

1990 No. 469 (S.54)

POLICE

The Police (Scotland) Amendment Regulations 1990

<i>Made</i> - - - -	<i>4th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>1st April 1990</i>

The Secretary of State, in exercise of the powers conferred upon him by section 26 of the Police (Scotland) Act 1967(a), and of all other powers enabling him in that behalf, after taking into consideration the recommendations made by the Police Negotiating Board for the United Kingdom and furnishing the said Board with a draft of the Regulations in accordance with section 2(1) of the Police Negotiating Board Act 1980(b), hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Police (Scotland) Amendment Regulations 1990.

Commencement

2. These Regulations shall come into force on 1st April 1990, and shall have effect for the purposes of regulation 4 as from 1st September 1989 and for the purposes of regulations 6 and 7 as from 1st April 1989.

Interpretation

3. In these Regulations any reference to "the principal Regulations" is a reference to the Police (Scotland) Regulations 1976(c).

Overtime

4. In regulation 22 of the principal Regulations (overtime)–

(a) in paragraph (1) there shall be inserted after the words "two tours of duty" the words "or which forms part of a tour of duty which he is required to begin earlier than the rostered time without due notice and on a day when he has already completed his normal daily period of duty";

(b) in paragraph (7)–

(i) there shall be inserted at the beginning of sub-paragraph (b) the words "subject to sub-paragraph (d),";

(ii) the word "and" at the end of sub-paragraph (b) shall be omitted; and

(iii) there shall be inserted at the end of sub-paragraph (c) the following provision:–
"; and

(a) 1967 c.77; section 26(9) was amended by section 2(4) of the Police Negotiating Board Act 1980 (c.10); section 26(1A) and (10) were inserted by section 111 of the Police and Criminal Evidence Act 1984 (c.60).

(b) 1980 c.10.

(c) S.I. 1976/1073; the relevant amending instruments are S.I. 1980/1050, 1985/1325, 1987/1914 and 1989/2222.

- (d) where the time at which a constable is required to begin a rostered tour of duty is brought forward without due notice and so that he is required to begin that tour on a day on which he has already completed his normal daily period of duty, the time for which he is on duty before the rostered commencement time—
 - (i) shall be reckonable as overtime; and
 - (ii) shall be taken into account as part of that tour of duty.”; and
- (c) in paragraph (8) there shall be inserted after the definition of “a day’s pay” the following provision:—
 - ““due notice” means notice given at least 8 hours before the revised starting time of the rostered tour of duty in question;”.

Housing allowance, supplementary housing allowance and transitional rent allowance

5. There shall be substituted for regulation 42 of the principal Regulations (rent allowance) the following provisions:—

“Housing allowance

42.—(1) Subject to the provisions of regulation 42B, a constable who is not provided with a house or quarters free of rent shall be paid a housing allowance which shall be either a standard-rate allowance or a half-rate allowance:

Provided that—

- (a) a constable to whom regulation 43 applies who is so provided with quarters shall be paid a housing allowance in addition;
 - (b) a constable shall not be paid a housing allowance if he is on unpaid leave;
 - (c) a constable of a police force shall not be paid a housing allowance if he resides in a house or quarters provided free of rent to another constable of that or any other police force (except in the case of a constable who so resided on 31st March 1990 for so long as he continues so to reside there).
- (2) Subject to paragraph (3), a standard-rate allowance—
- (a) shall be paid to a constable married to (but not separated from) a person who either—
 - (i) is not a constable; or
 - (ii) is such a constable but is on unpaid leave;
 - (b) shall be paid to an unmarried constable, or a constable separated from his spouse, who—
 - (i) has attained the age of 30 years;
 - (ii) has served for 5 years as a constable of that or any other police force; and
 - (iii) occupies as owner or tenant the accommodation in which he is living;
 - (c) may, if the police authority think fit, be paid to a constable, not being a constable to whom sub-paragraph (a) or (b) applies, who—
 - (i) has a dependent relative living with him; or
 - (ii) is separated from, or has divorced or been divorced by, his spouse; or
 - (iii) is a widower or widow;

and in all other cases a half-rate allowance shall be paid.

- (3) A standard-rate allowance shall not be payable—
 - (a) to a constable who occupies otherwise than as owner accommodation in respect of which he makes no payment (by way of rent or mortgage interest); or
 - (b) to a constable who resides in accommodation which he shares with another constable so, however, that this sub-paragraph shall not preclude the payment of a standard-rate allowance where that other constable is on unpaid leave.
- (4) A standard-rate allowance payable to a constable shall be the standard rate for his rank determined in accordance with paragraphs (5), (6), (7), (8) and (9).
- (5) The standard-rate housing allowance for a constable holding the rank of constable, sergeant or inspector shall be such sum as represents $\frac{A-B}{C}$ where—

- (a) A equals the total annual amount payable by way of rent allowance, calculated as at 31st March 1990, in respect of constables of his force in receipt of such allowance on that date;
 - (b) B equals such part if any of the amount mentioned in sub-paragraph (a) as would be attributable to amounts payable in rates by those constables at 31st March 1989; and
 - (c) C equals the number of constables of that force adjusted in accordance with paragraph (6) who were in receipt of rent allowance on 31st March 1990.
- (6) The number of constables of a police force in receipt of rent allowance on 31st March 1990 shall be adjusted as follows:-
- (a) a constable of the rank of constable, sergeant or inspector in receipt on that date of a flat-rate rent allowance shall be reckoned as half a constable;
 - (b) a constable of the rank of constable, sergeant or inspector then in receipt of a maximum limit rent allowance shall be reckoned as one constable;
 - (c) a constable holding the rank of superintendent then in receipt of a flat-rate rent allowance shall be reckoned as 0.58 of a constable and such a constable then in receipt of a maximum limit rent allowance shall be reckoned as 1.16 constables;
 - (d) a constable holding the rank of assistant chief constable or deputy chief constable, then in receipt of a flat-rate rent allowance shall be reckoned as 0.675 of a constable and such a constable then in receipt of a maximum limit rent allowance shall be reckoned as 1.35 constables; and
 - (e) a constable holding the rank of chief constable then in receipt of a flat-rate rent allowance shall be reckoned as 0.78 of a constable and such a constable then in receipt of a maximum limit rent allowance shall be reckoned as 1.56 constables.
- (7) The standard-rate housing allowance for a constable holding the rank of superintendent shall be the sum of the standard rate determined in accordance with paragraphs (5) and (6) and 16 per cent of that rate.
- (8) The standard-rate housing allowance for a constable holding the rank of assistant chief constable or deputy chief constable shall be the sum of the standard rate determined in accordance with paragraphs (5) and (6) and 35 per cent of that rate.
- (9) The standard-rate housing allowance for a constable holding the rank of chief constable shall be the sum of the standard rate determined in accordance with paragraphs (5) and (6) and 56 per cent of that rate.
- (10) A half-rate allowance shall be equal to half the amount determined as the standard-rate allowance for constables of the same rank.
- (11) Except where the constable's spouse or former spouse is a constable, a married constable who is separated from his spouse or a constable who has divorced, or been divorced by, his spouse may, if he regularly makes periodic payments to or for the benefit of his spouse or former spouse, be granted-
- (a) where he is in receipt of a housing allowance under paragraph (1) or, as the case may be, a transitional rent allowance under regulation 42B, an addition to that allowance; or
 - (b) where he is provided with a house or quarters free of rent, a housing allowance; equal to whichever is the lesser of the two following amounts, namely, the amount by which his former allowance exceeds his present allowance or the amount paid by him to or for the benefit of his spouse or former spouse.
- (12) In this regulation-
- (a) the expression "his former allowance" means-
 - (i) in relation to a constable who, immediately before his spouse commenced to live apart from him, was being provided with a house or quarters free of rent, a sum fixed as the value for the time being of that house or those quarters;
 - (ii) in relation to any other constable, the maximum limit rent allowance or housing allowance or, as the case may be, the transitional rent allowance which was payable to him immediately before his spouse commenced to live apart from him;

- (b) the expression "his present allowance" means, as the case may be, the housing allowance which is being paid to the constable under paragraph (1), the transitional rent allowance paid to him under regulation 42B reduced in accordance with paragraph (5) of that regulation or a sum fixed as the value for the time being of the house or quarters with which he is provided;
- (c) the expressions "rent allowance" and "rates" have the same meanings as they had in regulation 42 of the principal Regulations as originally enacted; and
- (d) a reference to the provision of a house or quarters free of rent is a reference to such provision by a police authority.

Housing allowance: supplementary

42A. Standard-rate and half-rate housing allowances determined in accordance with regulation 42 in relation to any police force shall be adjusted—

- (a) on 1st April 1990, in the case of a police force whose maximum limit rent allowance payable under the principal Regulations, as originally enacted, would have fallen to be re-fixed by the police authority on a date during 1990; or
- (b) on 1st April 1991, in the case of a police force whose maximum limit rent allowance so payable would have fallen to be so re-fixed on a date during 1991;

and thereafter on each biennial of the applicable date; and each such adjustment shall correspond to any movement in the retail prices index since the rent allowance or housing allowance, as the case may be, was last fixed in relation to that force.

Transitional rent allowance

42B.—(1) This paragraph applies to a constable to whom a rent allowance was payable on 31st March 1990 where the sum of the annual rent allowance (and, where appropriate, supplementary rent allowance) then payable to him and his compensatory grant in respect of the financial year ending on 5th April 1990 is greater than the standard-rate or half-rate housing allowance and any supplementary housing allowance to which he would be entitled under regulation 42, 43 or 44 for the year beginning on 1st April 1990.

(2) Subject to the provisions of this regulation, a constable to whom paragraph (1) applies shall be entitled, for any part of the relevant period when he would be eligible to receive a housing allowance, to be paid, instead of a housing allowance, an allowance ("transitional rent allowance") at an annual rate equal to the amount of rent allowance payable *per annum* at the rate applicable to him on 31st March 1990.

(3) A constable to whom paragraph (1) applies who was in receipt of a supplementary rent allowance on 31st March 1990 shall be entitled, for any part of the relevant period when he would be eligible to receive a supplementary housing allowance, to be paid, instead of a supplementary housing allowance, an allowance ("transitional supplementary rent allowance") at an annual rate equal to the amount of supplementary rent allowance payable *per annum* at the rate applicable to him on 31st March 1990.

(4) In relation to a constable to whom paragraph (1) applies, the relevant period mentioned in paragraphs (2) and (3) shall—

- (a) begin on 1st April 1990; and
- (b) end on the day immediately preceding the date on which the standard-rate or half-rate housing allowance and any supplementary housing allowance to which he would then be entitled under regulation 42, 43 or 44 first equals or exceeds the sum of his transitional rent allowance, any transitional supplementary rent allowance or any supplementary housing allowance then payable to him and the total amount of compensatory grant paid since 1st April 1990 in pursuance of regulation 42D in respect of his rent allowance for the financial year ending on 5th April 1990;

except that the relevant period shall terminate if a constable resigns otherwise than upon immediate transfer to another force or retires, or is discharged or dismissed, from a police force and shall not recommence if he again becomes a constable.

(5) Where a constable in receipt of a transitional rent allowance was entitled on 31st March 1990 to a maximum limit rent allowance and thereafter, by reason of a change in his personal circumstances, he would be eligible only for a half-rate housing allowance, his transitional rent allowance shall, as long as he receives such allowance instead of a

half-rate housing allowance, be equal to half the annual rate of rent allowance payable to him on 31st March 1990.

(6) Where a constable in receipt of a transitional rent allowance transfers to another police force, the amount of his allowance from the date of his transfer shall be, where he would otherwise be eligible for a standard-rate housing allowance, a sum equivalent to the maximum limit rent allowance fixed on 31st March 1990 for constables of his new force of the same rank and, where he would otherwise be eligible for a half-rate housing allowance, a sum equivalent to the flat-rate rent allowance payable to such constables on 31st March 1990.

(7) Where a constable in England, Wales or Northern Ireland in receipt of a transitional rent allowance under a corresponding regulation which has effect there transfers to a police force in Scotland, he shall be eligible from the date of his transfer to receive such an allowance under this regulation; and paragraph (6) shall have effect in relation to him accordingly.

(8) Where a constable in receipt of a transitional rent allowance—

- (a) was on 31st March 1990 a constable to whom regulation 44 applied;
- (b) was on that date in receipt of a rent allowance which, by virtue of paragraph (2) of that regulation, was less than that which would have been payable to him if he had not moved his home;
- (c) upon ceasing to be a constable to whom regulation 44 applies again moves his home to the police area of the force of which he was a constable immediately before his assignment to duty with the Scottish Crime Squad;

the amount of his transitional rent allowance from the date when he again moves his home shall be that which would have been payable if he had not been assigned to duty with the Scottish Crime Squad and had continued to occupy on 31st March 1990 the home from which he moved in accordance with regulation 44(2).

(9) In this and the next following regulation—

- (a) the expressions “rent allowance” and “supplementary rent allowance” mean allowances payable under regulations 42 as read with regulation 42E and 43 respectively of the principal Regulations as they had effect on 31st March 1990;
- (b) “central service” means service within the meaning of section 38 of the Police (Scotland) Act 1967(a) and “overseas service” means service within the meaning of the Police (Overseas Service) Act 1945(b) or section 11 of the Overseas Development and Co-operation Act 1980(c).

42C.—(1) Subject to the provisions of this regulation, paragraph (1) of the preceding regulation shall also apply to a constable who, on or after 1st April 1990—

- (a) reverts to his police force at the end of a period of central service or overseas service on which he was engaged on 31st March 1990;
- (b) returns to duty at the end of a period of unpaid leave which included 31st March 1990;
- (c) acquires a new home having ceased to receive a rent allowance on or before 31st March 1990 by reason only that he had necessarily moved his home, either on transferring from one force to another or at the request of the chief constable in the interests of the efficiency of the force, and was on 31st March 1990 occupying a house or quarters with which he was provided free of rent pending disposal of his former home and acquisition of that new home; or
- (d) at the conclusion of a period of duty with the Scottish Crime Squad returns to his former home or acquires a new home in the police area of the force of which he was a constable immediately before his assignment to that duty having ceased to receive a rent allowance on or before 31st March 1990 by reason only that he had necessarily moved his home in the circumstances mentioned in regulation 44(2) and been provided with a house or quarters which he was occupying free of rent on 31st March 1990;

(a) 1967 c.77; section 38 was amended by the Police Pensions Act 1976 (c.35), Schedule 2, paragraph 6(a) and Schedule 3 and the Police Officers (Central Service) Act 1989 (c.11), section 2.

(b) 1945 c.17.

(c) 1980 c.63.

and who also fulfils the requirements of paragraph (2).

(2) The requirements referred to in the preceding paragraph are that—

- (a) the constable was in receipt of a rent allowance immediately before his period of central service, overseas service or unpaid leave or immediately before moving his home, as the case may be; and
- (b) the rent allowance (and, where appropriate, supplementary rent allowance) which (but for his period of central service, overseas service or unpaid leave or his moving home) would have been payable to him on 31st March 1990 would have been greater than the standard-rate or half-rate housing allowance and any supplementary housing allowance to which he would then be entitled under regulation 42, 43 or 44.

(3) In their application to such a constable as is mentioned in paragraph (1)(a), the provisions of regulation 42B shall have effect as if—

(a) in each of paragraphs (2) and (3) there were inserted—

- (i) before the word “payable” the words “which would have been”; and
- (ii) at the end the words “if he had then been a constable of his police force in the rank in which he was serving, and occupying the accommodation in which he was living, immediately before the commencement of his period of central service or overseas service”;

(b) in paragraph (3) there were substituted for the word “was” the words “, had he remained a constable of his police force during his period of central service or overseas service and continued to occupy the accommodation in which he was living immediately before the commencement of that period, would have been”;

(c) in paragraph (4)(a) there were substituted for the words “1st April 1990” the words “the day on which he reverts to his police force at the end of his period of central service or overseas service”;

(d) in paragraph (4)(b) there were substituted for the word “paid” the words “which would have been paid, had he remained a constable of his police force during his period of central service or overseas service,”;

(e) in paragraph (5), there were substituted for the word “was” the words “would (if he had then been a constable of his police force) have been”, and there were inserted after the words “rent allowance” in the last place where they occur the words “which would have been”.

(4) In their application to such a constable as is mentioned in paragraph (1)(b), the provisions of regulation 42B shall have effect as if—

(a) in each of paragraphs (2) and (3) there were inserted—

- (i) before the word “payable” the words “which would have been”; and
- (ii) at the end the words “if he had not then been on unpaid leave but was serving in the rank he held, and occupying the accommodation in which he was living, immediately before the commencement of his period of unpaid leave”;

(b) in paragraph (3) there were substituted for the word “was” the words “, had he not then been on unpaid leave and if he continued to occupy the accommodation in which he was living immediately before the commencement of that period of leave, would have been”;

(c) in paragraph (4)(a) there were substituted for the words “1st April 1990” the words “the day on which he returns to duty at the end of the period of unpaid leave”;

(d) in paragraph (5), there were substituted for the word “was” the words “would (if he had not then been on unpaid leave) have been”, and there were inserted after the words “rent allowance” in the last place where they occur the words “which would have been”.

(5) In their application to such a constable as is mentioned in paragraph (1)(c) or (d), the provisions of regulation 42B shall have effect as if —

(a) in each of paragraphs (2) and (3) there were inserted—

- (i) before the word “payable” the words “which would have been”; and

- (ii) at the end the words "if he had still been occupying his former home";
- (b) in paragraph (3) there were substituted for the word "was" the words ", had he still been occupying his former home, would have been";
- (c) in paragraph (4)(a) there were substituted for the words "1st April 1990" the words "the day on which he acquires his new home";
- (d) in paragraph (5), there were substituted for the word "was" the words "would (if he had still been occupying his former home) have been", and there were inserted after the words "rent allowance" in the last place where they occur the words "which would have been".

Compensatory grant

42D.—(1) Regulation 45 (compensatory grant) shall cease to have effect, except in relation to a constable in receipt of a transitional rent allowance.

- (2) Where regulation 45 continues to have effect by virtue of paragraph (1)—
 - (a) subject to sub-paragraph (c), compensatory grant shall be payable as if the expression "rent allowance" included "transitional rent allowance";
 - (b) no compensatory grant shall be payable after the end of the financial year ending on 5th April 1992 which would be attributable to the inclusion in the emoluments of the constable in question of compensatory grant in respect of a rent allowance paid before 5th April 1990; but a constable in receipt during that financial year of compensatory grant which is so attributable shall be paid in addition a sum equivalent to the amount of income tax which would be payable in respect of such compensatory grant at the basic rate of tax in force on 6th April 1991;
 - (c) no compensatory grant shall be payable to a constable after the end of the relevant period, referred to in regulation 42B(2) and (3), applicable to him."

Provided accommodation allowance

6. There shall be inserted after regulation 45 of the principal Regulations the following provision:—

"Provided accommodation allowance

45A.—(1) This paragraph applies to a constable who was on 31st March 1989 occupying a house or quarters with which he was provided by his police authority free of rent and rates and who on and after 1st April 1989 continues to occupy such accommodation free of rent.

(2) A constable to whom paragraph (1) applies shall, subject to paragraph (3), be paid an allowance ("provided accommodation allowance") at the rate of £300 a year.

(3) A provided accommodation allowance shall cease to be payable to a constable on 1st April 1992 or on such date as he ceases to be provided with a house or quarters free of rent, whichever shall first occur."

Transitional Provisions

7. There shall be inserted after regulation 42 of the principal Regulations as it had effect on 1st April 1989 the following provision:—

"42E. Subject to the maximum limit for his rank, the maximum limit rent allowance payable to a constable under regulation 42(4)(a) in respect of any period during the period beginning on 1st April 1989 and ending on 31st March 1990 shall be the product

of the formula $\frac{A}{B} \times C$ where—

- A is the rental value of the house selected for the purpose of determining rent allowance in a force area;
- B is the notional rateable value of that house as at 31st March 1989; and
- C is the rateable value of the constable's house as at 31st March 1989 or in any case where no such rateable value exists, a sum determined by the Assessor;

plus in the case of a constable who was in receipt of a maximum limit rent allowance on 31st March 1989 the amount payable by him by way of rates on that date in respect of the house in relation to which the allowance was payable:

Provided that there shall be deducted from any allowance payable to a constable under this regulation any allowance received by him in respect of the period beginning on 1st April 1989 and ending on 31st March 1990 under regulation 42 of the principal Regulations as it had effect on 1st April 1989.”.

Amendment of the principal Regulations

8. The principal Regulations shall be amended as follows:-

- (a) in regulation 43-
 - (i) there shall be substituted for the word “rent”, in each place where it occurs except in paragraph (3)(a), the word “housing”;
 - (ii) the words “and rates” in paragraph (3)(a) shall be deleted; and
 - (iii) there shall be substituted for the word “flat-rate” in paragraph (3)(b) the word “half-rate”;
- (b) in regulation 44(2) there shall be substituted for the words “rent allowance” the words “housing allowance”;
- (c) in regulation 47(1)(d)-
 - (i) the words “rates (within the meaning of regulation 42(7))” shall be deleted; and
 - (ii) there shall be substituted for the words “rent allowance” in each place where they occur, the words “housing allowance or transitional rent allowance”;
- (d) in regulation 66-
 - (i) there shall be inserted in paragraph (1) after the words “regulation 42(1)” in the first place where they occur the words “or a transitional rent allowance under regulation 42B”;
 - (ii) there shall be substituted for the words “rent allowance” in each place where they occur the words “housing allowance”;
 - (iii) the words “and rates” shall be deleted; and
 - (iv) there shall be inserted at the end of paragraph (a) of the proviso to paragraph (1) the words “or a transitional rent allowance under regulation 42B”;
- (e) in paragraph 3(2) of Schedule 1, there shall be substituted for the words “rent allowance” the words “housing allowance or transitional rent allowance”; and
- (f) in paragraph 4(1) of Schedule 9-
 - (i) for the words “rent allowance” there shall be substituted the words “housing allowance or transitional rent allowance”; and
 - (ii) for the words “that regulation” there shall be substituted the words “regulation 42 or 42B respectively”.

Amendment of the Police (Discipline) (Scotland) Regulations 1967

9. In regulation 19(5) of the Police (Discipline) (Scotland) Regulations 1967(a) for the words “rent allowance, a supplementary rent allowance or compensatory grant” there shall be substituted the words “housing allowance, supplementary housing allowance, transitional rent allowance, transitional supplementary rent allowance, compensatory grant or provided accommodation allowance”.

St. Andrew's House, Edinburgh
4th March 1990

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1967/1021; the relevant amending instrument is S.I. 1982/902.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police (Scotland) Regulations 1976 in relation to payment of overtime, rent allowance, supplementary rent allowance and compensatory grant.

Regulation 4 provides for the payment of overtime in specified circumstances where the beginning of an officers tour of duty is brought forward.

Regulation 5 makes new provision which replaces rent allowance with a new housing allowance. (Whereas rent allowance included reimbursement of an officer's domestic rate payments, the new housing allowance does not include reimbursement of community charge payments). New regulation 42 makes provision concerning eligibility for and the amount of housing allowance. Eligibility is similar to that for rent allowance, except that where two officers of different police forces live in accommodation provided free by the police authority for one of those forces, neither is to be eligible for housing allowance (proviso (c) to regulation 42(1)); and where two police officers live in accommodation owned by one of them, neither is to be eligible for more than half-rate housing allowance (regulation 42(3)(b)). Regulation 42A provides for the amount of housing allowance in each police force to be adjusted biennially. Regulation 42B provides for a transitional rent allowance, payable instead of housing allowance to police officers who were in receipt of rent allowance on 31st March 1990 and who would otherwise receive less by way of housing allowance than they received in rent allowance. Regulation 42C enables transitional rent allowance to be paid also to certain officers who, temporarily, were not in receipt of rent allowance on that date. Regulation 42D abolishes compensatory grant under regulation 45, except on a transitional basis for officers who receive transitional rent allowance.

Regulation 6 introduces an allowance payable for a period of 3 years to officers who continue to live in accommodation provided free by the police authority.

Regulation 7 makes transitional provision for rent allowance for the year from 1st April 1989 to 31st March 1990.

Regulations 8 and 9 make minor consequential amendments.

Regulation 4 has effect from 1st September 1989 and regulations 6 and 7 from 1st April 1989 (retrospection being authorised by section 26(3) of the Police (Scotland) Act 1967.