

Draft Regulations laid before the Scottish Parliament under section 125(3A) of the Police and Fire Reform (Scotland) Act 2012 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

POLICE

**The Police Negotiating Board for Scotland (Constitution,
Arbitration and Qualifying Cases) Regulations 2023**

Made - - - - 2023
Coming into force - - 17th August 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 5(7) of schedule 2A and section 125(1)(a) of the Police and Fire Reform (Scotland) Act 2012⁽¹⁾ and all other powers enabling them to do so.

In accordance with paragraph 5(6) of schedule 2A of that Act they have consulted with the Scottish Police Authority, the chief constable and persons representing the interests of constables (other than special constables) and police cadets.

In accordance with section 125(3A) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police Negotiating Board for Scotland (Constitution, Arbitration and Qualifying Cases) Regulations 2023 and come into force on 17 August 2023.

(2) In these Regulations—

“the Act” means the Police and Fire Reform (Scotland) Act 2012,

“the constitution” means the constitution of PNBS brought into effect by regulation 2,

“PNBS” means the Police Negotiating Board for Scotland.

Constitution of PNBS

2. The document entitled “Constitution of the Police Negotiating Board for Scotland” prepared by the Scottish Ministers in accordance with paragraph 5(1) of schedule 2A of the Act, dated 1 May

(1) 2012 asp 8. Sections 55A to 55E, schedule 2A and section 125(3A) were inserted by the Criminal Justice (Scotland) Act 2016 (asp 1), section 113. Paragraphs 7(2) and 8(2) of schedule 2A specify particular matters which regulations under paragraph 5(7) may include.

2023, and published on the Scottish Government’s website⁽²⁾, has effect under paragraph 5(7) of schedule 2A of the Act.

Disapplication of mandatory rules

3. The mandatory rules in schedule 1 of the Arbitration (Scotland) Act 2010⁽³⁾ (Scottish arbitration rules) do not apply to disputes submitted to arbitration in accordance with the constitution.

Qualifying cases

4.—(1) This regulation specifies qualifying cases for the purposes of section 55D(2)(a) of the Act (steps following arbitration).

(2) Subject to paragraph (3), there are to be a maximum of two qualifying cases in each reporting year, consisting of—

- (a) no more than one case concerning the annual pay award, which may include connected matters, and
- (b) no more than one other case concerning—
 - (i) pay, allowances and expenses,
 - (ii) public holidays and leave,
 - (iii) hours of duty, or
 - (iv) a combination of matters coming under heads (i), (ii) or (iii),

where these matters are not included in the same arbitrated representations as the annual pay award.

(3) If PNBS—

- (a) makes no arbitrated representations in respect of a paragraph (2)(a) case within a reporting year (“year 1”), and
- (b) instead makes arbitrated representations in respect of that year 1 paragraph (2)(a) case during the following reporting year (“year 2”),

those representations are a qualifying case in respect of year 2, in addition to those qualifying cases specified in paragraph (2).

(4) In this regulation—

“arbitrated representations” means representations to the Scottish Ministers under section 55B(1) of the Act (representations about pay etc.) in terms settled through arbitration,
 “annual pay award” means the principal award of pay, allowances and expenses for each financial year,

“connected matters” means—

- (i) public holidays and leave, or
- (ii) hours of duty,

where these are included in the same arbitrated representations as the annual pay award,

“reporting year” is the reporting year as defined in the constitution in accordance with section 55E(3) of the Act.

(2) <http://www.gov.scot/ISBN/9781805258179>.

(3) 2010 asp 1. Schedule 1 was commenced by S.S.I. 2010/195, except for the purposes of statutory arbitration. It is not yet in force in respect of statutory arbitrations.

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of these Regulations brings into effect the constitution of the Police Negotiating Board for Scotland (“PNBS”). A copy of the constitution is available at <http://www.gov.scot/ISBN/9781805258179>.

Regulation 3 disapplies the mandatory rules contained in schedule 1 of the Arbitration (Scotland) Act 2010 (see also section 8 of that Act) from disputes within PNBS about representations to be made to the Scottish Ministers which are submitted to arbitration in accordance with the constitution. The mandatory rules do not currently apply to statutory arbitrations such as these, but would otherwise apply once the relevant provisions of the 2010 Act are fully commenced.

Regulation 4 specifies what constitutes a “qualifying case” under section 55D(2)(a) of the Police and Fire Reform (Scotland) Act 2012. Where PNBS makes representations to the Scottish Ministers under section 55B(1) of the 2012 Act following arbitration in accordance with their constitution and those representations are in respect of a qualifying case, the Scottish Ministers have a duty to take all reasonable steps appearing to them to be necessary for giving effect to those representations (subject to the exceptions set out in section 55D(2)(b)).

An Equality Impact Assessment (EQIA) was undertaken by the Scottish Government during the development of policy and provisions in the Criminal Justice (Scotland) Bill. It found that there would be no negative impacts for persons within the protected groups.

A Financial Memorandum was published for the Criminal Justice (Scotland) Bill and no additional costs were identified for other bodies, individuals or businesses. No Business and Regulatory Impact Assessment is therefore required for these Regulations.