to serve as a constable of the Police Service.

(4) Where this sub-paragraph applies, the deputy chief constable must appoint a constable of at least the rank of sergeant and of at least the rank of the constable under investigation to replace the individual who has not transferred as interviewing officer.

(5) Anything done before 1st April by or in relation to an interviewing officer who has not transferred is, on and after that date, to be treated as having been done by or in relation to the constable appointed to replace that interviewing officer.

7.—(1) Sub-paragraph (2) applies to an individual who—

(a) before 1st April 2013, was appointed as the chairman of an inefficiency hearing under regulation 14(1) of the 1996 Regulations in relation to a case in relation to which those Regulations continue to have effect by virtue of paragraph 3; and

(b) is—

- (i) a transferred constable; or
- (ii) engaged in service as a constable of the Police Service by virtue of paragraph 8(2) of schedule 5 to the Act.

(2) An individual to whom this sub-paragraph applies is to continue to act as chairman of the inefficiency hearing in relation to which that individual's appointment was made.

(3) Sub-paragraphs (4) and (5) apply where an individual appointed before 1st April 2013 to act as chairman of the inefficiency hearing in relation to a case in relation to which the 1996 Regulations continue to have effect by virtue of paragraph 3 has not transferred to serve as a constable of the Police Service.

(4) Where this paragraph applies, the deputy chief constable must appoint to replace the individual who has not transferred as chairman of the inefficiency hearing—

- (a) in a case where the constable whose performance is being examined at the hearing is of the rank of superintendent, an assistant chief constable; and
- (b) in any other case, a constable of at least the rank of superintendent.

(5) Anything done before 1st April by or in relation to a chairman of an inefficiency hearing who has not transferred is, on and after that date, to be treated as having been done by or in relation to the constable appointed to replace that chairman.

8.—(1) This paragraph applies to a requirement to resign from a police force by a specified date made under regulation 17(1)(a) or 18(3)(c) of the 1996 Regulations where—

- (a) that requirement was made before 1st April 2013;
- (b) the individual in respect of whom that requirement was made has not, in accordance with that requirement, resigned before 1st April 2013; and
- (c) that individual is a transferred constable.

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(2) Where this paragraph applies, a requirement to resign from a police force by a specified date is, on and after 1st April 2013, to be treated as a requirement to resign from the Police Service by that specified date.

(3) Where a transferred constable has not resigned by the date specified in a requirement to which this paragraph applies, that constable is to be treated as having been dismissed from the Police Service on the specified date.

**9.—**(1) This paragraph applies where—

- (a) an individual has, before 1st April 2013, been issued by the chairman of an inefficiency hearing a written warning under regulation 17(1)(c) of the 1996 Regulations; and
- (b) the period specified by the chairman in that warning has not expired before 1st April 2013.

(2) Where this paragraph applies, a warning that an individual may be required to resign from a police force is to be treated as if it were a warning that that individual may be required to resign from the Police Service.

### **Modifications**

**10.—**(1) The 1996 Regulations are modified as follows.

(2) In regulation 2—

- (a) omit the definition of “assistant chief constable”;
- (b) in the definition of “personnel officer”—
  - (i) for “an” to “1967”, substitute “a member of police staff appointed under section 26 of the Police and Fire Reform (Scotland) Act 2012”;
  - (ii) after “constable”, insert “of the Police Service”; and
  - (iii) after “constables”, insert “of the Police Service”;
- (c) in the definition of “senior officer”—
  - (i) after “constable”, in each place it occurs, insert “of the Police Service”; and
  - (ii) before “commander”, in each place it occurs, insert “local”;
- (d) in the definitions of “the constable”, “countersigning officer”, “interviewing officer”, and “reporting officer”, after “constable”, in each place it occurs, insert “of the Police Service”; and
- (e) in the appropriate places, insert—
  - ““chief constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012;”;
  - ““deputy chief constable” means the deputy chief constable designated under regulation 4 of the Police Service of Scotland (Performance) Regulations 2013;”;
  - ““local commander” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012;”;
  - ““Police Service” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012;”;
  - and
  - ““transferred constable” means an individual who—
    - (a) before 1st April 2013 was serving as a constable of a police force (excluding any such individual who was, immediately before that date, engaged on relevant service within the meaning given by section 38A(1) of the Police (Scotland) Act 1967);

- (b) is transferred to the Police Service under paragraph 6 of schedule 5 to the Police and Fire Reform (Scotland) Act 2012; and
  - (c) is not a special constable of the Police Service.”.
- (3) In regulation 3—
  - (a) in paragraph (a), before “constables”, insert “transferred”; and
  - (b) in paragraph (b), before the first and third “constable”, insert “transferred”.
- (4) In regulation 4, before the first “constable”, insert “transferred”.
- (5) In regulation 5—
  - (a) in paragraph (1), before the first “constable”, insert “transferred”; and
  - (b) in sub-paragraph (b)(ii) of that paragraph, after “constable”, insert “of the Police Service”;
  - (c) in paragraph (2), before “constable”, insert “transferred”; and
  - (d) in paragraph (4), after “constable”, insert “of the Police Service”.
- (6) In regulation 8, before the first “constable”, insert “transferred”.
- (7) In regulation 9—
  - (a) in paragraph (a), before the first “constable”, insert “transferred”; and
  - (b) in sub-paragraph (iii) of that paragraph, after “constable”, insert “of the Police Service”.
- (8) In regulation 10(4)(d), for “force”, substitute “Police Service”.
- (9) In regulation 12(1)(b), after the first “constable”, insert “of the Police Service”.
- (10) In regulation 13—
  - (a) in the opening words, after the first “constable”, insert “of the Police Service”; and
  - (b) in paragraph (c)(ii), for “a police force”, substitute “the Police Service”.
- (11) In regulation 14—
  - (a) in paragraph (1)—
    - (i) after the first “constable”, insert “of the Police Service”; and
    - (ii) for “assistant”, substitute “deputy”;
  - (b) in sub-paragraph (a) of paragraph (2), for “police” to the end of that sub-paragraph, substitute “Police Service”;
  - (c) in paragraph (3), after “constables”, insert “of the Police Service”; and
  - (d) in paragraph (4), for “assistant”, substitute “deputy”.
- (12) In regulation 15(6)—
  - (a) for “assistant”, substitute “deputy”; and
  - (b) after the second “constable”, substitute “of the Police Service”.
- (13) In regulation 16(4), for “assistant”, substitute “deputy”.
- (14) In regulation 17, for “force”, in each place it occurs, substitute “Police Service”.
- (15) In regulation 18—
  - (a) for “force”, in each place it occurs, substitute “Police Service”;
  - (b) in paragraph (4)(b), for “assistant” substitute “deputy”; and
  - (c) in paragraph (6)—
    - (i) for “assistant”, substitute “deputy”; and
    - (ii) after the second and sixth “constable”, insert “of the Police Service”.

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(16) In regulation 19—

- (a) in paragraph (1), before the first “constable”, insert “transferred”;
- (b) in paragraph (2), before the first “constable”, insert “transferred”.

(17) In regulation 20(3)(a), for “a police force” substitute “the Police Service”.