

APPOINTMENT OF SENIOR OFFICERS**Part One. EXPERIENCE AND OTHER REQUIREMENTS**

1) Subject to section 4(1) of the Police (Scotland) Act 1967 and regulation 9 no person shall be appointed as chief constable of a police force unless for a period of not less than two years the member holds or has held the rank of assistant chief constable or above:

- a) in some other police force;
- b) in the British Transport Police;
- c) whilst engaged on relevant service within the meaning of section 38A of the Police (Scotland) Act 1967; or
- d) partly in one of the capacities above and partly in another.

2) Subject to sections 5 to 5A of the 1967 Act and regulation 9 no person shall be appointed as deputy chief constable or assistant chief constable unless for a period of not less than two years the member holds or has held the rank of superintendent or above:

- (a) in a police force;
- (b) in the British Transport Police; or
- (c) while engaged on relevant service within the meaning of section 38A of the Police (Scotland) Act 1967; or.
- (d) as a constable assigned to duty with the joint operation known as the operational and intelligence group of the Scottish Drug Enforcement Agency.

Part Two. TERMS FOR FIXED TERM APPOINTMENTS

1) This determination applies to every appointment on or after 25th June 2004 of a person to the rank of chief constable, deputy chief constable or assistant chief constable of a police force maintained under section 1 of the Police Act (Scotland) Act 1967.

2) Where it is proposed to vary by agreement the conditions of service of a person who on 25th June 2004 holds one of the ranks specified in paragraph (1) indefinitely so that the member holds that rank instead for a fixed term-

a) that term shall be for a period authorised by paragraph (3) or, as the case may be, paragraph (4); and

b) this determination shall apply to such a variation as it applies to an appointment and as if the variation were an appointment.

3) Subject to paragraphs (5) to (11), an appointment to the rank of chief constable or deputy chief constable shall be for a term of not less than four years and not more than seven years.

4) Subject to paragraphs (5) to (11), an appointment to the rank of assistant chief constable shall be for a term of not less than four years and not more than either-

a) ten years, or

b) a period expiring with the date on which the person appointed reaches minimum retirement age or, if that period is less than four years, four years,

whichever of the periods in sub-paragraphs (a) and (b) is the shorter.

5) The term of an appointment to which this determination applies may be for a period of less than four years with the consent of the Scottish Ministers.

6) The term of an appointment to the rank of chief constable or deputy chief constable may be extended by agreement for a period or periods expiring not later than seven years from the date of the initial appointment to that rank.

7) The term of an appointment to the rank of assistant chief constable to which this determination applies may be extended by agreement for a period or periods expiring not later than:

a) ten years from the date of the initial appointment to that rank, or

b) the date on which the person appointed reaches minimum retirement age,

whichever of the periods in sub-paragraphs (a) and (b) is the shorter.

8) The term of an appointment to which this determination applies may, with the consent of the Scottish Ministers, be extended by agreement for a single period not exceeding three years where the extension cannot be made under paragraphs (6), (7) or (9) and, in the opinion of the Scottish Ministers, the particular extension would be in the interest of the efficiency and effectiveness of the police force.

9) The term of an appointment to which this determination applies may be extended by agreement for a period or periods up to the time when the person appointed-

a) has completed 30 years' pensionable service for the purposes of the Police Pensions Regulations 1987, or

- b) has completed 25 years' pensionable service for those purposes and has attained the age of 50,

whichever is the earlier.

- 10) Subject to paragraph (12) where the term of appointment of a person who-
 - a) has been appointed under this determination, and
 - b) is subsequently engaged on relevant service within the meaning of section 38A of the Police Act (Scotland) Act 1967

would otherwise expire whilst that person is so engaged, that term shall expire one day after the end of the period of relevant service.

11) This determination is without prejudice to any provision whereby a term of appointment comes to an end on promotion, dismissal or transfer to another police force and to any determination made under regulation 14.

12) Paragraph (10) shall not apply where a pension, allowance or gratuity becomes payable to that person out of money provided out of the Scottish Consolidated Fund in accordance with rules under section 65(1)(c) of the Scotland Act 1998 by virtue of the Police Pensions Regulations

13) A person does not cease to be eligible for an appointment to which this determination applies by reason only of the fact that the member has completed an appointment for a term determined in accordance with this determination.

- 14) In this determination "minimum retirement age" means-
 - a) in the case of a person who, on attaining the age of 55, will be entitled to reckon not less than 25 years' pensionable service for the purposes of the Police Pensions Regulations 1987, that age; or
 - b) in the case of a person who, on attaining that age, will not be entitled to reckon 25 years' pensionable service for the purposes of those Regulations, the age at which the member will be so entitled or the age at which the member will be required to retire under regulation A18(1) of those Regulations, whichever is the earlier.

15) For the purposes of determining an entitlement under paragraph (14), an election under regulation G4 of the Police Pensions Regulations 1987 (election not to pay pension contributions) shall be disregarded.

16) Any person whose term of appointment to a rank had been extended under paragraph (6) of regulation 8A of the Police (Scotland) Regulations 1976 immediately before 25th June 2004 shall, when that term of appointment as extended expires, be eligible to seek one further extension under paragraph (8).

Part Three. FIXED TERM APPOINTMENTS TO BE ADVERTISED

- 1) Subject to paragraph (4), where on or after 25th June 2004, a vacancy exists in one of the ranks specified in paragraph 1 of Part Two of this Annex, a notice of the vacancy which complies with paragraph (2) shall be published by the relevant authority.
- 2) The notice referred to in paragraph (1) must-
 - a) invite applications to fill the vacancy;
 - b) be published in not less than one journal which deals with police matters;
 - c) specify the date, which shall not be less than three weeks after the date of the publication of the notice, by which applications must be made.
- 3) Subject to paragraph (4), no appointment shall be made to fill a vacancy in one of the ranks specified in paragraph (1)(a) to (c) of Part Two of this Annex until after the date specified in accordance with paragraph (2)(c) in a notice in respect of that vacancy.
- 4) Paragraphs (1) and (3) shall not apply where-
 - a) the term of appointment of the person who currently holds the rank in which the vacancy would otherwise occur is extended under paragraph (6), (7), (8) or (9) of Part Two of this Annex;
 - b) that person is appointed for a further term and the conditions set out in paragraph (5) are satisfied;
 - c) the vacancy exists in the rank of deputy chief constable and this is the first occasion which the vacancy has occurred since 24 June 2004;
 - d) the vacancy is to be filled by a constable on temporary promotion under regulation 5 of the Police (Promotion) (Scotland) Regulations 1996.
- 5) The conditions referred to in paragraph (4) are that-
 - a) the person who currently holds the rank in which the vacancy would otherwise occur does so by virtue of an appointment under regulation 11(2) and Part Two of this Annex;
 - b) the relevant appointment of that person was for a term which was less than the maximum term authorised in respect of that person by paragraph (3) or, as the case may be, (4) of Part Two of this Annex ; and
 - c) the term for which it is proposed to appoint that person (and for which that person is subsequently appointed) is such that, when taken together with-
 - i) the term for which the member was appointed by the relevant appointment, and

- ii) the term for which the member was appointed by any subsequent appointment,

the terms in total do not exceed the maximum term of appointment to which the member could have been appointed at the time of the relevant appointment under paragraph (3) or, as the case may be, (4) of Part Two of this Annex.

6) In paragraph (5), "relevant appointment" means-

- a) an appointment made under regulation 11(2) and Part Two of this Annex after the procedures required by paragraphs (1) and (3) have been complied with; or
- b) a variation in the conditions of service in accordance with paragraph (2) of Part Two of this Annex.

7) In this determination "the relevant authority" means the police authority for the force in question.