STATUTORY INSTRUMENTS

2012 No. 2712

POLICE, ENGLAND AND WALES

The Police (Amendment No. 4) Regulations 2012

Made - - - -	*29th October 2012*
Laid before Parliament	*31st October 2012*
Coming into force - -	*22nd November 2012*

The Secretary of State, in exercise of the powers conferred by section 50 of the Police Act 1996(**a**), makes the following Regulations.

In accordance with section 62(1)(**b**) of that Act, the Secretary of State has taken into consideration the recommendation made by the Police Negotiating Board for the United Kingdom and supplied the Board with a draft of regulations 5 and 6.

In accordance with section 63(3)(**c**) of that Act, the Secretary of State has supplied a draft of regulations 3 and 4 to the Police Advisory Board for England and Wales and taken into consideration their representations.

Citation and commencement

1. These Regulations may be cited as the Police (Amendment No. 4) Regulations 2012 and come into force on 22nd November 2012.

Interpretation

2. In these Regulations, "the 2003 Regulations" means the Police Regulations 2003(**d**).

Part-time appointments: re-appointment as full-time member

3.—(1) Regulation 5 of the 2003 Regulations (part-time appointments) is amended as follows.

(2) In paragraph (4)—

(a) in sub-paragraph (a), for "one month" substitute "2 months";

(b) in sub-paragraph (b), for "3 months" substitute "4 months".

(**a**) 1996 c.16. Section 50 is amended by paragraph 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4), section 3 of the Policing and Crime Act 2009 (c. 26) and section 82(12) of, and paragraph 32 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).

(**b**) Section 62(1) was amended by Schedule 10 to the Police Act 1997 (c. 50), S.I. 1999/1820, sections 90(3) and 91(3) of the Police Reform Act 2002 (c. 30), paragraphs 68 and 77 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraphs 61 and 67 of Schedule 1 to the Police and Justice Act 2006 (c. 48), S.I. 1999/1820 and S.I. 2010/976.

(**c**) Section 63(3) was amended by paragraph 78 of Schedule 4 to the Serious Organised Crime and Police Act 2005, paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008 and section 10 of the Policing and Crime Act 2009.

(**d**) S.I. 2003/527, as amended by S.I. 2006/1467 and S.I. 2011/3026; there are other amendments but none is relevant.

Fixed term appointments of senior officers

4.—(1) Regulation 11 of the 2003 Regulations (appointment of senior officers) is amended as follows.

(2) In paragraph (2A), for "(2B)" substitute "(2B) to (2D)".

(3) In paragraph (2B), omit all of the words after "each of a maximum of one year".

(4) After paragraph (2B) insert—

"(2C) The reference in paragraph (2B) to the person who made the appointment shall have effect—

(a) in the case of an appointment of a deputy chief constable under section 11A of the Act(**a**), as a reference to the chief constable; and

(b) in the case of an appointment of an Assistant Commissioner under section 9F of the Act or a Deputy Assistant Commissioner under section 9FA of the Act(**b**), as a reference to the Commissioner of Police of the Metropolis.

(2D) Where an appointment for a fixed term is due to expire at a time when the person appointed is acting as chief officer, the appointment shall not expire until—

(a) the date when the person ceases to act as chief officer, if the reason for the cessation is that the person is appointed as chief officer; or

(b) six months after the date when the person ceases to act as chief officer, if the reason for the cessation is that another person is appointed as chief officer.

(2E) Where sub-paragraph (b) of paragraph (2D) applies, the chief officer shall notify the person appointed, not less than three months before the end of the six month period mentioned in that sub-paragraph, as to whether or not the appointment is to be extended in accordance with paragraph (2B) (and, if it applies, paragraph (2C)).

(2F) For the purposes of paragraph (2D) a person is acting as chief officer when the person is—

(a) exercising or performing functions of a chief constable in accordance with section 41(1)(a) of the Police Reform and Social Responsibility Act 2011;

(b) exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44(1)(a) or (b) of that Act; or

(c) exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839(**c**).".

(5) In paragraph (3), for "Paragraph (2) is" substitute "Paragraphs (2) and (2D) are".

Days treated as public holidays

5.—(1) Regulation 26 of the 2003 Regulations (public holidays and rest days) is amended as follows.

(2) In paragraph (1), for sub-paragraphs (a) and (b) substitute—

"(a) public holidays;

(b) days which a member of a police force has elected to treat as public holidays; or

(c) rostered rest days,".

(**a**) Section 11A was inserted by section 123(1) of the Criminal Justice and Police Act 2001 (c. 16) and is repealed by paragraph 15 of Schedule 16 to the Police Reform and Social Responsibility Act 2011.

(**b**) Sections 9F and 9FA were inserted by section 319 of the Greater London Authority Act 1999 (c. 29) and section 122(1) of the Criminal Justice and Police Act 2001 respectively, and are repealed by paragraph 13 of Schedule 16 to the Police Reform and Social Responsibility Act 2011.

(**c**) 2 & 3 Vict. x xciv.

Replacement allowance: increases

6.—(1) Paragraph 7 of Schedule 3 to the 2003 Regulations (variation and termination of replacement allowance) is amended as follows.

(2) In sub-paragraph (3), after "the replacement allowance in question is" insert "not".

Home Office
29th October 2012

Damian Green
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulations 3, 5 and 6 of these Regulations amend the Police Regulations 2003 ("the 2003 Regulations") to implement recommendations made in the Independent Review of Police Officer and Staff Remuneration and Conditions: Part 1 Report (Cm. 8024:"the Report").

Regulation 3 of these Regulations amends regulation 5 of the 2003 Regulations in order to increase from one month to two months the period within which a part-time member of a police force wishing to return to full-time service must be allowed to do so, if there is a suitable vacancy available. The amendment also increases from three months to four months the period within which the member must be allowed to work full-time if there is no suitable vacancy. This implements recommendation 59 in the Report.

Regulation 5 of these Regulations amends regulation 26 of the 2003 Regulations in order to allow the Secretary of State to determine the circumstances and manner in which a member of a police force shall be granted leave or otherwise compensated in respect of time spent on duty on a day which the member has elected to treat as a public holiday. This is to allow the implementation of recommendation 8 in the Report.

Regulation 6 of these Regulations amends paragraph 7 of Schedule 3 to the 2003 Regulations, with the effect that the replacement allowance paid in respect of a previous entitlement to housing allowances or emoluments is not increased to reflect changes in personal circumstances (such as promotion) which would have caused the original allowance or emolument to be increased. This implements recommendation 43 in the Report.

Further recommendations in the Report are implemented by determinations of the Secretary of State made under the 2003 Regulations, and by amendments to police pensions regulations.

Regulation 4 of these Regulations amends regulation 11 of the 2003 Regulations, which makes provision about fixed term appointments for senior police officers.

Regulation 11(2B) of the 2003 Regulations provides for the extension of a fixed term appointment, subject to the consent of the Secretary of State if the extended term is to last more than a year longer than the original term. These Regulations remove the requirement for the Secretary of State's consent.

An extension under regulation 11(2B) of the 2003 Regulations may be made with the agreement of the person who made the appointment. Appointments of deputy chief constables made before 22nd November 2012 will have been made by the relevant police authority. Appointments of Assistant Commissioners and Deputy Assistant Commissioners of the Metropolitan Police made before 16th January 2012 will have been made by the Metropolitan Police Authority.

Regulation 4 of these Regulations inserts a new regulation 11(2C) which has the effect that these appointments are treated, from 22nd November, as if they had been made by the relevant chief

officer of police. It will be the relevant chief officer of police who has to agree any extension of a fixed term appointment, just as it is the chief officer who, from 22nd November, will make new appointments to these ranks.

These Regulations further amend regulation 11 of the 2003 Regulations in order to cater for the situation where a senior officer is standing in for the chief officer of police at the time when the senior officer's fixed term appointment expires. Where a senior officer is discharging the chief officer's functions, the senior officer is regarded in law as the chief officer and therefore "the person who made the appointment". The senior officer would therefore be able to approve the extension of his or her own appointment. This is not regarded as appropriate.

Regulation 4 of these Regulations therefore inserts a new regulation 11(2D) to (2F) in the 2003 Regulations, which has the effect that the fixed term appointment of a senior officer who is standing in for the chief officer continues either until the senior officer is substantively appointed as chief officer, or until six months after the appointment of another person as chief officer. In the latter case, the other person appointed as chief officer must then give the senior officer at least three months notice as to whether or not the appointment is to be extended when it eventually expires.

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