

*This is Annex 16 referred to in the foregoing determination by the Scottish Ministers under regulations 22, 25 and 31 of the Police Service of Scotland Regulations 2013*

**Paper Apart 16**

**Regulations 22, 25 &31**

**LEAVE, PAY & RECKONING OF SERVICE**

**SECTIONS:**

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## **SECTION 1**

### **LEAVE: MATERNITY, MATERNITY SUPPORT, ADOPTION, ADOPTION SUPPORT, PARENTAL & PATERNITY**

#### **MATERNITY LEAVE**

1) In this determination:

“expected date of birth” means, subject to paragraph (4), the date given in accordance with paragraph (2)(b);

“maternity leave” means up to 52 weeks’ leave taken in accordance with the provisions of this determination by a constable of the Police Service of Scotland during the maternity period;

“maternity period”, in relation to a constable, means a fifteen month period which is elected by the constable and which falls wholly within the period which;

- a) begins six months before the expected date of birth of the constable’s child as given under paragraph (2)(b) or, as the case may be, paragraph (4); and
- b) ends 12 months after the date so given.

“qualified constable” means a constable of the Police Service of Scotland who qualifies under paragraph (2).

2) Subject to the following provisions of this determination, a constable of the Police Service of Scotland qualifies for maternity leave when notice has been given to the chief constable stating:

- a) that she is pregnant;
- b) the expected date of birth of the child; and
- c) the date on which she intends to commence maternity leave or, where she proposes to take more than one period of maternity leave, the proposed dates of those periods.

3) A constable of the Police Service of Scotland does not qualify for maternity leave where the chief constable has requested that the constable provide a certificate from a registered medical practitioner, registered midwife or registered health visitor setting out the matters referred to in paragraph (2)(a) and (b) and to constable fails to produce such a certificate.

4) Where a certificate produced under paragraph (3) sets out a date as the expected date of the birth of the child which is different to the date given in accordance with paragraph (2)(b), the date given in the certificate shall have effect in place of the date given in the notice.

- 5) A constable of the Police Service of Scotland who is pregnant must give the notice required by paragraph (2) as soon as reasonably practicable after she becomes aware of the expected date of birth of her child.
- 6) The date or dates given in accordance with paragraph (2)(c) may be amended by a subsequent notice to the chief constable, provided that not less than 21 days' notice is given of the qualified constable's intention to return to duty.
- 7) A qualified constable may commence maternity leave no later than the date given in accordance with paragraph (2)(b) and, subject to paragraphs (8) and (9), the leave will continue until the last day of the maternity leave.
- 8) Where a qualified constable intends to return to duty before the end of the maternity period after taking maternity leave, she must give to the chief constable not less than 21 days' notice of her intention.
- 9) A notice under paragraph (8) may be subsequently revoked; and any such revocation is without prejudice to the giving of another notice under that paragraph of an intention to return to duty before the end of the maternity period.
- 10) During any period of maternity leave, a qualified constable is not entitled to any sick leave under regulation 25(5) and the determination on sick leave thereunder.
- 11) In paragraph (10) "period of maternity leave" means the period:
  - a) beginning on:
    - i) the date given in accordance with paragraph (2)(c) as the date on which the qualified constable intends to commence maternity leave or, where she proposes to take more than one period of such leave, the first of those dates, or
    - ii) where that date or, as the case may be, the first of those dates has been amended by a subsequent notice under paragraph (6), that date, or
    - iii) the date of birth of the child, if born prematurely before the dates mentioned in (i) and (ii) above; and
  - b) ending on:
    - i) where a notice has been given under paragraph (8) and has not been subsequently revoked, the date so given; or
    - ii) where no such notice has been given or remains in force, the last day of the maternity period.

- 12)
- a) In this determination and determinations made under regulations 16 and 17, “day”, in relation to constables of a police force, means a period of 24 hours commencing at such time or times as fixed by the chief constable and the chief constable may fix different times in relation to different groups of constables.
  - b) In discharging the functions under sub-paragraph (a) above, the chief constable must have regard to the views of the joint central committee.
- 13)
- a) A ‘qualified constable’ may apply to work up to a maximum of 10 Keeping in Touch (KIT) days during her period of maternity leave.
  - b) The working of KIT days is not compulsory.
- 14) In the case of a part-time constable, each day of paid maternity leave granted counts for the purposes of regulation 14(1) and the determination thereunder as a period of duty of 8 hours multiplied by the appropriate factor.

#### **MATERNITY SUPPORT LEAVE**

- 1) A constable of the Police Service of Scotland who is the child’s father or the husband or partner (including civil partner) of the expectant mother must be granted either one or two weeks maternity support leave at or around the time of birth. In this section, “partner” means the person who lives with the mother and child in an enduring family relationship but is not a relative of the mother.
- 2) So far as the exigencies of duty permit, a constable who is the nominated carer of the expectant mother may be granted, if the constable so requires, one week of maternity support leave.
- 3) Only one constable is entitled to be granted maternity support leave for any given pregnancy.
- 4) All constables mentioned in paragraph (1) are eligible for one week of maternity support leave. To be eligible for a second week of maternity support leave, the constable must have served continuously for 26 weeks leading into the 15<sup>th</sup> week before the child is due.
- 5) A constable of the Police Service of Scotland wishing to apply for maternity support leave must give notice at least fifteen weeks before the expected date of the child’s birth, informing of;
  - a) The length of maternity support leave they wish to take; and
  - b) The date on which they wish the leave to commence.

Once approved, any request to change the timing of the leave must be given with 28 days’ notice.

- 6) Any period of maternity support leave must be completed within 56 days of the child's birth.
- 7) For the purposes of this determination, a nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
- 8) In the case of a part-time constable, each day of paid maternity support leave granted counts for the purposes of regulation 14(1) and the determination thereunder as a period of duty of 8 hours multiplied by the appropriate factor.

### **ADOPTION LEAVE**

- 1) A constable of the Police Service of Scotland who is a child's adoptive parent and who has served continuously for a period of not less than 26 weeks ending with the week the constable is notified of having been matched with a child for adoption, is entitled to 52 weeks adoption leave at or around the time of adoption.
- 2) A constable of the Police Service of Scotland who is a child's adoptive parent and who has served continuously for a period of less than 26 weeks ending with the week the constable is notified of having been matched with a child for adoption, is entitled to one week's adoption leave at or around the time of adoption.
- 3) A constable of the Police Service of Scotland may take adoption leave on the day a child is placed with them or on such other date as is notified to the chief constable. A date notified in accordance with the provisions of this paragraph shall be no sooner than 14 days before the day on which the child is expected to be placed and no later than the date on which the child is placed.
- 4) Leave taken as adoption leave is to be treated as duty.
- 5) Constables may apply to work up to a maximum of 10 Keeping in Touch (KIT) Days during a period of adoption leave. The working of KIT Days is not compulsory.

## **ADOPTION SUPPORT LEAVE**

- 1) A constable of the Police Service of Scotland, who is the spouse or partner (including civil partner) of an adoptive parent is entitled to be granted 2 weeks' adoption support leave at or around the time of adoption. In this section, "partner" means the person who lives with the adoptive parent and child in an enduring family relationship but is not a relative of the adoptive parent
- 2) Leave taken as adoption support leave is to be treated as duty
- 3) In the case of a part-time constable, each day of paid adoption support leave granted counts for the purposes of regulation 14(1) and the determination thereunder as a period of duty of 8 hours multiplied by the appropriate factor.

## **PARENTAL LEAVE**

- 1) A constable of the Police Service of Scotland who:
  - a) has served continuously for a period of not less than a year; and
  - b) has, or expects to have, responsibility for a child,is entitled, in accordance with this determination, to be absent from work on parental leave for the purpose of caring for that child.
- 2) A constable has responsibility for a child, for the purposes of sub-paragraph (1), if:
  - a) they have parental responsibility for the child; or
  - b) they have been registered as the child's father under any provision of section 14 or section 18 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.
- 3) A constable of the Police Service of Scotland who is eligible, is entitled to eighteen weeks' leave in respect of any individual child.
- 4) Where the period for which a constable is normally required to do duty in the course of a week does not vary, a week's leave for the constable is a period of absence from duty which is equal in duration to the period for which the constable is normally required to do duty.
- 5) Where the period for which a constable is normally required to do duty in the course of a week varies from week to week or over a longer period, or where the constable is normally required to work in some weeks but not in others, a week's leave for the constable is a period of absence from duty which is equal in duration to the period calculated by dividing the total of the periods for which the constable is normally required to do duty in a year by 52.

- 6) Where a constable takes leave in periods shorter than the period which constitutes for the constable a week's leave under whichever of sub-paragraphs (4) and (5) is applicable in the constable's case, the constable completes a week's leave when the aggregate of the periods of leave the constable has taken equals the period constituting a week's leave for the constable under the applicable sub-paragraph.
- 7) Except in the cases referred to in sub-paragraph (8) a constable may not exercise any entitlement to parental leave in respect of a child after the date of the child's 5<sup>th</sup> birthday or, in the case of a child placed with the constable for adoption by the constable, on or after:
  - a) the 5th anniversary of the date on which the placement began, or
  - b) the date of the child's 18<sup>th</sup> birthday,whichever is the earlier.
- 8) In the case of a child who is entitled to a disability living allowance or personal independence payment, any entitlement to parental leave may not be exercised on or after the date of the child's 18<sup>th</sup> birthday.
- 9) A constable of the police service must give notice to the chief constable of their intention to take any part of the parental leave to which the constable is entitled. For the purposes of this sub-paragraph, the notice required is notice which:
  - a) specifies the dates on which the period of leave is to begin and end; and
  - b) is given to the chief constable at least 21 days before the date on which that period is to begin.
- 10) As far as the exigencies of duty permit, the chief constable must grant the constable parental leave where notice has been given in accordance with sub-paragraph (9) above.

## **PATERNITY LEAVE**

- 1) An eligible constable of the Police Service of Scotland may take up to 26 weeks' additional paternity leave within the first year of the child's life, provided that the mother or primary adopter has returned to work before using the full 12 month maternity leave entitlement.
- 2) Additional paternity leave cannot commence until after 20 weeks have elapsed from the date the child was born and must end not later than 12 months after that date. It may be taken as a single block of 26 weeks or in multiples of complete calendar weeks consisting of at least 2 consecutive weeks.
- 3) To be eligible for additional paternity leave a constable must fulfill the following requirements;

- a) the constable must be the child's father; the husband, the partner or civil partner of the mother; the adopter of the child or the husband, partner or civil partner of the child's adopter. In this section, "partner" means the person who lives with the mother or adoptive parent and child in an enduring family relationship but is not a relative of the mother or adoptive parent; and
  - b) the constable must have served continuously for 26 weeks leading into the 15<sup>th</sup> week before the child is due, or for an adopted child the end of the week in which the constable is notified of the match for adoption.
- 3) An eligible constable of the Police Service of Scotland wishing to apply for additional paternity leave must, at least eight weeks before the intended date for commencing the leave, give notice to the chief constable of:
- a) the length of additional paternity leave they wish to take; and
  - b) the date on which they wish the leave to commence.

Once approved, any request to change the timing of the leave must be given with 28 days' notice.

## **SECTION 2**

### **PAY: MATERNITY, MATERNITY SUPPORT, ADOPTION, ADOPTION SUPPORT, PARENTAL & PATERNITY**

#### **MATERNITY PAY**

- 1) Subject to the following provisions of this determination, a constable of the Police Service of Scotland who satisfies the conditions in paragraph (2) is entitled to be paid as respects the first 13 weeks of any period or periods of maternity leave in any one maternity period (as defined in the determination on maternity leave made under regulation 25) taken in accordance with the determination on maternity leave made under regulation 25.
- 2) The conditions referred to in paragraph (1) are that:
  - a) at the beginning of the week in which the expected date of birth (as defined by the determination on maternity leave made under regulation 25) occurs, the constable of a police force will have served continuously for a period of not less than sixty three weeks in that or any other police force; and
  - b) on the date ("the relevant date") fifteen weeks before the expected date of birth (as so defined) she either:
    - i) remains pregnant, or
    - ii) has given birth prematurely to a baby who is alive on the relevant date.

- 3)
- a) If the constable works a KIT (Keeping In Touch) day during a period of maternity leave she will be paid at the normal rate for hours worked, in accordance with the Regulations and determinations made thereunder.
  - b) If the constable is in receipt of Occupational Maternity Pay and works a KIT day then the Occupational Maternity Pay will not be payable for that day however the period of Occupational Maternity Pay will be extended accordingly.
  - c) If the constable is in receipt of Statutory Maternity Pay and works a KIT day they will continue to receive Statutory Maternity Pay and be paid at the normal rate for hours worked, in accordance with the Regulations and determinations made thereunder.

### **MATERNITY SUPPORT LEAVE PAY**

A constable of the Police Service of Scotland who meets the eligibility requirements is entitled,

- a) to be paid full pay as respects the first week of any period of maternity support leave; and
- b) where eligible in accordance with paragraph (4) of the section on Maternity Support Leave above, to be paid as respects the second week at the statutory paternity pay rate.

### **ADOPTION PAY**

- 1) All eligible constables are entitled to 1 week's adoption leave on full pay ('standard adoption leave')
- 2) A constable identified as "the main adopter", who has a minimum of 26 weeks but less than one year's continuous service by the week in which an approved match is made with a child as notified by an adoption agency is entitled to 39 weeks' statutory adoption pay followed by 13 weeks' unpaid leave.
- 3) A constable identified as "the main adopter" who has at least one year's continuous service by the week in which an approved match is made with a child as notified by an adoption agency is entitled to full pay for the first 13 weeks of adoption leave, then 26 weeks' statutory adoption pay followed by 13 weeks' unpaid leave.
- 4) Payment for KIT days worked is at the normal rate in accordance with the Regulations and determinations made thereunder.

### **ADOPTION SUPPORT LEAVE PAY**

- 1) An officer who is the spouse or partner (including civil partner) of an adoptive parent is entitled to take two weeks' continuous leave, the first week of which is on full pay. In this section, "partner" means the person who lives with the adoptive parent and child in an enduring family relationship but is not a relative of the adoptive parent.
- 2) A constable of the Police Service of Scotland who has served continuously for a period of not less than 26 weeks by the end of the notification week is entitled to be paid at the statutory paternity rate as respects the second week of adoption support leave.

### **PATERNITY PAY**

- 1) Additional paternity leave pay will be at the rate of statutory paternity pay, during the period of the mother or primary adopter's 39 week maternity allowance or statutory maternity pay period. If the mother or primary adopter has returned to work after the maternity pay period has ceased, any additional paternity leave will be unpaid.

### **FOR PART-TIME CONSTABLES**

- 1) A part-time constable who satisfies the conditions in this section, for Maternity Pay, Maternity Support Leave Pay, Adoption Pay, Adoption Support Leave Pay, or Paternity Pay is to be treated as having been on duty for the number of hours determined by multiplying the number of that constable's determined hours by the length in days of the paid leave period and dividing the result by the length in days of the relevant period.
- 2) For the purposes of this section the "determined hours" are the number of hours which the chief constable has determined under the determination under regulation 14(1)(a) (Annex 5) as the constable's normal period of duty in a relevant period.

## **SECTION 3**

### **RECKONING OF SERVICE: MATERNITY, MATERNITY SUPPORT, ADOPTION, ADOPTION SUPPORT, PARENTAL & PATERNITY**

- 1) For the purposes of regulation 31, in reckoning the service of a constable of a police force or the Police Service of Scotland, in any rank:-
  - (a) in the case of a constable who has taken one or more periods of maternity leave:-
    - (i) where that leave has been for fifty two weeks or more, account is to be taken of the first fifty two weeks whilst on maternity leave;
    - (ii) where that leave has been for less than fifty two weeks, account is to be taken of any period spent on maternity leave;

and where that constable has, at the beginning of the fifteenth week before the expected date of birth of the constable's child, as given in accordance with a determination under

regulation 25(4), served continuously as a constable of the Police Service of Scotland or another police force for a period of not less than a year, account is to be taken of any period (not being a period of which account has been taken under paragraph (i) or (ii)) spent on maternity leave during the period of 29 weeks beginning with the week in which the child is born;

- (b) account is to be taken of any period of maternity support leave, parental leave and adoption support leave;
- (c) account is to be taken of all paid adoption leave; and
- (d) account is to be taken of paternity leave when the constable is in receipt of additional paternity leave pay, but not during any periods of unpaid leave.