



Home Office

Home Office Guidance on Special Constable expense and allowance rates

April 2014

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This guidance supersedes Home Office Circulars 12/2006 and 40/2005

Queries about this guidance should be addressed to:
specialconstabularyenquiries@homeoffice.gsi.gov.uk

SPECIAL CONSTABLES: EXPENSES AND ALLOWANCES

The Secretary of State has approved the payment of the following allowances under Regulation 4(2)(b) and (3) of the Special Constables Regulations 1965.

This guidance covers:

- Subsistence and lodging allowance (paragraphs 2.1 to 2.2)
- Subsistence allowance rates (paragraphs 2.3 to 2.4)
- Lodging allowance rates (paragraph 2.5 to 2.6)
- Travelling expenses and mileage allowance (paragraphs 3.1 to 3.2)
- Tax implications and expenses (paragraphs 4.1 to 4.3)
- Loss of remuneration allowance (paragraph 5.1)
- Sick pay (paragraph 6.1)
- Withdrawn allowances (paragraphs 7.1 to 7.2)

1. Introduction

1.1 This guidance supersedes the guidance contained in previous Home Office circulars (HOC) 12/2006 and 40/2005 and those two circulars should no longer be used. The key changes from the previous position include the uprating of allowance rates in line with the catering element of the Retail Price Index (RPI), the withdrawal of the refreshment allowance (“refreshment” is subsumed into subsistence), and advice that forces may choose to provide a flat rate allowance up to the amount stated in this guidance or that all requests made by special constables for the reimbursement of relevant expenses should be evidenced by receipts showing actual expenditure.

1.3 With the exception of sick pay, all other expenses referred to in this circular are **payable at the discretion of the Chief Officer, up to the amounts stated.**

2. Subsistence and lodging allowance

2.1 All rates have been uprated in line with the movement of the catering element of RPI from where it stood in November 2010 to the figure as at March 2012. The new entitlements are detailed below and the revised rates are payable from April 2014.

2.2 The subsistence and lodging allowances listed are the maximum allowance rates that special constables are eligible to receive. Regulation 4(1) of the Special Constables Regulations

1965 provides that a special constable may be paid out of pocket expenses reasonably incurred by him or her in the course of his or her duty or an allowance in lieu of such reimbursement. Forces may reimburse individuals for actual costs incurred for subsistence and lodgings up to the maximum allowance upon the presentation of a receipt or, to simplify procedures, forces may choose to pay up to the figures given below as a flat rate allowance.

Subsistence allowance

2.3 In order to claim subsistence allowance certain criteria must be met:

- a) A special constable must have been retained for duty or engaged on duty beyond their normal daily period of duty. For the purposes of this circular, and to provide national consistency, it is considered that a normal period of duty will equate to 4 hours.
- b) Following the qualifying period of 4 hours for the payment of a subsistence allowance, a special constable must have incurred expenditure, on a meal or appropriate refreshment, whilst retained for duty or engaged on duty in order to be eligible to claim reimbursement.

2.4 The periods of retention for duty or engagement on duty after which a special constable becomes eligible to claim the subsistence allowance and the associated allowance amounts for those periods are as follows (duty does not include travel to duty):

- Over 4 hours but not exceeding 8 hours: up to £7.23
- Over 8 hours but not exceeding 12 hours: up to £14.66
- Over 12 hours: up to £24.15

Lodging allowance

2.5 A lodging allowance is payable where a special constable has been retained on duty beyond his or her normal daily period of duty or engaged on duty away from his or her usual place of duty. The special constable must certify that he or she has incurred additional expense for the purpose of obtaining lodging which he or she would not have required if he or she had not been so retained or engaged. In such cases a lodging allowance shall be paid at the following rates.

2.6 For each night -

- Outside central London: up to £53.30
- Within central London: up to £66.64

3. Travelling expenses and mileage allowance

3.1 Actual travelling expenses to and from the place of duty by public transport may be reimbursed under out of pocket expenses. If a special constable uses his or her own vehicle to get to their place of duty they may be reimbursed for the cost of their mileage under out of pocket expenses.

3.2 A mileage allowance may be paid in circumstances where it would be paid to regular officers (as set out in paragraph 1 of Annex U to the determinations made under Regulation 34, Police Regulations 2003) e.g. where the Chief Officer is of the opinion that for the special constable to perform his or her duties it is either essential or desirable that the special constable should at all material times have a motor vehicle at their disposal.

4. Tax implications and expenses

4.1 HMRC state that the general principle for out of pocket expenses for office holders is that if there is genuinely no element of profit from performance of duties then the allowance may be paid, or the expense reimbursed, tax free.

4.2 Where this principle applies a force may reimburse out of pocket expenses on either an actual or a flat rate basis, providing that the amounts paid are a reasonable reflection of the cost incurred and there is no element of profit involved.

4.3 However, the position will be different if the office holder receives other forms of payment or benefit-in kind or if total expenses payments, together with the values of any benefits and other payments, comes to £8,500 or more for a year. (The figure of £8,500 is proportionately reduced if the Special Constable is in post for less than a year).

4.4 If a Special Constable receives other forms of payment or benefit-in kind the force will be liable for paying National Insurance Contributions on all subsequent payments to the Special Constable. HMRC have provided full guidance on this issue and this is set out in annex A.

5. Loss of remuneration allowance

5.1 The Secretary of State has approved, under Regulation 4(2)(a) of the Special Constables Regulations 1965, payment to a special constable, who is required for duty during his normal work time, an allowance equal to his actual loss of earnings on a daily basis in his private employment. Special constables would normally only be expected to attend for duty outside their working hours but there may be occasions, such as attendance to give evidence at court, where such attendance is inescapable. The circumstances in which a special constable can be required to attend for duty are to be determined by the chief officer of the force concerned.

6. Sick pay

6.1 Provisions on sick pay remain as set out in regulation 5 of the Special Constables Regulations 1965. See also NPIA circular 04/2010 on ex gratia payments for special constables for injury or illness.

7. Withdrawn allowances

7.1 The refreshment allowance has been subsumed under the category of subsistence. Special constables are still entitled to a subsistence allowance. Chief Officers are also able to reimburse other valid expenses a special constable may incur as out of pocket expenses.

7.2 Entitlement to the £30 boot allowance was withdrawn in HOC 40/2005 and this position remains the same. In place of the boot allowance, Chief Officers should provide appropriate footwear directly or specials may claim a footwear allowance as a valid out of pocket expense, especially if it is a form of reasonable adjustment required by a person protected under the provisions of the Equality Act 2010. In the latter case, expenditure reasonably incurred by specials on footwear can be paid at the discretion of the Chief Officer.

Annex A HMRC General guidance on payments made to Special Constables

Background

The tax rules as they stand apply to all taxpayers without exception (whether employed in the private or the public sector). Where payments made to Special Constables (SCs) represent reimbursement of genuine out of pocket expenses they will not be liable to income tax and National Insurance Contributions (NICs).

Following a recent consultation by the Home Office (HO) the responsibility for determining the nature and amounts of payments made to the SC is being devolved to the individual Police and Crime Commissioners (PCCs). This will come into force once the changes have been made to the relevant regulation. This guidance is being issued to re-iterate the principles that apply and to ensure that PCCs are aware of the potential tax implications: specifically, if payments go beyond covering out of pocket expenses, SCs would become liable to income tax and NICs.

This is a general overview of the general principles of tax rules applicable to SCs and not prescriptive guidance.

Payments and reimbursed expenses

The general principle for out of pocket expenses is that if there is genuinely no element of profit from performance of duties then the allowance may be paid, or the expense reimbursed, tax free. These include allowances that cover the cost of travelling between home and a place of work.

This general principle applies to SCs: where payments amount to no more than reimbursement of expenses and there is no element of profit involved, then they are not subject to either income tax or NICs.

The situation changes if a bounty or other 'one off' payment for providing their services is paid. First of all, the bounty or payment (whatever it is called) is employment income; it is being paid to SCs for acting as SCs and the normal income tax and NICs rules would need to be applied.

Secondly, a bounty (or other payment) would alter the terms of the SCs office holding as they would be holding an "office of profit" and, as a result of this, all payments they receive would become subject to income tax and NICs. This means that their expenses and allowance payments previously not subject to income tax and NICs become liable to the extent that they are not otherwise exempt.

Where an SC holds an "office of profit" they may be able to claim relief for any expenses that they are obliged to incur and pay, and that they incur wholly, exclusively and necessarily in the performance of the duties of employment.

However, any claim to relief in respect of reimbursement of travelling expenses would be subject to the rules set out in HMRC guidance and no deduction would be due for the cost of home to work travel (that is to say, their ordinary commuting). Any such payments would be

liable to income tax and NICs. Payments for travelling between home and a temporary place of work (such as to a football stadium where they are employed on crowd control duties) or between work places would not be liable. These are the same travel rules as apply to all other employees and office holders.

Please find below a link to the Employment Income Manual (EIM 68131) – Special Constables – rules on flat rate expense deductions, and rules on bounty:

<http://www.hmrc.gov.uk/manuals/eimanual/eim68131.htm> and links to Rules on taxation of non-cash vouchers, including transport vouchers:

<http://www.hmrc.gov.uk/manuals/eimanual/EIM16010.htm> (Vouchers and credit-tokens - why special rules are needed for vouchers and credit tokens);

<http://www.hmrc.gov.uk/manuals/eimanual/EIM16060.htm> (Vouchers and credit-tokens - transport vouchers); and

<http://www.hmrc.gov.uk/manuals/eimanual/EIM16140.htm> (Vouchers and credit-tokens: amount and year of charge).

In summary, any element of reward/profit would bring SCs within the scope of the normal income tax and NICs rules, although payments that relate to expenses incurred wholly, exclusively and necessarily in the performance of their duties may be claimed as deductions.

Benefits

Where an employee earns at a rate of less than £8,500 from an employment (including wages, salary, benefits and expenses payments) only specified employer provided benefits such as vouchers, credit-tokens, and free public transport are taxable on the employee. Once this threshold is reached, and exceeded, all employer provided benefits in kind are taxable

Where earnings remain below the threshold, the provision of a council tax discount may be taxable. In order to advise on individual arrangements HMRC will require further information about the way in which any discounts are given.

The following guidance - General rules on volunteers and unpaid office holders, including note on expenses and the application of the £8500 limit:

<http://www.hmrc.gov.uk/manuals/eimanual/eim71100.htm> provides further details “

Examples are shown as follows;

Example 1

SC receives nothing but reimbursed out of pocket expenses, including travel from home to work.

As there is no element of profit then the SC is not subject to either income tax or NICs and the employer does not have to operate PAYE.

However if the reimbursed expenses exceed £8,500 in a year then, as the benefits threshold has been exceeded, the expenses will be liable to tax. The SC may be able to claim a deduction for any expenses necessarily incurred, but this would not cover non-deductible expenses such as home to work travel.

Example 2

SC receives reimbursed expenses (including home to work travel) and a one-off payment of £1,000 as a reward for his service.

As the payment of any award or bounty (regardless of the description) creates an element of profit, the SC would become subject to the normal rules for tax and NICs on all the payments they receive, including any reimbursed expenses. Although the SC may be able to claim a deduction for allowable expenses (not including home to work travel), the reward would be liable to tax in the same way as any other wage or salary.

For example a payment made directly to the SC in lieu of a council tax discount would create an element of profit.

Where the normal income tax and NICs rules apply, the employer would need to operate PAYE in the usual way and the SC would need to ensure that they had paid the correct amount of tax, taking into account their overall liability for the year.

Example 3

SC is reimbursed out of pocket expenses, including travel from home to work and receives a voucher(s).

As there is no element of profit then the SC is not subject to either income tax or NICs and the employer does not have to operate PAYE.

However, if the SC was provided with a transport voucher worth £1,500 then, even if his reimbursed expenses are below the £8,500 threshold, the £1,500 voucher only will be a taxable benefit chargeable on the SC.

Further Information

If you require help on this issue please contact HMRC through our Public Bodies Group Customer Co-ordinator Team. The following link provides details of how to contact the team.

http://search2.hmrc.gov.uk/kb5/hmrc/contactus/view.page?record=F7zhWHxPw_I

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