



# Police and Fire Reform (Scotland) Act 2012

2012 asp 8

## PART 1

### POLICE REFORM

#### CHAPTER 8

##### GOVERNANCE AND ADMINISTRATION OF POLICE

#### **48 Governance and administration of police**

The Scottish Ministers must make regulations as to the governance, administration and conditions of service of constables and police cadets.

#### **49 Appointments, promotions etc.**

- (1) Regulations made under section 48 may in particular make provision relating to—
  - (a) eligibility for appointment as constable or police cadet or for appointment or promotion to a particular rank,
  - (b) the procedure for appointment of senior officers or for the appointment or promotion of other constables,
  - (c) periods of service on probation,
  - (d) the efficiency or effectiveness of constables or police cadets,
  - (e) restrictions on the private life or business interests of constables or police cadets,
  - (f) resignation or retirement of constables.
- (2) Such regulations—
  - (a) may provide for appointments of senior officers to be for fixed terms, but
  - (b) must not provide for fixed term appointment to any rank below that of assistant chief constable.

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*Status: This is the original version (as it was originally enacted).*

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## **50 Conditions of service**

- (1) Regulations made under section 48 as to conditions of service may in particular make provision about—
  - (a) pay, allowances and expenses,
  - (b) public holidays and leave,
  - (c) the issue, use and return of police clothing and equipment.
- (2) In relation to special constables, such regulations must not entitle them to pay but may make provision entitling them to receive periodic payments in acknowledgment of the giving of services (including provision about the minimum aggregate length of service needed within a period in order to give rise to an entitlement to receive a periodic payment in respect of that period).
- (3) Regulations made under section 48—
  - (a) may make retrospective provision about pay or allowances, but
  - (b) must not retrospectively reduce any pay or allowance payable to or in respect of any person.

## **51 Regulations: duties**

- (1) Regulations made under section 48 may make provision relating to duties of constables or police cadets.
- (2) Such regulations may in particular make provision about—
  - (a) duties which are or are not to be performed,
  - (b) hours of duty,
  - (c) the treatment as occasions of police duty of attendance at meetings of the Police Federations and any other body recognised for the purposes of section 64 of the [Police Act 1996 \(c.16\)](#) as representing members of police forces.

## **52 Disciplinary procedures: conduct and performance**

- (1) Regulations made under section 48 must establish, or provide for the establishment of, procedures for dealing with a constable whose standard of behaviour or performance is unsatisfactory.
- (2) Such regulations may make provision—
  - (a) setting out—
    - (i) standards of behaviour which, if breached, may be treated as misconduct,
    - (ii) standards of performance which, if breached, may be treated as being unsatisfactory performance,
    - (iii) other circumstances in which a constable's behaviour may be treated as misconduct or in which a constable's performance may be treated as unsatisfactory (for example, where performance is inefficient or where there has been a failure to perform functions),
  - (b) for circumstances in which a constable may be suspended from duty pending investigation into whether the constable has been engaged in misconduct,

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- (c) subject to subsection (3), for a constable who is found to have been engaged in misconduct or whose performance is found to have been unsatisfactory to be dealt with by being—
    - (i) dismissed (with or without notice),
    - (ii) demoted in rank,
    - (iii) warned that future misconduct or unsatisfactory performance may lead to further disciplinary action,
    - (iv) admonished, or
    - (v) dealt with in any other way,
  - (d) conferring functions on the Police Investigations and Review Commissioner in relation to investigations of whether a constable has been engaged in misconduct,
  - (e) applying the procedures (with or without modifications) in relation to a constable engaged on temporary service outwith the Police Service (see section 15).
- (3) Such regulations must provide for the Authority to determine any case which relates to the standard of behaviour or performance of a senior officer.
- (4) A constable suspended by virtue of regulations made under section 48 is not entitled to carry out any functions as a constable unless the regulations otherwise specify.

### **53 Personal records**

Regulations made under section 48 may make provision relating to—

- (a) the keeping of personal records about constables and police cadets,
- (b) the taking of fingerprints and samples from constables and police cadets and the retention, use and destruction of such fingerprints and samples or of information derived from such samples.

### **54 Consultation on regulations**

- (1) Before making regulations under section 48 about any matter mentioned in section 61(1) of the Police Act 1996 (c.16) (other than pensions), the Scottish Ministers must—
- (a) share a draft of the regulations with the Police Negotiating Board for the United Kingdom, and
  - (b) consider any representations made.
- (2) Before making any other regulations under section 48, the Scottish Ministers must—
- (a) consult and share a draft of the regulations with—
    - (i) the chief constable,
    - (ii) the Authority,
    - (iii) the joint central committee of the Police Federation for Scotland,
    - (iv) such persons as appear to them to be representative of senior officers,
    - (v) such persons as appear to them to be representative of superintendents (including chief superintendents), and
    - (vi) such other persons as they consider appropriate, and
  - (b) consider any representations made.

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**55 Regulations: supplementary**

- (1) Regulations made under section 48 may—
  - (a) make provision for the delegation of functions to—
    - (i) the Scottish Ministers,
    - (ii) the Authority,
    - (iii) the chief constable,
    - (iv) a local commander,
    - (v) the Police Investigations and Review Commissioner, or
    - (vi) any other person,
  - (b) authorise or require the delegation of functions by any person.
- (2) In the absence of express contrary intention, nothing in this Part affects the generality of the power conferred by section 48.