



Scottish Police Federation

5 Woodside Place Glasgow G3 7QF

JCC Circular 7 of 2015

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Dear Colleague

Draft SPF Regulation Hand-out - Information

As you will know, the CWG payment adjustments are causing representatives and members to look closely at regulations etc.

Recent events and legal opinions have created some minor but important changes to the long held understandings of some representatives.

Attached is a draft hand-out which both SPF and Police Scotland are going to consider for publication.

Can I ask Area Secretaries to circulate this to their representatives along with this Circular for their information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Calum Steele', written over a light blue horizontal line.

Calum Steele
General Secretary

reghandout vi 23.01.2015

The information contained in this document is taken from the Police Service of Scotland Regulations 2013, the determinations made thereunder and from PNB Circulars and the Workforce Agreement.

The extracts are not full replications of the regulations or other documents but have been selected to aid understanding of the main issues arising relative to police officer terms and conditions. Many other provisions exist in Police Scotland SOPs.

The only truly authoritative sources of information are the actual documents mentioned above but this document should assist in resolving the most commonly encountered workplace disputes.

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1	<p>PUBLICATION OF DUTY ROSTERS – Reg 14, Annex 5(2) (a) to (f)</p> <p>The chief constable must produce duty rosters for constables and sergeants (and inspectors and chief inspectors working part-time.) after full consultation with the Joint Central Committee at intervals not exceeding 12 months and not later than one month before the date on which it starts.</p> <p>Each such roster must set out, for at least three months (part- time workers may agree with the Chief Constable on a different period) that constable’s rest days; public holidays, on which that constable may be required to do duty and the times at which that constable’s scheduled daily periods of duty or rostered shifts are to begin and end; and for part-time constables, free days.</p> <p>A duty roster must make provision for an interval of not less than 11 hours between periods of duty and an interval between each of that constable’s rostered rest days not exceeding 7 days (part-time workers can agree with the chief constable a longer interval.)</p>
2	<p>ALTERING A DUTY ROSTER – PNB Circular 86/9</p> <p>Where alterations are made to an annual duty roster after its publication these changes must arise from the exigencies of duty (unless they are made at the officer’s own request or have otherwise been agreed with the joint branch board). The term “exigencies of duty” should be interpreted as relating to situations where a pressing demand, need or requirement is perceived that is not reasonably avoidable and necessitates a change of roster. In this context the word “pressing” relates to the expected situation at the time when the duty is to be performed rather than the time when the duty roster is changed, i.e. the reasons for a change may be known many months in advance but still be pressing.</p> <p>Changes to rosters should only be made after full consideration of welfare, operational and practical circumstances rather than purely on financial grounds. Because rosters are produced annually a number of unforeseen reasons for changes may subsequently arise. It is clearly not possible to produce an exhaustive list of all of the potential reasons which may necessitate changes. However, by way of example, changes to rostered duties would be justified by unforeseen public order situations, court attendance and essential training. An officer should be told as soon as the requirement for the change is known and at the latest, by midnight on the calendar day before the changed period of duty commences.</p> <p>Reg 14, Annex 5(2) (g) & (h)</p> <p>Where, owing to the exigencies of duty, it is necessary to alter the duty roster, the officer responsible for making the alteration must endeavour, so far as practicable, to avoid breaching the provision for an interval of not less than 11 hours between periods of duty and an interval between each of that constable’s rostered rest days not exceeding 7 days</p>
3	<p>OVERTIME – Reg 17, Annex 7 (A) (1) - is defined as time:</p> <ul style="list-style-type: none"> (a) at the end of a tour of duty or rostered shift (b) a recall between two tours of duty or rostered shifts (c) before a tour of duty where the member is not given due notice of the earlier starting time and that time is on a day when the member has already completed a daily period of duty.
4	<p>CASUAL OVERTIME – Reg 17, Annex 7 (A) (6) - is defined as:</p> <p>unforeseen overtime worked at the end of a shift and is compensated at time and a third, “except that on each of the first 4 occasions on which overtime in respect of which the member was not informed at the beginning of the shift is worked during a week; 30 minutes of the overtime work is to be disregarded.”</p>

5	<p>REQUIRED TO WORK ON A REST DAY – Reg 18, Annex (8) (1) compensation is:</p> <table border="0"> <tr> <td>(a) with less than 5 days’ notice</td> <td>= double time</td> </tr> <tr> <td>(b) with less than 15 days’ notice</td> <td>= time and a half</td> </tr> <tr> <td>in any other case</td> <td>= another rest day</td> </tr> </table> <p>in relation to (a) and (b) above, compensation can be payment or time off in lieu at the officers’ choice.</p>	(a) with less than 5 days’ notice	= double time	(b) with less than 15 days’ notice	= time and a half	in any other case	= another rest day
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6	<p>MINIMUM COMPENSATION FOR WORKING ON A REST DAY – Reg 18 Annex (8) (3) (h) –</p> <p>where a constable is required to do duty, or is recalled to duty, for a period of less than 4 hours on a public holiday or a rostered rest day or, for a part-time constable, a free day, such period or each such period, is to be treated as though it were a period of 4 completed hours. Compensation can be payment or time off in lieu at the officers’ choice.</p>						
7	<p>REQUIRED TO WORK ON A PUBLIC HOLIDAY – Reg 18, Annex 8</p> <table border="0"> <tr> <td>(a) with less than 8 days’ notice</td> <td>= double time and another public holiday</td> </tr> <tr> <td>(b) in any other case</td> <td>= double time</td> </tr> </table> <p>Compensation can be payment or time off in lieu at the officers’ choice.</p>	(a) with less than 8 days’ notice	= double time and another public holiday	(b) in any other case	= double time		
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8	<p>REST DAY OVERTIME IMMEDIATELY FOLLOWING A NORMAL DAILY PERIOD OF DUTY – Reg 18, Annex 8 (3) (h) (e.g. last night nightshift straight through to a day off)</p> <p>For the first hour on the rest day the time actually worked (in units of completed 15 minutes) at double time. For more than one hour a minimum of 4 hours at double time. Please note this one hour ‘window’ has no effect relative to a Public Holiday.</p>						
9	<p>REINSTATEMENT OF REST DAYS. (Police Negotiating Board Circular 85/9)</p> <p>When an officer’s rest day is re-rostered in anticipation of an operational need for which in the event he/she is not required to attend for duty:</p> <ul style="list-style-type: none"> • Where the officer is told with more than seven days’ notice he will take the rest day with no compensation. • Where the officer is given less than eight days’ notice he/she can choose between taking the rest day with no compensation or working on the rest day* with compensation in accordance with Police Regulations**. (See Reg 18 Annex 8 extract below) <p>*Must work a minimum of 4 hours and is entitled to travelling time provided total claimed does not exceed 6 hours. If 6 or more hours are worked no travel time can be claimed – Annex 8 (3) (i) (ii)</p> <p>**This relates to the period of notice given of the requirement to work on the ‘original’ rest day as follows:</p> <p>REST DAYS – Reg 18 Annex 8 extract</p> <table border="0"> <tr> <td>Less than 5 days’ notice</td> <td>= double time</td> </tr> <tr> <td>Less than 15 days’ notice</td> <td>= time and a half</td> </tr> <tr> <td>In any other case</td> <td>= another rest day</td> </tr> </table>	Less than 5 days’ notice	= double time	Less than 15 days’ notice	= time and a half	In any other case	= another rest day
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10	<p>USUAL PLACE OF DUTY Reg 27, Annex 19 (3) (d)</p> <p>The usual place of duty is the police establishment in which the constable is stationed. The chief constable is to determine the date at which a constable on duty away from the constable's usual establishment becomes for the time being stationed at the place where the constable is temporarily on duty.</p>
11	<p>CALCULATION FOR DAYS' NOTICE for the purpose of Overtime Regulations</p> <p>The following is a PNB Side Secretaries agreed interpretation :-</p> <p>“In assessing the number of days' notice given, the day after the officer is made aware of the change in the roster will now count as the first day. The day which was to have been a rest day will not be included in the total.”</p>
12	<p>RECALL TO DUTY – Reg 18 Annex 7, 8 (c) & (d) – Reg 18 Annex 8 (3), (h) –</p> <p>A recall to duty attracts a minimum of 4 hours compensation and travelling time where applicable. A recall to duty is not overtime unless the period of extra duty is separate and identifiable and does not run into the beginning of the next rostered tour. (Counsel's Opinion 12 & 30 September 1986). In other words it is like an island of time in between two tours of duty.</p> <p>A “recall” does not include a warning to be in readiness for duty if required - Reg 17(2)</p>
13	<p>ADVANCING THE STARTING TIME OF A ROSTERED TOUR OF DUTY - (ACASD Police Arbitration Tribunal, Recalls to Duty, June 1988, ACAS 2C/127/1988) (PNB Circular 89/12)</p> <p>An advance of the starting time is not a recall to duty – see section 12 above.</p> <p>To qualify for enhanced compensation for an advance of the starting time an officer must have received less than ‘due notice’ of the change. Reg 17 (2) “due notice” means notice given at least 8 hours before the revised starting time)</p> <p>Example: Force day starts at 0700. Officer is rostered 0700 to 1500 and is required without due notice to start at 0500. The two hours from 0500 to 0700 will be payable at overtime rates. They will also count towards the tour of duty, so this effectively ends at 1300 (for an eight hour working). If the officer goes off duty at that time, there will be no further compensation. But if the officer works on until 1500, the hours from 1300 to 1500 are to be regarded as overtime.</p> <p>If however, the officer is given sufficient notice to come back to work on a day he or she has already worked then that is merely an advancement of the start of the force day and no overtime is accrued at the start of the duty period.</p> <p>This provision does not apply when the advancement is into a rest day (PNB Circular 89/12)</p> <p>See also section 14 below.</p>

14 **SHIFTS OR TOURS OF DUTY ON ONE DATE BUT TWO FORCE DAYS**

Increasingly, particularly for special events, shifts or tours of duty are beginning on one force day and ending on the next. This has a number of implications for compensation.

Example one: See section 13 above re Advancing the starting time

Example two: Shift starting on a weekly rest day

The Force day is 0700 to 0700. An officer is given 15 or more days' notice that he will be required to work on 3rd March as follows:

Sat 1 st Mar	Sun 2 nd Mar	Mon 3 rd Mar
WRD	WRD	0500-1700

The shift on Monday 3rd March begins at 0500 which in terms of the Force day is in fact Sunday and the officer's rest day.

In this example the officer is in fact being required to work on a rest day (see section 5 above) with 15 or more days' notice so the compensation for the two hours between 0500 and 0700 = another rest day. The hours between 0700 and 1700 will be compensated as normal with anything over his normal shift length treated as overtime at time and a third.

If the officer had been given less than 15 days' notice of this, the compensation for the two hours between 0500 and 0700 would be a minimum of four hours at time and a half (see section 6 above) The hours between 0700 and 1700 will be compensated at time and a half with time over eight hours also compensated at time and a half.

If the officer had been given less than 5 days' notice of this, the compensation for the two hours between 0500 and 0700 would be a minimum of four hours at double time (see section 6 above) The hours between 0700 and 1700 will be compensated at double time with time over eight hours also compensated at double time.

Example three : shift extending into a weekly rest day

Example	Thu 4 th Mar	Fri 5 th Mar
1	2300 – 0800	WRD
2	2300 - 0801	WRD

In the table above, example no 1, the shift beginning at 2300 on Thursday 4th March ends at 0800 on Friday 5th March which is in fact one hour into the officer's rest day. To understand the appropriate compensation for this, here is the provision from **Annex 8 3 h)**

“ where a constable is required to do duty, or is recalled to duty, for a period of less than 4 hours on a public holiday or a rostered rest day or, for a part-time constable, a free day, such period or each such period, is to be treated as though it were a period of 4 completed hours. The only exception to this is where a period of not more than one hour of duty on a rostered rest day or, for a part-time constable, a free day **immediately follows a normal daily period of duty.**

In this instance the period of not more than one hour of duty counts as the number of period of 15 minutes actually completed.

In such an example as no 1 in the table above,

- a) if the finish time was 0730 instead of 0800, the compensation would be 2 x 15 minutes at the appropriate rest day rate (see section 5 above);
- b) if it were 0745 the compensation would be 3 x 15 minutes at the appropriate rest day rate (see section 5 above). As 0800 is precisely one hour, it is still a period of not more than one hour, the compensation is 4 x 15 minutes at the appropriate rest day rate.

In example no 2 in the table above, one hour and one minute is a period more than one hour so the compensation is 4 hours payable at the appropriate rate (see sections 5 and 6 above). Clearly one minute is an unrealistic example but it is included to show that there is no requirement for that period to amount to a 15 minute period or any other set limit.

NOTE: If 15 or more days' notice is given of the requirement to work on a rest day the compensation for that day is another rest day - there is no payment or TOIL payable for either the two hours between 0500 and 0700 at the beginning or the hour between 0700 and 0800 at the end of the tour of duty in these circumstances.

15 RECALL FROM ANNUAL LEAVE – Reg 25, Annex 12 (5) & PNB Circular 01/10

Recalled for one or two days = an additional two day's annual leave for each day recalled or, one day's annual leave & one day's pay at double time, for each day.

Recalled for three days or more = as above for the first two days then one and a half day's annual leave or one day's annual leave & half a day's pay at double time in lieu of each such day recalled thereafter.

This applies to a period of absence from duty of 3 or more days, where at least one of the days is a day of annual leave and the other days, if not days of annual leave, are rostered rest days, days taken in lieu of overtime, public holidays (or days taken off in lieu thereof) or monthly leave days, or any combination thereof.

(NOTE: in E&W PNB Circular 2014/8 (Advisory) states weekly rest days and free days within a period of annual leave shall be treated the same as annual leave days but for this aspect a period of absence is defined as 5 days.)

16 FREE DAYS – part time / flexible workers can be instructed to work on free days but it is accepted this should be in exceptional circumstances only – Reg 18, Annex 8 (2)

Part time constable or sergeant	Part time constable or sergeant	Part time constable or sergeant	Part time constable or sergeant
Required to do duty on a free day with 15 or more days' notice	Required to do duty on a free day with less than 15 days' notice and no one else able to do the duty	Required to do duty on a free day with less than 15 days' notice and no one else able to do the duty	Required to do duty on a free day with less than 15 days' notice and any officer could have performed duty
Compensation = Another free day	Compensation = if the officer has worked more than 8 hours on a free day and more than 40 hours that week, overtime will be paid at time and a third rate.	Compensation=if the officer has worked less than 8 hours on a free day or less than 40 hours that week, they receive basic hourly rate, plus time off equal to the time spent on duty	Compensation = rest day rates

17	<p>HELD IN RESERVE – (PNB Circulars 83/10, 86/15, 88/9, 95/8)</p> <p>To be compensated at the rate for being held in reserve, i.e. 24 hours minus a maximum of 8, an officer must:</p> <ol style="list-style-type: none"> 1. be serving away from their normal place of duty 2. be obliged to stay in a particular specified place 3. not be allowed to return home 4. be given proper sleeping accommodation 5. be stood down from immediate operational availability and, according to the particular circumstances, be allowed reasonable freedom of movement while remaining contactable in case an emergency requiring his/her recall should arise.
18	<p>TRAVELLING TIME – Reg 22 (4) means:</p> <p>time spent by a member of a police force in travelling to and from that member's home-</p> <ol style="list-style-type: none"> (a) where that member is required to perform that member's normal daily period of duty in more than one tour of duty, between two tours; or (c) where that member is recalled to duty between two tours of duty, in consequence of that member's recall. (d) <p>Annex 8 (3)(i) states;</p> <p>where a constable is required to do duty on a public holiday or on a rostered rest day or, for a part-time constable, a free day, the constable's period of duty includes the time occupied by the constable in going to and returning from their place of duty, not exceeding such reasonable limit as may be fixed by the chief constable, save that, for the purposes of this sub-paragraph, there shall be disregarded any period of time so occupied:</p> <ol style="list-style-type: none"> (i) which together with the constable's period of duty exceeds 6 hours, or (ii) which is treated as a period of duty under regulation 14 (travelling time treated as duty).
19	<p>DAILY REST – Workforce Agreement para 10</p> <p>Except in circumstances of pressing operational demands or the interruption of a period of rest while on call, it is agreed that an employee should enjoy a period of not less than 11 consecutive hours in a 24 hour period. Where this cannot be provided, the Working Time Regulations allow for compensatory rest to be provided. Compensatory rest is covered in para 21 below. Where the exigencies of duty require an alteration to the roster, this should so far as possible avoid breaching this condition.</p>
20	<p>WEEKLY REST – Workforce Agreement para 11</p> <p>The seven day periods for this purpose commences at 0700 on Monday of each week. The Force day is 24 hours commencing at 0700. The Chief Constable may fix different times in relation to different groups of constables and in doing so must have regard to the views of the Joint Central Committee.</p> <p>While the Working Time Regulations only require the employer to provide two uninterrupted rest periods each of not less than 24 hours in each 14 day period, it is agreed that Police Service of Scotland Regulations 2013, being significantly better, prevail over Working Time Regulations and that two rest days will be provided in respect of each week.</p>

21	<p>COMPENSATORY REST – Workforce Agreement para 12</p> <p>There may be occasions where, in the event of an operational demand, an employee has been unable to receive their normal entitlement to daily or weekly rest under the Working Time Regulations. Wherever possible every attempt will be made to allow an equivalent period of compensatory rest (e.g. deferring start and end time of next consecutive period of rostered duty.) Compensatory rest may form part of existing rest periods (which are in excess of the minimum requirements of the Working Time Regulations).</p>
22	<p>WORKFORCE AGREEMENT – Exemptions and Modifications</p> <p>The nature of the duties carried out by police officers may mean that exceptionally there may be occasions where the provisions of the Working Time Regulations cannot reasonably be complied with. Any such exceptions, however, should be instigated to provide short-term solutions to immediate policing demands and not used as a blanket exemption from the provisions of the Working Time Regulations.</p>

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