

2012 No. 2271

POLICE, ENGLAND AND WALES

**The Police and Crime Panels (Precepts and Chief Constable
Appointments) Regulations 2012**

<i>Made</i>	- - - -	<i>3rd September 2012</i>
<i>Laid before Parliament</i>		<i>6th September 2012</i>
<i>Coming into force</i>	- -	<i>22nd November 2012</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraphs 7 and 8 of Schedule 5 and paragraphs 9 and 10 of Schedule 8 to the Police Reform and Social Responsibility Act 2011(a).

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012 and come into force on 22nd November 2012.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011;

“panel” means the police and crime panel referred to in section 28(1) of the 2011 Act;

“relevant financial year” means the financial year immediately preceding the financial year for which a precept is issued;

“Schedule 5” means Schedule 5 to the 2011 Act (issuing precepts);

“Schedule 8” means Schedule 8 to the 2011 Act (appointment, suspension and removal of senior police officers).

PART 2

Precepts

Notification of proposed precept

3. The police and crime commissioner shall comply with the duty under paragraph 2 of Schedule 5 (commissioner to notify panel of proposed precept) by 1st February of the relevant financial year.

Report on proposed precept

4.—(1) The panel shall comply with the duty under paragraph 3 of Schedule 5 (panel to review proposed precept) by 8th February of the relevant financial year.

(2) Where the panel exercises the power under paragraph 4 of Schedule 5 (panel's power to veto precept) but fails to act in accordance with paragraph (1) of this regulation, the end of the scrutiny process is reached and, notwithstanding the veto, the police and crime commissioner may issue the proposed precept as the precept for the financial year.

Veto: police and crime commissioner's response

5.—(1) Where the panel exercises the power under paragraph 4 of Schedule 5, the police and crime commissioner shall comply with the duty under paragraph 6(3) of that Schedule (next steps if veto) by 15th February of the relevant financial year.

(2) The police and crime commissioner shall, in the response given under paragraph 6(3)(b) of Schedule 5, notify the police and crime panel of the precept that he now proposes to issue ("the revised precept").

(3) Where the panel's report under paragraph 3(2) of Schedule 5—

- (a) indicates that the panel vetoes the proposed precept because it is too high, the revised precept shall be lower than the proposed precept;
- (b) indicates that the panel vetoes the proposed precept because it is too low, the revised precept shall be higher than the proposed precept.

Panel's review of revised precept

6.—(1) On receiving a response containing notification of a revised precept under regulation 5(2) the panel shall, by 22nd February of the relevant financial year—

- (a) review the revised precept; and
- (b) make a report to the police and crime commissioner on the revised precept ("the second report").

(2) The second report may—

- (a) indicate whether the panel accepts or rejects the revised precept (but rejection does not prevent the police and crime commissioner from issuing the revised precept as the precept for the financial year); and
- (b) make recommendations, including recommendations as to the precept that should be issued for the financial year.

(3) Where the panel fails to act in accordance with paragraph (1), the end of the scrutiny process is reached and the police and crime commissioner may issue the revised precept as the precept for the financial year.

Police and crime commissioner's consideration of second report

7. On receiving the panel's second report the police and crime commissioner shall, by 1st March of the relevant financial year—

- (a) have regard to the second report (including any recommendations in the report);
- (b) give the panel a response to the second report (and any such recommendations); and
- (c) publish the response.

Issuing precept

8.—(1) In a case other than one to which regulation 4(2) or 6(3) applies, the end of the scrutiny process is reached when the police and crime commissioner gives the panel the response mentioned in regulation 7(b).

(2) The police and crime commissioner may then—

- (a) issue the revised precept as the precept for the financial year; or
- (b) issue a different precept, but this is subject to paragraph (3).

(3) In relation to the panel’s report under paragraph 3(2) of Schedule 5—

- (a) where regulation 5(3)(a) applied, the police and crime commissioner shall not issue a precept which is higher than the revised precept; and
- (b) where regulation 5(3)(b) applied, the police and crime commissioner shall not issue a precept which is lower than the revised precept,

unless it would be in accordance with a recommendation made by the panel in the second report to do so.

PART 3

Chief Constable Appointments

Veto: proposal of reserve candidate

9.—(1) Where the panel exercises the power under paragraph 5 of Schedule 8 (power to veto proposed appointment) the police and crime commissioner shall propose another person for appointment as chief constable (“a reserve candidate”).

(2) The police and crime commissioner proposes a reserve candidate by notifying the panel of the following information—

- (a) the name of the reserve candidate;
- (b) the criteria used to assess the suitability of the reserve candidate for the appointment;
- (c) why the reserve candidate satisfies those criteria; and
- (d) the terms and conditions on which the reserve candidate is to be appointed.

Panel’s consideration of reserve candidate

10.—(1) Within the period of three weeks beginning with the day on which the panel receives notification under regulation 9(2) the panel shall—

- (a) review the proposed appointment; and
- (b) make a report to the police and crime commissioner on the proposed appointment.

(2) Before making a report under paragraph (1)(b), the panel must hold a confirmation hearing within the meaning of paragraph 6 of Schedule 8.

(3) The report made under paragraph (1)(b) must include a recommendation to the police and crime commissioner as to whether or not the reserve candidate should be appointed.

(4) The panel must publish the report made under paragraph (1)(b).

(5) In calculating the period of three weeks for the purpose of paragraph (1), any relevant post-election period within the meaning of paragraph 4(10) of Schedule 8 is to be ignored.

Police and crime commissioner's consideration of report

11. On receiving a report under regulation 10(1)(b) the commissioner shall—
- (a) have regard to the report (including the recommendation in the report); and
 - (b) notify the panel of his decision as to whether he accepts or rejects the recommendation.

Appointment of chief constable

12.—(1) The end of the confirmation process is reached when the police and crime commissioner gives the notification mentioned in regulation 11(b).

- (2) The police and crime commissioner may then—
- (a) appoint the reserve candidate as chief constable; or
 - (b) propose another person for appointment as chief constable.

(3) Where a proposal is made under paragraph (2)(b), this Part applies in relation to that person as if the proposal had been made under regulation 9(1) (and accordingly the person is treated for the purposes of this Part as a reserve candidate).

Home Office
3rd September 2012

Nick Herbert
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 28 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) provides for each police area listed in Schedule 1 to the Police Act 1996 to have a police and crime panel with the function of scrutinising the actions and decisions of the police and crime commissioner for the police area.

Schedules 5 and 8 to the 2011 Act respectively make provision about the scrutiny, by the police and crime panel, of a proposal from the police and crime commissioner as to the issuing of a precept and the appointment of a chief constable. The Schedules confer powers on the police and crime panel to veto a proposed precept or appointment. These Regulations make provision about the procedure to be followed in that regard.

Part 2 of these Regulations concerns the issuing of precepts. Regulations 3, 4 and 5(1) set deadlines for the taking of steps set out in Schedule 5 of the 2011 Act. This is to ensure that a precept is issued in accordance with Part I of the Local Government Finance Act 1992 (c. 14) (“the 1992 Act”). Where a police and crime panel decides to veto a proposed precept but does not report to the police and crime commissioner within the deadline set out in regulation 4(1), regulation 4(2) allows the commissioner to issue the proposed precept in any event.

The remainder of Part 2 of these Regulations prescribes steps to be taken where the police and crime panel exercises its power to veto a proposed precept, with deadlines. Regulation 5(2) requires the police and crime commissioner to notify the police and crime panel of the revised precept that he proposes to issue. This must be lower than the precept proposed initially if the police and crime panel vetoed that precept on the basis that it was too high, and must be higher than the precept proposed initially if the panel rejected it on the basis that it was too low.

Regulation 6 requires the police and crime panel to scrutinise this revised precept and report on it. The police and crime panel may indicate that they reject the revised precept, but this does not amount to a power of veto. The only power of veto is in relation to the precept proposed initially by the police and crime commissioner. Where the panel fails to report to the police and crime commissioner by the deadline set out in regulation 6(1), regulation 6(3) allows the commissioner to issue the revised precept in any event.

Regulation 7 requires the police and crime commissioner to consider the police and crime panel's report and respond to it. Once that response is given, the police and crime commissioner may issue a precept in accordance with regulation 8. This can be the revised precept considered by the police and crime panel, or a different precept. Where a different precept is issued, it cannot be higher than the revised precept if the police and crime panel vetoed the original precept on the basis that it was too high, and it cannot be lower than the revised precept if the panel vetoed the original precept on the basis that it was too low.

Nothing in Part 2 of these Regulations affects the operation of Chapters 4ZA and 4A of Part I of the 1992 Act, which prevent the issuing of an excessive precept following the holding of a referendum (in England) or the setting of a cap by the National Assembly (in Wales). Neither does Part 2 affect the operation of section 41 of the Police Act 1996 (c. 16) which allows the Secretary of State to direct a minimum budget requirement for the police and crime commissioner in order to ensure that the precept is not set at so low a level that public safety is endangered.

Part 3 of these Regulations concerns steps to be taken in the event that a police and crime panel vetoes a proposed appointment of a chief constable. Regulation 9 provides for the police and crime commissioner to propose a reserve candidate. Regulation 10 requires the police and crime panel to consider and report on the proposed appointment of this reserve candidate within three weeks, making a recommendation as to whether or not the candidate should be appointed. The police and crime panel must hold a confirmation hearing to assess the suitability of the reserve candidate. The police and crime panel must publish the report containing its recommendation.

On receiving the police and crime panel's report, regulation 11 requires the police and crime commissioner to have regard to their recommendation and notify the panel as to whether the recommendation is accepted. Under regulation 12 the police and crime commissioner may then appoint the reserve candidate as chief constable, or may propose another reserve candidate. In the latter eventuality, the procedure under Part 3 of these Regulations is conducted once again in relation to this further candidate. The police and crime commissioner can continue to propose reserve candidates in this way if necessary.

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STATUTORY INSTRUMENTS

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