# EXECUTIVE NOTE

# THE POLICE (SCOTLAND) AMENDMENT REGULATIONS 2009

## SSI 2009 No. 372

1. The Police (Scotland) Amendment Regulations 2009 ("the 2009 Regulations") are made in exercise of the powers conferred by section 26 of the Police (Scotland) Act 1967 and all other powers enabling them to do so. The Instrument is subject to the negative resolution procedure.

## Policy Objectives

2. The purpose of this instrument is to amend three separate instruments covering police regulations, that is, the Police (Promotion) (Scotland) Regulations 1996, the Police (Special Constables) (Scotland) Regulations 2008 and the Police (Scotland) Regulations 2004.

## The Police (Promotion) (Scotland) Regulations 1996

3. **Regulation 2** removes the "qualifying examinations" from the Police (Promotion) (Scotland) Regulations 1996 and leaves the Diploma in Police Service Leadership and Management [referred to hereafter as "the Diploma"] as the only formal means to obtain a new qualification for eligibility for promotion to a rank above that of constable.

4. The Police (Promotion) (Scotland) Amendment Regulations 2007 S.S.I 2007/528 introduced the Diploma but allowed officers who had started a course of study in preparation for the Police (Scotland) Promotion Examination to sit the exams and it was agreed that the March 2009 diet of exams would be the last.

5. Although the amendments mean that the "qualifying examinations" will no longer take place, leaving the Diploma as the only formal means to obtain a new qualification for promotion, any constable who passed the "qualifying examinations" on or before 9th December 2009 will continue to be eligible for promotion after that date.

6. From the introduction of these amendments the recognition of examinations or courses passed by police officers from other forces will be deemed to be equivalent to a pass in the qualifying diploma.

## The Police (Special Constables) (Scotland) Regulations 2008

7. **Regulation 3(2)** corrects a minor typographical error in regulation 2(1) that gives effect to an undertaking given to the Subordinate Legislation Committee in relation to SSI 2008/117. The definition of an "inquiry officer" should refer to regulation 19 and not regulation 20.

8. **Regulation 3(3)** amends regulation 8 of the Police (Special Constables) (Scotland) Regulations 2008 and will allow Chief Constables to postpone the retirement of a Special Constable. This will bring Special Constables in line with their regular counterparts who may have their retirement postponed in a similar manner under the Police Pension Regulations.

9. The Scottish Government will issue guidance on the procedures that should be followed when a Chief Constable considers a Special Constable's postponement of retirement. This will follow similar guidance provided for the postponement of a regular constables retirement that should include an assessment of the officer's skills and performance and a medical assessment.

**The Police (Scotland) Regulations 2004**

10. **Regulation 4(2)** removes the requirement for Assistant Chief Constables to have a fixed term appointment. This was agreed under the Chief Officer pay and condition package introduced in 2004 by the Police Negotiating Board.

11. **Regulation 4(3)** allows forces to deduct any contributory employment support allowance, under the Welfare Reform Act 2007, from officers in receipt of full pay.

12. The employment support allowance replaced incapacity benefit from 27 October 2008, for new claimants. Those in receipt of incapacity benefit will continue to receive their benefit but this may be deducted from an officer's pay under regulation 31(1)(a) of the Police (Scotland) Regulations 2004.

**Determinations**

13. **The introduction of Regulation 4(2)** will require the amendment of a determination made under regulation 11 of the Police (Scotland) Regulations 2004, to include the agreed circumstances in which a fixed term appointment for Chief Constables and Deputy Chief Constables may be extended. A draft of this revised determination shall be supplied to the Police Advisory Board for Scotland and the Scottish Government will take into account any representations made by the Board.

14. The determination will set out that fixed-term appointments for Chief Constables and Deputy Chief Constables are now for a maximum of 5 years, with extensions by agreement with the police authority and individual concerned, for up to 3 years in the first instance and no more than a year for subsequent extensions. Any extension of more than a year from the end of the initial appointment (whether or not that appointment was for a full 5 years' term) is to require the consent of the Scottish Ministers, with an additional consent required for each additional extension.

**Transitional provision**

15. **Regulation 5** makes a transitional provision to ensure that Assistant Chief Constables who hold the rank when the instrument comes into force shall no longer hold that rank on a fixed term basis.

**Consultation**

16. The draft 2009 Regulations were formulated through discussion with members of the Police Advisory Board for Scotland (Technical Working Group) and was formally issued to members of the Police Advisory Board for Scotland for their views. The draft statutory instrument went before the Police Negotiating Board for their views.

17. There was some feedback on the scope of the proposed Regulations and the Scottish Government has taken these into account when drafting the final Regulations.

**Financial Effects**

18. The instrument has no financial effects on the Scottish Government's program expenditure.

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