STATUTORY INSTRUMENTS

2015 No. 626

POLICE, ENGLAND AND WALES

The Police (Conduct) (Amendment) Regulations 2015

Made - - - - *9th March 2015*

Laid before Parliament *12th March 2015*

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 50, 51 and 84 of the Police Act 1996(**1**).

In accordance with section 63(3)(a) of the Police Act 1996(**2**), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration the representations of the Board before making these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police (Conduct) (Amendment) Regulations 2015 and, subject to paragraphs (2) and (3), come into force on 1st May 2015.

(2) Regulation 4 comes into force on 13th March 2015.

(3) Regulation 5 comes into force on 1st January 2016.

(4) In these Regulations "the 2012 Regulations" means the Police (Conduct) Regulations 2012(**3**)".

Amendment to the Police (Conduct) Regulations 2012

2. The 2012 Regulations are amended in accordance with regulations 3 to 19.

3. In regulation 3—

(**1**) 1996 c.16. Section 50 is amended by paragraph 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4), section 3 of the Policing and Crime Act 2009 (c. 26), section 82 of, and paragraph 32 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13), paragraph 23 of Schedule 8 to the Public Service Pensions Act 2013 (c. 25) and section 123(1) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 51 is amended by section 128 of the Police Act 1997 (c. 50), section 35 of the Police Reform Act 2002 (c. 30), paragraph 4 of Schedule 22 to the Criminal Justice and Immigration Act 2008, paragraph 33 of Schedule 16 to the Police Reform and Social Responsibility Act 2011, paragraph 24 of Schedule 8 to the Public Service Pensions Act 2013 and section 123(2) of the Anti-social Behaviour, Crime and Policing Act 2014.

(**2**) Section 63(3) was substituted by paragraph 78 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15) and further amended by paragraph 68 of Schedule 1 to the Police and Justice Act 2006 (c. 48), paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008 and section 10 of the Policing and Crime Act 2009.

(**3**) S.I. 2012/2632 as amended by S.I. 2014/3347.

(a) in the definition of "document" omit "or images";

(b) after the definition of "proposed witness" insert—

""protected disclosure" has the meaning given to it by section 43A of the Employment Rights Act 1996(**4**);";

(c) in the definition of "Standards of Professional Behaviour" after "means" insert ", subject to paragraph (9) of this regulation,";

(d) after paragraph (8) insert—

"(9) For the purposes of these Regulations, the making of a protected disclosure by a police officer is not a breach of the Standards of Professional Behaviour.".

4. In regulation 10A—

(a) in paragraph (2) for "paragraph (3)" substitute "paragraphs (2A) and (3)";

(b) after paragraph (2), insert—

"(2A) Paragraph (2) does not apply to a matter that came to the attention of the appropriate authority before 12th January 2015.".

5. In regulation 25 for paragraphs (4) and (5) substitute—

"(4) Where the case is referred to a misconduct hearing, that hearing shall be conducted by a panel of three persons appointed by the appropriate authority, comprising—

(a) a chair selected by the appropriate authority who satisfies the judicial appointment eligibility condition(**5**) on a 5-year basis and has been nominated by a local policing body for the purposes of these Regulations;

(b) a member of a police force of the rank of superintendent or above (provided the member is of a more senior rank than the officer concerned); and

(c) a person selected by the appropriate authority from a list of candidates maintained by a local policing body for the purposes of these Regulations.".

6. In regulation 26(2)(a) for "criterion" substitute "condition".

7. After regulation 27 insert—

"**Notification of misconduct hearings**

27A.—(1) The person chairing a misconduct hearing may require notice of the hearing to be given which contains information relating to one or more of—

(a) the name of the officer concerned;

(b) the date of the hearing;

(c) the time of the hearing;

(d) the place at which the hearing will take place; and

(e) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be, as set out in the notice given in accordance with regulation 21(1)(a)(ii).

(**4**) 1996 c.18. Part IVA of the Employment Rights Act 1996 was inserted by section 1 of the Public Interest Disclosure Act 1998 (c. 23) and is amended by sections 17, 18 and 20 of the Enterprise and Regulatory Reform Act 2013 (c. 24), section 37 of the Police Reform Act 2002 (c. 30), section 59 of, and paragraphs 84 and 85 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15) and section 15 of, and paragraphs 49 and 50 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22).

(**5**) See section 50 of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(2) Where the person chairing a misconduct hearing requires notice to be given in accordance with paragraph (1), the appropriate authority shall publish the notice on its website no less than 5 working days before the day on which the hearing begins.

(3) Any person to whom this paragraph applies may make written representations to the person chairing the misconduct hearing in relation to—

(a) whether, and (if so) the extent to which, the person chairing the misconduct hearing should exclude any person from the whole or part of the hearing under regulation 31(6)(a);

(b) whether the person chairing the misconduct hearing should impose any conditions under regulation 31(6)(b);

(c) in the light of the representations made under sub-paragraphs (a) and (b)—

(i) whether the person chairing the misconduct hearing should require notice to be given under paragraph (1);

(ii) which types of information mentioned in paragraph (1)(a) to (e) should be included in any such notice.

(4) Paragraph (3) applies to—

(a) the officer concerned;

(b) the appropriate authority;

(c) the complainant;

(d) any interested person;

(e) any witness;

(f) the Commission.

(5) Any written representations made in accordance with paragraph (3) must be provided no later than the date specified by the person chairing the misconduct hearing for provision of such representations.".

8. In regulation 30—

(a) in paragraph (3)—

(i) after "regulation 32 and" omit "any conditions imposed under";

(ii) for "31(8)" substitute "31(6)"; and

(iii) for "proceedings" substitute "meeting";

(b) in paragraph (4)—

(i) for "Subject to paragraph (5), regulation 32 and any conditions imposed under regulation 31(8)" substitute "Subject to regulation 31(6) and (7) and regulation 32"; and

(ii) after "accompanied" insert "at a misconduct meeting";

(c) omit paragraphs (5) and (6).

9. For regulation 31 substitute—

"**31.**—(1) Subject to paragraphs (6) and (7) and regulation 32, a misconduct hearing shall be in public.

(2) Subject to regulations 29 and 30 and the provisions of this regulation, a misconduct meeting shall be in private.

(3) A person nominated by the Commission may, as an observer, attend a misconduct meeting which arises from a case to which—

(a) paragraph 17, 18 or 19 of Schedule 3 to the 2002 Act (supervised, managed and independent investigations) applied; or

(b) paragraph 16 of Schedule 3 to the 2002 Act (investigations by the appropriate authority) applied and in relation to which the Commission—

(i) made a recommendation under paragraph 27(3) of that Schedule (duties with respect to disciplinary proceedings) which the appropriate authority accepted; or

(ii) gave a direction under paragraph 27(4)(a) of that Schedule (duties with respect to disciplinary proceedings).

(4) Subject to any contrary decision by the person conducting or chairing a misconduct meeting, a witness other than a complainant, interested person or the officer concerned, shall only attend the misconduct meeting for the purpose of giving their evidence.

(5) The person conducting or chairing a misconduct meeting may, at his discretion, permit a witness in the misconduct meeting to be accompanied at that meeting by one other person.

(6) The person conducting or chairing the misconduct proceedings may—

(a) in relation to the attendance at the proceedings of a person under regulation 30 or this regulation, exclude any person as he sees fit from the whole or a part of those proceedings; and

(b) impose such conditions as he sees fit relating to the attendance under regulation 30 or this regulation of any person at the proceedings in order to facilitate the proper conduct of those proceedings.

(7) Where a person is to give evidence as a witness at the misconduct proceedings, the witness (and any person accompanying the witness) shall not be allowed to attend the proceedings before giving evidence.".

10. In regulation 34,—

(a) after paragraph (3)(g), insert—

"(ga) regulation 27A,";

(b) after paragraph 4(c), insert—

"(d) in regulations 27A(4) and 44A(4), the references to the appropriate authority are omitted.".

11. In regulation 35, after paragraph (11) insert—

"(12) Where a final written warning is given or extended at a meeting or hearing held under regulation 34 the appropriate authority may make an order in relation to the compensation payable to the officer in the event that the officer's fixed term of appointment is not extended, or the officer is required to resign before the expiry of the fixed term.

(13) An order under paragraph (12) may—

(a) prohibit the payment of compensation to the officer concerned;

(b) prohibit the payment of compensation above a specified amount; or

(c) make provision as to the method by which the compensation is to be calculated.

(14) A local policing body or chief officer must abide by the terms of an order made under paragraph (12).".

12. In regulation 36, after paragraph (5) insert—

"(6) In relation to a misconduct hearing (other than a further hearing to which regulation 34 applies), the person chairing the hearing may require the appropriate authority

to publish a notice during the notification period containing information relating to one or more of the matters set out in paragraph (9) in the manner set out in paragraph (10).

(7) In relation to a further hearing to which regulation 34 applies, the appropriate authority may, during the notification period, publish a notice containing information relating to one or more of the matters set out in paragraph (9) in the manner set out in paragraph (10).

(8) In this regulation, the notification period is the period of 5 working days beginning 7 working days after the day on which the misconduct hearing (or further hearing to which regulation 34 applies) is concluded.

(9) A notice published in accordance with paragraph (6) or (7) may contain information relating to—

(a) the name of the officer concerned;

(b) the conduct that was the subject matter of the case and how that conduct was alleged to amount to misconduct or gross misconduct as the case may be, as set out in the notice given in accordance with regulation 21(1)(a)(ii);

(c) the finding of the person or persons conducting the misconduct hearing; and

(d) any disciplinary action imposed.

(10) Where the appropriate authority publishes a notice in accordance with paragraph (6) or (7), it shall publish the notice on its website for a period of no less than 28 days.

(11) In making decisions under paragraph (6) or (7), the person chairing the misconduct hearing or (as the case may be) the appropriate authority may have regard to any representations—

(a) that were provided under regulation 27A(3);

(b) made at the misconduct hearing or, as the case may be, the further hearing.

(12) In any case where the disciplinary action imposed is dismissal (whether with or without notice), the appropriate authority shall send a copy of the written notice under this regulation to the College of Policing.".

13. In regulation 44(2) omit "or to nominate a person to attend the hearing as an observer under regulation 52(2),".

14. After regulation 44 insert—

"**Notification of special case hearing**

44A.—(1) The person conducting or chairing a special case hearing may require notice of the hearing to be given which contains information relating to one or more of—

(a) the name of the officer concerned;

(b) the date of the hearing;

(c) the time of the hearing;

(d) the place at which the hearing will take place; and

(e) the conduct that is the subject matter of the case and how that conduct is alleged to amount to gross misconduct, as set out in the notice given in accordance with regulation 43(2).

(2) Where the person conducting or chairing the special case hearing requires notice to be given in accordance with paragraph (1), the appropriate authority shall publish the notice on its website no less than 5 working days before the day on which the hearing begins.