
P O L I C E A N D P R I S O N O F F I C E R S (G E N E R A L)
(A M E N D M E N T) R E G U L A T I O N S 2 0 1 4

With the approval of the Administrator, the Chief Constable and Superintendent of Prisons makes the following Regulations in exercise of the powers in section 9 of the Police Ordinance 2007(a) and section 11 of the Prisons Ordinance 1971(b).

Citation and commencement

1. These Regulations may be cited as the Police and Prison Officers (General) (Amendment) Regulations 2014 and come into force on 1 July 2014.

Interpretation

2. In these Regulations, the “principal Regulations” means the Police and Prison Officers (General) Regulations 2007(c).

Amendment to Police and Prison Officers (General) Regulations 2007

3. The principal Regulations are amended in accordance with regulations 4 to 9.

Amendment to regulation 2 (interpretation)

4. In regulation 2, the definition of “medical officer” is revoked.

Substitution of regulation 8 (dismissal)

5. Regulation 8(d) is revoked and substituted with the following—

“Termination of service: general

8.—(1) The Chief Constable may terminate the service of—

- (a) a police officer—
 - (i) on a reduction of the establishment of the Service;
 - (ii) if the public interest so requires; or
 - (iii) in the interests of greater efficiency or economy;
- (b) a locally engaged police officer—
 - (i) on termination of service in accordance with regulation 11(1) and (1A);
 - (ii) on ill-health retirement in accordance with regulations 24E to 24G; or
 - (iii) in accordance with the discipline Regulations.

(a) Ordinance 6/2007; the amendments to the Ordinance are not relevant to this reference.
(b) Ordinance 11/1971; the amendments to the Ordinance are not relevant to these references.
(c) P.I. 26/2007, as amended by P.I. 13/2009, 4/2010, 33/2010 and Ordinance 10/2014.
(d) Regulation 8(1) was substituted by P.I. 13/2009.

(2) Before terminating a police officer's service under paragraph (1)(a), the Chief Constable must—

- (a) give the officer concerned the opportunity to make oral and written representations; and
- (b) obtain the approval of the Administrator.”.

Amendment to regulation 11 (termination of employment of locally engaged police officer)

6. Regulation 11 is amended as follows—

- (a) for “employment” each time it appears (including in the heading) substitute “service”;
- (b) after paragraph (1) insert—

“(1A) Before terminating a locally engaged police officer's service under paragraph (1), the Chief Constable must give the officer concerned the opportunity to make oral and written representations.”.

Substitution of regulation 24 (sick leave)

7. Regulation 24(a) is revoked and substituted with the following—

“Sick leave

24.—(1) An authorised person may grant a locally engaged police officer (O) up to 42 days' sick leave (“42-day period”) on full pay in any 12-month period.

(2) Except where paragraph (3) applies, a medical practitioner must certify that O is unfit for duty in order for sick leave to be granted.

(3) This paragraph applies where O—

- (a) is absent for 3 or fewer consecutive days; and
- (b) has fewer than 8 days' sick leave in the preceding 12 months.

(4) Despite paragraph (2), before granting sick leave an authorised person may require that a medical practitioner appointed by the Administration certifies that O is unfit for duty in circumstances where paragraph (3) applies.

(5) Where O's absence on sick leave exceeds the 42-day period, an authorised person may grant O up to an additional 6 months' sick leave (“6-month period”) on full pay.

(6) Where O's absence on sick leave exceeds the 42-day period and the 6-month period, an authorised person may grant O up to an additional 6 months' sick leave (“additional 6-month period”)—

- (a) on half pay; or
- (b) on full pay, if, and only if, O is absent on sick leave due to a physical or mental injury received in the execution of duty in respect of which the authorised person is satisfied there was no contributory negligence by O.

(7) Following the expiry of the additional 6-month period (whether on full pay or half pay) O is not entitled to any further extension of paid sick leave, but an authorised person may extend O's sick leave on nil pay.

(8) The Chief Constable may approve procedures for the grant of sick leave in accordance with this regulation.

(9) In this regulation and regulations 24A and 24C, “authorised person” means a person authorised by the Chief Constable.

(a) Regulation 24(9)(b) was amended by P.I 13/2009.

Reference of medical questions: general

24A.—(1) An authorised person may refer a locally engaged police officer (O) to a medical practitioner appointed by the Administration to provide advice in relation to any medical question connected with the performance of O's duties.

(2) Without limiting paragraph (1), the medical questions may include advice in relation to—

- (a) the grant of sick leave to O under regulation 24;
- (b) whether O is fit to discharge some or all the duties of a police officer;
- (c) what duties O is fit or not fit to discharge;
- (d) adjustments which may be required to enable O to discharge certain duties;
- (e) the period of time for which the adjustments referred to in paragraph (d) are likely to be required;
- (f) the long term prognosis for O's medical condition.

(3) Prior to a referral under paragraph (1), the authorised person must ask O to —

- (a) consent to the disclosure to the medical practitioner of O's medical records which are held by the Administration;
- (b) provide the medical practitioner with any other of O's medical records which the medical practitioner may require;
- (c) consent to the further disclosure of the medical records referred to in paragraphs (a) and (b) for the purpose of a medical examination or interview under regulation 24B;
- (d) consent to the disclosure of the report following an examination or interview under regulation 24B to the medical practitioner making the referral, and such further disclosure as is necessary and appropriate for the purpose of regulations 24 to 24G.
- (e) consent to the disclosure of the medical practitioner's advice to the authorised person, and such further disclosure as is necessary and appropriate for the purpose regulations 24 to 24G.

(4) The medical practitioner's advice must be expressed in the form of a report which is to be sent by the medical practitioner to the authorised person and copied to O.

Medical examination

24B.—(1) Where a matter is referred to a medical practitioner under regulation 24A, the medical practitioner may refer O for further medical examinations or interviews as considered necessary by the medical practitioner to decide the question so referred.

(2) The medical practitioner must send to O the reports received following the examinations or interviews referred to in paragraph (1).

Officer not fit to discharge all duties

24C.—(1) Where a medical practitioner advises in a report under regulation 24A(4) that O is incapable of effectively discharging all the ordinary duties of a police officer, the authorised person may do any of the following—

- (a) grant or extend O's paid or unpaid sick leave in accordance with regulation 24;
- (b) make arrangements to deploy O on alternative or restricted duties for such period as is determined by the authorised person, having regard to the medical practitioner's report;
- (c) make some or all of the adjustments recommended in the report;
- (d) refer the case to the Deputy Chief Constable.

(2) Subject to paragraph (3), where the authorised person has done or reasonably attempted to do 1 or more of the things mentioned in paragraph (1)(b) and (c), but O remains incapable of effectively discharging all the ordinary duties of a police officer, the authorised person must refer the case to the Deputy Chief Constable.

(3) The authorised person must refer the case to the Deputy Chief Constable where—

- (a) by reason of O's ill-health, the authorised person considers it is not reasonably practicable to do any of the things mentioned in paragraph (1)(b) or (c); and
- (b) O has been granted sick leave on nil pay.

(4) The Deputy Chief Constable may—

- (a) do any of the things mentioned in paragraph (1)(a) to (1)(c); or
- (b) convene a medical assessment panel in accordance with regulation 24E.

(5) Before doing any of the things mentioned in paragraph (4), the Deputy Chief Constable may refer O for further medical advice under regulation 24A.

Ill-health retirement: conditions

24D.—(1) The conditions for termination of service by reason of ill-health retirement (the “ill-health retirement conditions”) are that—

- (a) a locally engaged police officer is incapable of effectively discharging all the ordinary duties of a police officer on grounds of ill-health; and
- (b) the incapacity of the officer is likely to be permanent.

(2) In this regulation, “permanent” means that the incapacity has lasted, or is likely to last, for more than 24 months.

Ill-health retirement: medical assessment panel

24E.—(1) The medical assessment panel (the “panel”) is composed of—

- (a) the Deputy Chief Constable as deciding officer;
- (b) a human resources adviser; and
- (c) an independent observer.

(2) The Deputy Chief Constable may appoint a Chief Superintendent as deciding officer.

(3) The human resources adviser and the independent observer—

- (a) are appointed by the deciding officer;
- (b) may be police officers or persons from outside the Service; and
- (c) may assist the deciding officer during the hearing.

(4) The deciding officer must—

- (a) invite the officer concerned (O) to a hearing; and
- (b) give O at least 7 days' notice of the hearing.

(5) O may be accompanied to the hearing by a police friend.

(6) The hearing may proceed in the absence of O if—

- (a) O notifies the deciding officer that O is not attending;
- (b) the deciding officer is satisfied that there is no good reason for O's absence; or
- (c) O is unable to attend by reason of ill-health and the deciding officer is satisfied that that it is not reasonably practicable to delay or further delay the hearing.

(7) Where O does not attend the hearing, O may be represented by a police friend.

(8) Following the hearing, the deciding officer must—

- (a) decide whether the ill-health retirement conditions are satisfied; and

- (b) if the conditions are satisfied, decide whether to recommend to the Chief Constable that the service of O is terminated by reason of ill-health retirement.

(9) The decision under paragraph (8) is the deciding officer's decision, not the panel's decision, and the deciding officer must—

- (a) provide written reasons for the decision; and
- (b) send the decision and the reasons to O.

(10) Where the deciding officer recommends that the service of O be terminated by reason of ill-health retirement, the Chief Constable may not terminate the service of the officer—

- (a) until the time limit for an appeal under regulation 24F has expired; or
- (b) where O appeals, until after the appeal is determined.

(11) In this regulation and regulation 24G, “police friend” means a member of the Service assisting the officer concerned at the officer's request, and, for the avoidance of doubt, does not include a person who is medically or legally qualified unless that person is a member of the Service.

Ill-health retirement: appeal grounds and time limit

24F.—(1) An officer (the “appellant”) may appeal against a decision of the deciding officer under regulation 24E—

- (a) that the appellant satisfies or does not satisfy the ill-health retirement conditions;
- (b) to recommend or not to recommend that the service of the appellant be terminated by reason of ill-health retirement.

(2) The only grounds of appeal are that the deciding officer did not consider all the relevant medical evidence or other relevant factors.

(3) The notice of appeal must be in writing and received by the Chief Constable within the period of 14 days, starting with the day that the appellant was sent the deciding officer's decision under regulation 24E(9)(b).

Ill-health retirement: medical appeal board

24G.—(1) The appeal is heard by a medical appeal board (the “board”), which is composed of the Chief Officer and the Chief Constable.

(2) The Chief Officer may appoint a person from outside the Service as an additional member of the board.

(3) The Chief Officer must be satisfied that the person appointed under paragraph (2)—

- (a) has sufficient skills, seniority and experience to decide the case;
- (b) has had no previous involvement in the case.

(4) The board must—

- (a) invite the appellant to a hearing before making a decision; and
- (b) give the appellant at least 7 days' notice of the hearing.

(5) The appellant may be accompanied to the hearing by a police friend.

(6) Regulation 24E(6) and (7) have effect for a hearing under this regulation where references to—

- (a) O are to be construed as references to the appellant; and
- (b) the deciding officer are to be construed as references to the Chief Constable.

(7) The board may uphold or set aside the decision of the deciding officer in whole or in part.

(8) Where the board sets aside the decision of the deciding officer, it must substitute its decision.

(9) Before making a decision under paragraph (7), the board may refer the appellant for further medical advice under regulation 24A.

(10) The board must provide written reasons for its decision and send the decision and the reasons to the appellant.

(11) The board's decision is final.

(12) In the event of equality of voting by the members of the board on any matter, the Chief Officer has the casting vote.

Refusal to consent to disclosure of medical records or be medically examined

24H.—(1) This regulation applies where, following a referral under regulation 24A, a police officer—

- (a) does not provide medical records;
- (b) does not consent to the disclosure or further disclosure of medical records or the medical practitioner's report or reports; or
- (b) wilfully or negligently fails to attend a medical examination or interview.

(2) When determining the questions in regulation 24E(8), the deciding officer may—

- (a) rely on such other evidence and documents as are available to the medical assessment panel; and
- (b) draw such adverse inference from the officer's acts or omissions as is appropriate to the case.

(3) In the case of a referral for medical examination following an appeal under regulation 24F, the appeal is deemed to be withdrawn.”.

Amendment to regulation 25 (maternity leave)

8. In regulation 25(1) for “Parental Leave Ordinance” substitute “Employment (Maternity) Ordinance 2009”(a).

Amendment to regulation 27 (medical treatment)

9. Regulation 27(b) is amended as follows—

- (a) in paragraph (2) for “under Royal Air Force or British Military arrangements” substitute “at a Medical Reception Station administered by the Ministry of Defence.”;
- (b) paragraph (5) is revoked.

Transitional provisions

10.—(1) Subject to paragraph (7), these Regulations apply to all police officers whether commencing service as police officers before or after these Regulations come into force, including (for the avoidance of doubt) police officers on paid or unpaid sick leave.

(2) Account must be taken of service as a police officer before the day these Regulations come into force, when determining—

- (a) the amount of sick leave which a police officer may be granted under new regulation 24;
- or

(a) Ordinance 20/2009, amended by Ordinance 17/2011.

(b) Regulation 27 was amended by the Medical Contributions (Administration Employees and Pensioners) Ordinance 2014 (Ordinance 10/2014).

(b) the period incapacity has lasted or is expected to last for the purpose of new regulation 24D(2).

(3) When doing any of the things mentioned in new regulation 24C(1)(b) and (c), an authorised person or the Deputy Chief Constable, as the case may be, may take account of the deployment of the police officer on alternative or restrictive duties or other adjustments made to the officer's duties before the day these Regulations come into force.

(4) Where paragraph (5) applies, the Chief Constable may refer a locally engaged police officer to a medical practitioner under new regulation 24A.

(5) This paragraph applies where the Chief Constable has convened a medical board under revoked regulation 24(8) before the day these Regulations come into force, but the medical board—

- (a) has not provided the advice required under revoked regulation 24(9); or
- (b) has advised there is not medical evidence to justify dismissing the officer concerned on the ground that the officer is permanently incapable of effectively discharging the officer's duties.

(6) New regulations 24B to 24H apply where the Chief Constable exercises a power under paragraph (4).

(7) Where a medical board convened under revoked regulation 24(8) has advised under revoked regulation 24(9) that there is medical evidence to justify dismissing a locally engaged police officer on the ground that the officer is permanently incapable of effectively discharging the officer's duties—

- (a) new regulations 24A to 24H do not apply; and
- (b) the Chief Constable may dismiss the officer concerned in accordance with revoked regulation 8(1)(a).

(8) In this regulation, a reference to—

- (a) the Chief Constable includes a person authorised by the Chief Constable.
- (b) a new regulation means a regulation inserted in the principal Regulations by these Regulations;
- (c) a revoked regulation means a regulation in the principal Regulations revoked by these Regulations.

Dated this 11 day of June 2014

M.B. Matthews,
Chief Constable and Superintendent of Prisons,
Sovereign Base Areas.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. This explanatory note relates to the Police and Prison Officers (General) (Amendment) Regulations 2014 (the “Regulations”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Regulations. It should be read in conjunction with the Regulations.
2. The Regulations amend the Police and Prison Officers (General) Regulations 2007 (the “principal Regulations”).
3. The primary purpose of the Regulations is to revise the procedures for obtaining medical advice in relation to questions connected with the discharge of a police officer’s duty, and for the termination of service of locally engaged police officers by reason of ill-health retirement. The new procedures are intended to ensure that decision making is based on independent medical opinion. There is a new right of appeal relating to a recommendation that the service of an officer is terminated by reason of ill-health retirement. The threshold for ill-health retirement remains unchanged. The officer must be permanently incapable of effectively discharging the duties of a police officer. The changes to procedure are achieved by substituting regulation 24 of the principal Regulations and inserting new regulations 24A to 24H.
4. New regulation 24 re-enacts, with minor amendments, the provisions relating to sick leave. A locally engaged police officer may be granted up to 42 days’ paid sick leave in any 12-month period. This may be extended by a further 6 months on full pay and 6 months on half pay. In the case of sick absence due to an injury received in the execution of duty, the second 6-month period may be on full pay. Apart from short absences (3 or fewer days and fewer than 8 days’ absence in the previous 12 months), a medical practitioner must certify the officer is unfit for duty. However, an officer may be required to provide a medical certificate for any sickness-related absence.
5. New regulation 24A provides for a general power for a person authorised by the Chief Constable to refer a police officer to a medical practitioner in relation to any medical question connected with the performance of the officer’s duties. This power may be exercised in connection with an officer’s sick absences, and also where the Chief Constable requires advice about the officer’s fitness, or otherwise, to discharge the duties required of a police officer.
6. New regulation 24B provides that a medical practitioner may request that an officer attends further medical examinations. Copies of reports following such examinations must be sent to the officer concerned.
7. New regulation 24C makes provision for circumstances where medical advice is that the officer is not capable of discharging all the duties of a police officer. The officer’s sick leave may be extended or the officer may be deployed on alternative or restricted duties. The Deputy Chief Constable may decide to convene a medical assessment panel to decide whether to recommend to the Chief Constable that the service of the officer is terminated by reason of ill-health retirement.
8. New regulation 24D sets out the conditions for retirement on grounds of ill-health (the “ill-health retirement conditions”).
9. New regulation 24E provides that a decision about whether there is medical evidence that an officer satisfies the ill-health retirement conditions and, if so, whether to recommend that the service of an officer is terminated by reason of ill-health retirement is made by the deciding officer following a hearing at a medical assessment panel. The deciding officer is the Deputy Chief Constable or a Chief Superintendent. The other members of the panel are a human resources adviser and an independent observer. The officer concerned must be invited to a hearing and may be accompanied by a police friend (an

officer in the Police Service). Where the deciding officer recommends ill-health retirement, the Chief Constable may not require the officer to retire until the time limit for an appeal has expired, and, where there is an appeal, until the appeal is determined.

10. New regulations 24F and 24G make provision relating to an appeal of a decision of the deciding officer to a medical appeal board composed of the Chief Constable and the Chief Officer. The appeal must be brought within 14 days of the decision of the deciding officer being sent to the officer. The medical appeal board may refer the appellant for further medical advice before reaching a decision. Its decision is final.
11. New regulation 24H provides for circumstances where a police officer refuses to authorise disclosure of medical records, a medical practitioner's advice or to attend medical examinations. The deciding officer at a medical board convened under regulation 24E may draw such adverse inference as is appropriate to the case. If the refusal follows a referral by the medical appeal board, the appeal is deemed to be withdrawn
12. Regulations 4, 5, 6, 8 and 9 make minor and consequential amendments to the principal Regulations.
13. Regulation 10 makes transitional provisions. It provides that the Regulations apply to all police officers, whether appointed before or after the Regulations come into force, including those on paid or unpaid sick leave. The only exception is where a medical board, convened under regulation 24(8) of the principal Regulations revoked by the Regulations, has advised that a police officer is permanently incapable of effectively discharging the duties of an officer. In such circumstances the officer may be dismissed by the Chief Constable on medical grounds. There is no right of appeal to the medical appeal board.

SBA/AG/2/CR/187/1