SCOTTISH STATUTORY INSTRUMENTS

2004 No. 257

POLICE

The Police (Scotland) Regulations 2004

Made - - - -	*2nd June 2004*
Laid before the Scottish Parliament - - - -	*3rd June 2004*
Coming into force - -	*25th June 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 7(1), 16, 26, 27 and 48(1) of the Police (Scotland) Act 1967(**1**), section 82(4) of the Police Reform Act 2002(**2**) and of all other powers enabling them in that behalf, after taking into consideration any representations made by the Police Advisory Board for Scotland following the submission of a draft of the Regulations in accordance with section 26(9) of the said Act of 1967, and after taking into consideration any recommendations made by the Police Negotiating Board for the United Kingdom and supplying the said Board with a draft of the Regulations in accordance with section 62(1ZA) of the Police Act 1996(**3**), hereby make the following Regulations:

PART 1

COMMENCEMENT AND INTERPRETATION

Citation and commencement

1.—(1) These Regulations may be cited as the Police (Scotland) Regulations 2004.

(2) These Regulations shall come into force on 25th June 2004 but–

(a) regulation 6(2) to (4) shall have effect from 1st September 1998;

(**1**) 1967 c. 77; section 7(1) was amended by the Police and Criminal Evidence Act 1984 (c. 60) ("the 1984 Act"), Schedule 6, paragraph 31 and by the Police and Magistrates' Courts Act 1994 (c. 29) ("the 1994 Act"), Schedule 9, Part I; section 16 was amended by the District Courts (Scotland) Act 1975, Schedule 1, paragraph 29; section 26(9) was amended by the Police Negotiating Board Act 1980 (c. 10), section 2(4) and by the Police Act 1996 (c. 16) ("the 1996 Act"), Schedule 7, paragraph 14(3); section 26(1A) and (10) was inserted by the 1984 Act, section 111; section 26(1) was amended by the 1994 Act, section 53(1); section 26(1A) was inserted by the 1984 Act, section 111(1)(a); section 26(2) was amended by the 1994 Act, sections 47(5) and 52(2) and Schedule 9 and by the 1996 Act, Schedule 7, paragraph 14(2); section 26(2A) to (2C) was inserted by the 1994 Act, section 52(3); section 26(5A) was inserted by the 1994 Act, section 53(1); section 26(7) was repealed by the 1994 Act, section 52(4) and Schedule 9; section 27(3) was amended by the 1984 Act, section 111(2) and by the Police Act 1997 (c. 50), Schedule 9, paragraph 9. See section 51(1) which has a relevant definition of "prescribed". The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) 2002 c. 30.

(**3**) 1996 c. 16.

(b) regulation 24(3)(f) shall have effect from 1st December 1999 to 5th April 2003;

(c) regulation 24(3)(g), (h) (so far it relates to maternity support leave and adoption support leave), (i) and 33(8)(d) shall have effect from 6th April 2003;

(d) regulation 42 shall have effect from 1st September 2002 so far as relating to the Port of Tilbury Constabulary.

References to transfers

2.—(1) Except where the context otherwise requires, a reference in these Regulations to a member of a police force voluntarily transferring from one force to another shall be construed as a reference to such a member leaving a force for the purpose of joining another force and joining that other force, where that member left the force first mentioned in this regulation on or after 1st January 1963 for the purposes aforesaid with, in the case of the chief constable, the consent of the police authority.

(2) Except where the context otherwise requires, a reference in these Regulations to a member of a police force being statutorily transferred from one force to another shall be construed as a reference to such a member being transferred by or under the Police Scotland Act 1967 as amended both by the Local Government (Scotland) Act 1973(**4**) and the Local Government (Scotland) Act 1994(**5**).

(3) Except where the context otherwise requires, a reference in these Regulations to a member of a police force transferring from one force to another shall be construed as a reference to his either voluntarily so transferring or being statutorily so transferred.

References to provisions of these Regulations

3. In these Regulations, unless the context otherwise requires, a reference to a regulation shall be construed as a reference to a regulation contained in these Regulations, a reference to a Schedule shall be construed as a reference to a Schedule to these Regulations, a reference to a paragraph shall be construed as a reference to a paragraph in the same regulation or, as the case may be, the same Part of the same Schedule and a reference to a sub-paragraph shall be construed as a reference to a sub-paragraph contained in the same paragraph.

Interpretation

4.—(1) In these Regulations, unless the context otherwise requires–

"the 1967 Act" means the Police (Scotland) Act 1967;

"British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949(**6**);

"chief constable" means the person who is appointed to the office of chief constable of a police force;

"Conduct Regulations" means the Police (Conduct) (Scotland) Regulations 1996(**7**), and the Police (Senior Officers) (Scotland) Regulations 1999(**8**);

"maternity leave" means leave taken in accordance with the provisions of a determination under regulation 33 by a qualified member of a police force during the maternity period;

"member of a police force" means a constable of a police force (including the chief constable of a police force) and includes such a member who is suspended under the Conduct Regulations;

(**4**) 1973 c. 65.
(**5**) 1994 c. 39.
(**6**) 1949 c.xxiv.
(**7**) S.I. 1996/1642 amended by S.S.I. 1999/1072.
(**8**) S.I. 1999/1074.

"pensionable service" has the same meaning as in the Police Pensions Regulations 1987(**9**);

"the representative bodies" means the Police Federation for Scotland and all bodies for the time being recognised by the Scottish Ministers for the purposes of section 64 of the Police Act 1996;

"senior officer" means a member who is a chief constable a deputy chief constable or an assistant chief constable;

"university scholar" means a member of a police force on a course of university study nominated by the Scottish Ministers or by the police authority maintaining the police force of which that member is a member following arrangements approved by the Scottish Ministers;

"week" means a period of seven days beginning with Sunday.

(2) Nothing in these Regulations shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.

PART 2

GOVERNMENT

Ranks

5. The ranks which may be held by members of a police force shall be known by the following designations–

Chief Constable;

Deputy Chief Constable;

Assistant Chief Constable;

Chief Superintendent;

Superintendent;

Chief Inspector;

Inspector;

Sergeant;

Constable.

Part-time appointments

6.—(1) A chief constable may, after consultation with local representatives of the representative bodies, appoint persons to perform part-time service in any rank.

(2) In these Regulations a person appointed to perform part-time service includes a person appointed to share a job with another person.

(3) A person appointed to perform part-time service may not be appointed to serve as a full-time member without that person's consent.

(4) A person appointed to perform part-time service immediately after serving as a full-time member may give notice in writing of that person's intention to be re-appointed as a full-time member and shall be so appointed–

(**9**) S.I. 1987/257, amended by S.I. 1987/2215, 1988/1339, 1989/733, 1990/805, 1992/1343, 1992/2349, 1994/641, 1996/867 and 1997/1429.

(a) within one month of the date the notice is received by the police authority, where the authority has a suitable vacancy; or

(b) except where sub-paragraph (a) applies, when 3 months have elapsed since the day the notice was received, or from an earlier date if reasonably practicable.

(5) A person serving as a full-time member of a police force may not be appointed to perform part-time service without that person's consent.

(6) In this regulation "full-time member" means a member appointed otherwise than under this regulation.

(7) In relation to persons appointed under this regulation to perform part-time service–

(a) regulation 12(1) has effect as if the words "other than such a person who transferred to the force having completed the required period of probation therein" were omitted; and

(b) regulation 25 has effect as if–

(i) in paragraph (1) for all the words after "compensated in respect of time" there were substituted "spent on duty in excess of such period as the Scottish Ministers may determine"; and

(ii) paragraph (2) were omitted.

Restrictions on the private life of members

7.—(1) The restrictions on private life contained in Schedule 1 shall apply to all members of a police force.

(2) No other restrictions except those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or the chief constable on the private life of members of a police force.

Business Interests

8.—(1) A constable shall not have a business interest without the consent of–

(a) the police authority in the case of a senior officer;

(b) the chief constable in the case of any such other constable, provided that, in the case of any such other constable in whose case the chief constable has an interest in otherwise than as chief constable, the constable shall if either the constable or the chief constable so elect, obtain the consent of the chief constable of such other police force as may be determined.

(2) If a constable acquires or is likely to acquire, or in the case of a constable appointed to the office of chief constable or promoted to the rank of deputy chief constable or assistant chief constable has, a business interest he shall forthwith give written notice of that interest to the chief constable, or, as the case may be, the police authority unless that constable has previously disclosed that interest to that authority.

(3) A person applying for appointment to a police force, other than a person referred to in paragraph (4), shall give written notice to the chief constable of any business interest.

(4) A person applying for appointment to the office of chief constable, deputy chief constable, or assistant chief constable in a police force shall give written notice to the police authority responsible for the appointment of any business interest which that constable has or is likely to acquire after appointment.

(5) A person shall be regarded as having a business interest if–

(a) that person carries on any business or holds any office of employment for hire or gain (otherwise than as a constable); or

(b) that person resides at any premises where any member of that person's family keeps a shop or carries on any like business; or

(c) that person holds, or any member of that person's family living with that person holds, any licence, certificate or permit granted in pursuance of the laws relating to liquor licensing or betting and gaming or regulating places of public entertainment in the police area of the force of which that person is a constable to which that person is applying for appointment or has any pecuniary interest in such licence, certificate of permit; or

(d) that person's spouse (not being separated from that person) keeps a shop or carries on any like business in the police area of the force of which that person is a constable or to which that person is applying for appointment.

(6) For the purposes of this regulation, the expression "member of that person's family" shall include parent, son, daughter, brother, sister or spouse (not being separated from that person).

Qualifications for appointment to a police force

9.—(1) A candidate for appointment to a police force–

(a) must, if not a national of an EEA State(**10**) have leave to enter or remain in the United Kingdom for an indefinite period;

(b) must produce satisfactory references as to character, and, if that candidate has served in any police force, in the armed forces, in the civil service or as a seaman, produce satisfactory proof of good conduct while so serving;

(c) must have attained the age of 18 years 6 months;

(d) must be certified by a registered medical practitioner approved by the police authority to be fitted both physically and mentally to perform the duties on which that candidate will be employed after appointment;

(e) must meet the standard of eyesight determined by the Scottish Ministers;

(f) must, if a candidate for appointment in the rank of constable, satisfy the chief constable that that candidate is sufficiently educated, including being sufficiently competent in written and spoken English and sufficiently numerate, by passing an examination of a standard approved by the chief constable and the Scottish Ministers after consultation with the Police Advisory Board of Scotland;

(g) must, if a candidate for appointment in the rank of sergeant, or inspector, be qualified for promotion to such rank in accordance with the provisions of the Police (Promotion) (Scotland) Regulations 1996(**11**);

(h) must give such information as may be required as to his previous history or employment or any other matter relating to his appointment to the police force.

(2) A candidate for appointment to a police force shall be given a notice in terms approved by the Scottish Ministers drawing attention to the terms and conditions of service.

(3) For the purposes of this regulation–

(a) "armed forces" means the naval, military or air forces of the Crown including any women's service administered by the Defence Council; and

(b) "seaman" has the same meaning as in the Merchant Shipping Act 1995(**12**).

(**10**) EEA State means a Member State, Norway, Iceland or Liechtenstein.
(**11**) 1996/221.
(**12**) 1995 c. 21.