



Police and Fire Reform (Scotland) Act 2012

2012 asp 8

PART 1

POLICE REFORM

CHAPTER 2

THE POLICE SERVICE OF SCOTLAND

Functions of constables

19 Constables: functions and jurisdiction

- (1) A constable has—
- (a) all the functions conferred on a constable by virtue of this or any other enactment or by rule of law,
 - (b) all the powers and privileges of a constable throughout Scotland.
- (2) A constable who is the chief constable, a deputy chief constable, an assistant chief constable or a local commander also has all the additional functions conferred on such a constable by virtue of this or any other enactment or by rule of law.

20 Constables: general duties

- (1) It is the duty of a constable—
- (a) to prevent and detect crime,
 - (b) to maintain order,
 - (c) to protect life and property,
 - (d) to take such lawful measures, and make such reports to the appropriate prosecutor, as may be needed to bring offenders with all due speed to justice,
 - (e) where required, to serve and execute a warrant, citation or deliverance issued, or process duly endorsed, by a Lord Commissioner of Justiciary,

sheriff, justice of the peace or stipendiary magistrate in relation to criminal proceedings, and

- (f) to attend court to give evidence.
- (2) When taking lawful measures in pursuance of subsection (1)(d), a constable must take every precaution to ensure that a person charged with an offence is not unreasonably or unnecessarily detained in custody.
- (3) Subsection (2) does not prejudice the operation of section 135(3) of the Criminal Procedure (Scotland) Act 1995 (c.46).

21 Direction and control of the Police Service

- (1) Constables are, in the carrying out of their functions (including any functions held by virtue of being a deputy chief constable, an assistant chief constable or a local commander), subject to the direction and control of the chief constable.
- (2) A constable must—
 - (a) carry out lawful orders, and
 - (b) punctually and promptly perform all appointed duties and attend to all matters within the scope of that constable's office.
- (3) Police staff and police cadets are, in the carrying out of their functions, subject to the direction and control of (and may be dismissed by) the chief constable.

22 Failure to perform duty

- (1) It is an offence for a constable, without reasonable excuse, to be absent from duty.
- (2) A person who is guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a period not exceeding 60 days or a fine not exceeding level 3 on the standard scale.
- (3) It is an offence for a constable to neglect or violate the constable's duty.
- (4) A person who is guilty of an offence under subsection (3) is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.

23 Failure to return equipment

- (1) It is an offence for a constable, without reasonable excuse or the permission of the Authority, to fail to return to the Authority, immediately upon being ordered to do so, any relevant item.
- (2) It is an offence for a person who ceases to be a constable, without reasonable excuse or the permission of the Authority, to fail to return to the Authority, when ceasing to be a constable, any relevant item.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to imprisonment for a period not exceeding 60 days or a fine not exceeding level 3 on the standard scale.

- (4) Subsection (5) applies where a sheriff or a justice of the peace is satisfied on evidence on oath that—
 - (a) there has been a failure to return a relevant item, and
 - (b) the relevant item is in any place.
- (5) The sheriff or, as the case may be, the justice of the peace, may grant a warrant to any constable named in the warrant to enter and search the place at any reasonable hour, if necessary by force, and to take any relevant item which is found in the place.
- (6) For the purposes of this section, a “relevant item” is anything issued to a constable for the carrying out of the constable’s functions.

24 Liability for unlawful conduct

- (1) The chief constable is liable in respect of any unlawful conduct on the part of any person falling within subsection (2) in the carrying out (or purported carrying out) of that person’s functions in the same manner as an employer is liable in respect of any unlawful conduct on the part of an employee in the course of employment.
- (2) A person falls within this subsection if the person is—
 - (a) a constable under the direction and control of the chief constable, or
 - (b) a member of an international joint investigation team who is not—
 - (i) a constable,
 - (ii) a member of the Authority’s staff, or
 - (iii) a member of the police staff.
- (3) The Authority must pay—
 - (a) any damages or expenses awarded against the chief constable in any proceedings brought by virtue of this section,
 - (b) any expenses incurred by the chief constable in relation to such proceedings (in so far as not recovered in the proceedings), and
 - (c) any sum required in connection with the settlement of any claim against the chief constable which has or might have given rise to such proceedings (where settlement is approved by the Authority).
- (4) Where the office of chief constable is vacant, references in subsections (1) to (3) to the chief constable are to be read as references to the person who is for the time being carrying out the chief constable’s functions.
- (5) The Authority may, in such cases and to such extent as it thinks fit, pay—
 - (a) any damages or expenses awarded against a constable in proceedings arising in respect of any unlawful conduct on the part of that constable,
 - (b) any expenses incurred by the constable concerned in relation to such proceedings (in so far as not recovered in the proceedings),
 - (c) any sum required in connection with the settlement of any claim which has or might have given rise to such proceedings.