

Criminal Justice Committee
Wednesday 25 September 2024
29th Meeting, 2024 (Session 6)

Note by the Clerk on the Police Service of Scotland (Amendment) Regulations 2024 (SSI 2024/179)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 2 October 2024. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

Title of instrument: [The Police Service of Scotland \(Amendment\) Regulations 2024](#) (SSI 2024/179)

Laid under: Sections 48, 50(3), 55 and 125(1) of [The Police and Fire Reform \(Scotland\) Act 2012](#)

Laid on: 20 June 2024

Procedure: Negative

Deadline for committee consideration: 30 September 2024

Deadline for Chamber consideration: 2 October 2024 (Statutory 40-day deadline for any decision whether to annul the instrument)

Commencement: 4 October 2024

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 3 September 2024 and reported on it in its [49th Report, 2024](#). The DPLR Committee [raised two questions with the Scottish Government](#) but made no recommendations in relation to the instrument.

Purpose of the instrument

8. The purpose of this instrument is to implement a number of agreements, made through the Police Negotiating Board, by updating the Police Service of Scotland Regulations 2013, which set out the terms and conditions for police constables in Scotland and make provision in relation to governance of the Police Service.
9. The Policy Note accompanying the instrument is included in Annexe A. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Committee consideration

10. So far, no motion recommending annulment has been lodged.
11. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:
 - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
 - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

12. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
13. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

**Clerks to the Committee
September 2024**

Annexe A: Scottish Government Policy Note

The Police Service of Scotland (Amendment) Regulations 2024

SSI 2024/179

The above instrument was made by the Scottish Ministers in exercise of the powers conferred on them by sections 48, 50(3), 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”) and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to implement a number of agreements, made through the Police Negotiating Board, by updating the Police Service of Scotland Regulations 2013, which set out the terms and conditions for police constables in Scotland and make provision in relation to governance of the Police Service.

Policy Objectives

This instrument amends the Police Service of Scotland Regulations 2013 (“the 2013 Regulations”) to implement agreements made by the Police Negotiating Board (“PNB”).

Before it was abolished, the PNB had the role of negotiating the pay, terms and conditions of police officers in Scotland. The Police Negotiating Board for Scotland (“PNBS”) replaced the PNB in August 2023.

The policy for the amendments is set out below:

The PNB undertook a part-time audit and agreed that amendments to the 2013 Regulations would ensure that part-time constables are treated in the same manner as full-time constables, when it comes to the application of their duties and overtime.

Regulation 3 is amended to remove the requirement to consult with local representatives of the representative bodies, as this is not required, as part-time constables agree their part-time service with the chief constable.

Regulation 3 is also amended to remove ‘job share’ as a separate form of part-time service. The PNB agreed that job sharing was part-time service, and no distinction is required in Regulations.

The omission of regulation 3(7) will mean that regulation 17 (overtime) will no longer be modified in its application to part-time constables, meaning that the overtime regulation will apply to part-time constables in the same way as it applies to full-time constables.

Regulation 11 is amended to ensure that a constable's Personal Record includes all part-time service by a constable. The Police Service of Scotland will already note a constable's part-time service, but this amendment sets out the requirement for the Police Service to formally keep such service in a constable's personal record.

Regulation 17 is amended, following agreement by the PNB, to provide that (where there is an exigency of duty) a constable's start-time can be advanced or deferred, without compensation, if they are given due notice, but that the "due notice" period would be increased from 8 hours to 24 hours, and from 8 to 12 hours when there is a requirement to work due to unforeseen court attendance.

These changes provide constables with a greater notice period when their time is disrupted, but this is balanced by the ability to advance or defer a constable's start time where there is an exigency of duty. Any advancement or deferment of a constable's start-time where due notice has not been given will be categorised as "overtime" and the constable will be entitled to be compensated in accordance with the relevant determination made by the Scottish Ministers.

The PNB agreed that constables should be able to nominate days to replace their two days of public holiday, for religious or cultural reasons. This will allow constables to take a public holiday that better suits their religious or cultural preferences, rather than Christmas Day or New Year's Day, as currently set out in regulations.

This amendment, to regulation 18, will allow a more diverse use of the two public holidays available to constables.

Regulation 25 is amended to require the Scottish Ministers to determine the circumstances in which a constable can get leave to accompany another person to an antenatal appointment.

Regulation 31 is amended to allow for all duties in a higher rank to be treated as service in that higher rank. This will provide constables, who are in receipt of a temporary salary at a higher rank, to have all that service acknowledged and this will mean that should a constable be promoted to that rank, their previous service would count towards service and salary. The PNB agreed that this should have effect from 1 January 2023.

Regulation 34 is amended to take account of the introduction of the Police Negotiating Board for Scotland, and that the Police Negotiating Board has been abolished. This is to ensure that the Scottish Ministers consult the new body before making determinations under the 2013 Regulations.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

In accordance with section 54(1) of the 2012 Act, the Scottish Ministers have shared a draft of the Regulations with the Police Negotiating Board for Scotland and have considered any representations made.

In accordance with section 54(2) of the 2012 Act, they have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) and have considered any representations made.

Impact Assessments

An Equality Impact Assessment was published on the Scottish Government website with the assessment showing no detrimental impact on constables.

Financial Effects

The Cabinet Secretary for Justice and Home Affairs confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Safer Communities Directorate
June 2024