

SCHEDULE 2

Revocation, savings and transitional provisions

Modifications

- 9.—(1) The 1999 Regulations are modified as follows.
- (2) In regulation 2(b), for “police authority” substitute “Authority”.
- (3) In regulation 3—
- (a) in the definition of “complainer”, before “senior” insert “transferred”;
 - (b) omit the definition of “constable of a police force”;
 - (c) for the definition of “investigating officer” substitute—
 - ““investigating officer” means—
 - (a) a transferred senior officer appointed under regulation 5(1) of these Regulations as it had effect immediately before 1st April 2013; or
 - (b) an individual appointed under that regulation as it had effect on and after that date;”;
 - (d) in the definition of “representative”, for “a police force” substitute “the Police Service”;
 - (e) for the definition of “a senior officer” substitute—
 - ““senior officer” has the meaning given by section 99(1) of the 2012 Act;”;
 - (f) in the definition of “the senior officer”, before the second “senior” insert “transferred”; and
 - (g) in the appropriate places, insert—
 - ““the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012(1);”;
 - ““the Authority” means the Scottish Police Authority;”;
 - ““chief constable” means the chief constable of the Police Service;”;
 - ““the Commissioner” means the Police Investigations and Review Commissioner;”;
 - ““constable of the Police Service” means an individual holding the office of constable, other than a special constable, who is serving as a constable of the Police Service and includes (unless the context otherwise requires)—
 - (a) the chief constable;
 - (b) any deputy chief constable;
 - (c) any assistant chief constable;
 - (d) any individual on temporary service outwith the Police Service under arrangements made under section 15 of the 2012 Act; and
 - (e) any individual engaged on temporary service as a constable of the Police Service under arrangements made under section 16 of the 2012 Act;”;
 - ““police force” means a police force which was, until 1st April 2013, maintained under the Police (Scotland) Act 1967(2);”;
 - ““Police Service” means the Police Service of Scotland;”;
 - ““transferred senior officer” means an individual who—

(1) 2012 asp 8.

(2) 1967 c.77.

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- (a) before 1st April 2013 was serving as a constable of a police force in the rank of assistant chief constable, deputy chief constable or chief constable; and
 - (b) has transferred to serve as a constable of the Police Service under paragraph 6 of schedule 5 to the 2012 Act.”.
- (4) In regulation 5—
- (a) in paragraph (1)—
 - (i) after the first “officer” insert “which occurred before 1st April 2013”; and
 - (ii) omit the words from “for” to “constable”;
 - (b) in paragraph (5), for the words from “he” to “member” substitute “the Authority may—”;
 - (c) at the end of that paragraph insert—
 - “(a) appoint a member of the Authority’s staff as an investigating officer;
 - (b) in a case where the senior officer is not the chief constable, make arrangements with the chief constable for the appointment of a constable of the Police Service as an investigating officer;
 - (c) make arrangements for the appointment of an individual falling within paragraph (5A) as an investigating officer; or
 - (d) request the Commissioner to act as investigating officer (and regulation 10 of the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 applies in relation to a such a request).
- (5A) An individual falls within this paragraph if the individual is a member of—
- (a) a police force maintained under section 2 of the Police Act 1996⁽³⁾;
 - (b) the metropolitan police force;
 - (c) the City of London police force;
 - (d) the Police Service of Northern Ireland;
 - (e) the British Transport Police Force;
 - (f) the States of Jersey Police Force;
 - (g) the salaried police force of the Island of Guernsey; or
 - (h) the Isle of Man Constabulary.
- (5B) A constable appointed in pursuance of paragraph (5)(b) is, for the purposes of the investigation—
- (a) engaged on temporary service outwith the Police Service; and
 - (b) under the direction and control of the Authority.
- (5C) The Authority is liable in respect of the carrying out of any unlawful conduct on the part of any constable appointed under arrangements made under paragraph (5)(b) in the carrying out (or purported carrying out) of that constable’s functions in relation to the misconduct investigation in the same manner as an employer is liable in respect of any unlawful conduct on the part of an employee in the course of employment.
- (5D) An individual appointed in accordance with paragraph (5) must not be—
- (a) a senior officer;
 - (b) a constable working directly under the management of the senior officer; or

(3) 1996 c.16. Section 2 has been amended by Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c.13).

- (c) any other individual whose appointment could give rise to a reasonable concern as to whether that individual could act impartially in relation to the investigation.
- (5E) An individual appointed to act as an investigating officer must have, in the opinion of the Authority, the necessary knowledge, skills and expertise to plan and manage that investigation.
- (5F) Where the Authority considers, by reason of the scale or complexity of the investigation, that the investigating officer should be replaced, it may—
 - (a) appoint, or arrange for the appointment of, an individual to replace that investigating officer; or
 - (b) request the Commissioner to carry out the investigation on its behalf (and regulation 10 of the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 applies in relation to a such a request).
- (5G) Paragraphs (5) to (5E) apply to the appointment of a replacement investigating officer.”; and
- (d) in paragraph (6)—
 - (i) for “chief constable”, in each place it occurs, substitute “individual”;
 - (ii) omit the words from the first “or” to “force”; and
 - (iii) omit the words “or is so interested”.
- (5) In regulation 7(3)—
 - (a) for sub-paragraph (a) substitute—
 - “(a) a member of the Authority or a member of the Authority’s staff.”;
 - (b) in sub-paragraph (b), for “is” substitute “was, before 1st April 2013,”; and
 - (c) at the end of that sub-paragraph insert—
 - “; or
 - (c) a former constable of the Police Service.”.
- (6) In regulation 8—
 - (a) in paragraph (2) omit the words from “and” to the end of that paragraph;
 - (b) in paragraph (4), for the words from “If” to “solicitor” substitute “Where the Authority decides that the senior officer should be required to appear before a misconduct hearing it”; and
 - (c) omit paragraph (5).
- (7) In regulation 9(1), for “member of the same force” substitute “constable of the Police Service”.
- (8) In regulation 12(1)(c), for “a police force” substitute “the Police Service”.
- (9) In regulation 14—
 - (a) in paragraph (2), for the words from the second “person” to the end of that paragraph substitute “member of the Authority or a member of the Authority’s staff”; and
 - (b) in paragraph (4)—
 - (i) in sub-paragraph (b), for the words from “police” to the end of that sub-paragraph, substitute “Police Service”;
 - (ii) in sub-paragraph (c) omit the words from second “or” to the end of that sub-paragraph; and
 - (iii) in sub-paragraph (f), at the end insert “or the Police Service”.
- (10) In regulation 15 omit paragraph (3).

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- (11) In regulation 16—
 - (a) in paragraph (2)(b), for the words “a police force” substitute “the Police Service”; and
 - (b) in paragraph (3), after “of” insert “the Police Service, or a former constable of”.
- (12) In regulation 22(2)(d)—
 - (a) After the first “constable” insert “of the Police Service”;
 - (b) for the fourth “the” substitute “that”; and
 - (c) omit “of the police force concerned”.
- (13) In regulation 23—
 - (a) in paragraph (1), for “force”, in both places, substitute “Police Service”;
 - (b) in paragraph (4), for the second “authority” substitute “Authority”;
 - (c) in paragraph (5), for “a police force” substitute “the Police Service”; and
 - (d) in paragraphs (11) and (12), for “force”, in each place it occurs, substitute “Police Service”.
- (14) In regulation 25(1) omit “of a police force”.
- (15) Omit regulation 26.
- (16) In regulation 27(1)—
 - (a) omit “of a police force”; and
 - (b) omit “or 26”.
- (17) In regulation 28—
 - (a) in paragraph (1), for “the authority”, in both places, substitute “the Authority”; and
 - (b) in paragraph (3)—
 - (i) for the words from “section” to “Act” substitute “section 56 of the Police and Fire Reform (Scotland) Act 2012(4)”; and
 - (ii) for “authority’s” substitute “Authority’s”.
- (18) Omit regulation 29.
- (19) In regulations 5 to 10, 12 to 15, 21 to 25, 28 and 30 for “police authority”, in each place it occurs, substitute “the Authority”.

(4) 2012 asp 8.