STATUTORY RULES OF NORTHERN IRELAND

2016 No. 41

POLICE

The Police (Conduct) Regulations (Northern Ireland) 2016

Made - - - - 17th February 2016

Coming into operation 1st June 2016

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 25, 26 and 59(8) of the Police (Northern Ireland) Act 1998(**1**).

In accordance with sections 25(8) and 26(6) of that Act the Department has consulted the Northern Ireland Policing Board and the Police Association.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Police (Conduct) Regulations (Northern Ireland) 2016 and shall come into operation on 1st June 2016.

Revocation and transitional provisions

2.—(1) Subject to paragraph (2), the Royal Ulster Constabulary (Conduct) Regulations 2000(**2**), regulation 28 of the Royal Ulster Constabulary (Complaints etc.) Regulations 2000(**3**) (and the Schedule of modifications to the Royal Ulster Constabulary (Conduct) Regulations 2000 introduced by that regulation) and the Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000(**4**) are revoked.

(2) Where a complaint or allegation in respect of conduct by a member came to the attention of the appropriate authority before 1st June 2016, nothing in these Regulations shall apply and the Regulations referred to in paragraph (1) shall continue to have effect.

(**1**) 1998 c.32. Relevant amendments are made by section 78(1) of and paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000.
(**2**) S.R. 2000 No. 315 as amended by S.R. 2001 No. 184, S.R. 2003 No. 68, S.R. 2004 No. 315, S.R. 2008 No. 56 and as modified by S.R. 2005 No. 341.
(**3**) S.R. 2000 No. 318 as amended by S.R. 2001 No. 184 and S.R. 2005 No. 341.
(**4**) S.R. 2000 No. 320 as amended by S.R. 2001 No. 184, S.R. 2003 No. 68, S.R. 2004 No. 315 and S.R. 2008 No. 56.

Interpretation and delegation

3.—(1) The Interpretation Act (Northern Ireland) 1954(**5**) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

"the 1996 Act" means the Police Act 1996(**6**);

"the 1998 Act" means the Police (Northern Ireland) Act 1998;

"the 2000 Act" means the Police (Northern Ireland) Act 2000(**7**);

"the Police Regulations" means the Police Service of Northern Ireland Regulations 2005(**8**);

"the Performance Regulations" means the Police (Performance and Attendance) Regulations (Northern Ireland) 2016(**9**);

"appeal hearing" means an appeal to a police appeals tribunal in accordance with the Police Appeals Tribunal Regulations (Northern Ireland) 2016(**10**);

"appeal meeting" means a meeting held in accordance with regulation 40 following a misconduct meeting;

"appropriate authority" means—

(a) where the member concerned is a senior officer, the Board;

(b) in any other case, the Chief Constable;

"appropriate standard" means the standard set out in the Code of Ethics;

"bank holiday" means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**11**) in Northern Ireland;

"the Board" means the Northern Ireland Policing Board;

"Code of Ethics" means the Code contained in the Schedule;

"complainant" means the person by, or on behalf of whom, the complaint is made;

"complaint" means a complaint about the conduct of a member of the police service which is made by, or on behalf of, a member of the public and which the Ombudsman has determined is a complaint to which section 52(4) of the 1998 Act applies;

"conduct" includes acts, omissions and statements (whether actual or alleged);

"criminal proceedings" means—

(a) any prospective criminal proceedings; or

(b) all criminal proceedings brought which have not been brought to a conclusion including the bringing and determination of any appeal against conviction;

"directed proceedings" means disciplinary proceedings directed by the Ombudsman in accordance with section 59(5) of the 1998 Act;

"disciplinary action" means, in order of seriousness starting with the least serious action—

(a) management advice;

(**5**) 1954 c. 33(N.I).
(**6**) 1996 c.16. Section 54 was amended by section 134 of the Police Act 1997, sections 102 and 137 of the Criminal Justice and Police Act 2001, sections 59 and 174 of the Serious Organised Crime and Police Act 2005, section 29 of the Police and Justice Act 2006, sections 1, 2 and 112 of the Policing and Crime Act 2009, sections 129 and 149 of the Criminal Justice and Immigration Act 2008 and section 83 of the Police Reform and Social Responsibility Act 2011.
(**7**) 2000 c.32.
(**8**) S.R. 2005 No. 547 to which there are amendments not relevant to these Regulations.
(**9**) S.R. 2016 No. 42.
(**10**) S.R. 2016 No. 43.
(**11**) 1971 c.80.

(b) a written warning;

(c) a final written warning;

(d) an extension to a final written warning as described in regulations 36(6)(b) and 54(3)(b);

(e) reduction in rank;

(f) dismissal with notice; or

(g) dismissal without notice;

"disciplinary proceedings" means, other than in paragraph (8), any proceedings under these Regulations and any appeal from misconduct proceedings or a special case hearing dealt with under the Police Appeals Tribunals Regulations (Northern Ireland) 2016;

"document" means anything in which information of any description is recorded and includes any recording of a visual image or images;

"gross misconduct" means a breach of the Code of Ethics where the misconduct is so serious that dismissal would be justified;

"harm test" has the meaning given to it in regulation 4;

"HMCIC" means Her Majesty's Chief Inspector of Constabulary appointed under section 54(1) of the 1996 Act (appointment and functions of inspectors of constabulary);

"informant" means a person who provides information to an investigation on the basis that his identity is not disclosed during the course of the criminal or disciplinary proceedings;

"interested party" means a person whose appointment could reasonably give rise to a concern as to whether he could act impartially under these Regulations;

"interested person" means a person whom the appropriate authority considers has a right to be kept informed about the handling of—

(a) a complaint; or

(b) a referred matter; or

(c) a matter being investigated by the Ombudsman of his own motion under section 55(6) of the 1998 Act; or

(d) an allegation that a member may have—

  (i) committed a criminal offence; or

  (ii) behaved in a manner which would justify the bringing of disciplinary proceedings;

"investigator" means a person who is—

(a) appointed under regulation 13; or

(b) an officer of the Ombudsman appointed under regulation 14(1); or

(c) a police officer appointed under regulation 14(2);

as the case may be;

"management action" means action or advice intended to improve the conduct of the member concerned;

"management advice" means words of advice imposed following misconduct proceedings or an appeal meeting;

"member" means a member of the police service;

"misconduct" means a breach of the Code of Ethics which—

(a) in the case of an investigation under section 56 of the 1998 Act, the Ombudsman has decided is not more properly dealt with as a performance matter; or

(b) in any other case, the appropriate authority has decided is not more properly dealt with as a performance matter;

"misconduct hearing" means a hearing to which the member concerned is referred under regulation 21 and at which he may be dealt with by disciplinary action up to and including dismissal;

"misconduct meeting" means a meeting to which the member concerned is referred under regulation 21 and at which he may be dealt with by disciplinary action up to and including a final written warning;

"misconduct proceedings" means a misconduct meeting or misconduct hearing;

"the member concerned" means the member in relation to whose conduct there has been an allegation;

"the Ombudsman" means the Police Ombudsman for Northern Ireland established by section 51 of the 1998 Act;

"personal record" means a personal record kept under regulation 15 of the Police Regulations (contents of personal records);

"police force" means the police service, a police force within the meaning of section 101 of the 1996 Act or the Police Service of Scotland, within the meaning of section 6 of the Police and Fire Reform (Scotland) Act 2012(**12**);

"police friend" means a person chosen by the member concerned in accordance with regulation 6;

"police officer" means a member of a police force;

"the police service" means the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

"police support staff" has the same meaning as in section 4(6) of the 2000 Act;

"proposed witness" means a witness whose attendance at the misconduct proceedings the member concerned or the appropriate authority (as the case may be) wishes to request of the person conducting or chairing those proceedings;

"referred matter" means a matter referred to the Ombudsman under section 55 of the 1998 Act;

"senior officer" means a member above the rank of chief superintendent;

"special case hearing" means a hearing to which the member concerned is referred under regulation 42 after the case has been certified as a special case;

"special case proceedings" means the referral of a case to a special case hearing and any proceedings at or in connection with such a hearing;

"staff association" means—

(a) in relation to a member of the rank of chief inspector or below, the Police Federation for Northern Ireland;

(b) in relation to a member of the rank of superintendent or chief superintendent, the Police Superintendents' Association for Northern Ireland; and

(c) in relation to a member who is a senior officer, the Chief Police Officers' Staff Association;

"transcript" includes a record of proceedings in digital format;

"working day" means any day other than a Saturday or Sunday or a day which is a bank holiday or a public holiday in Northern Ireland.

(**12**) 2012 asp 8.

(3) In these Regulations—

(a) a reference to a copy of a statement shall, where it was not made in writing, be construed as a reference to a copy of an account of that statement;

(b) the "special conditions" are that—

(i) there is sufficient evidence, in the form of written statements or other documents, without the need for further evidence, whether written or oral, to establish on the balance of probabilities that the conduct of the member concerned constitutes gross misconduct; and

(ii) it is in the public interest for the member concerned to cease to be a member without delay.

(4) For the purposes of these Regulations—

(a) a written warning shall remain in force for a period of 12 months from the date on which it takes effect; and

(b) subject to regulations 36(6)(b) and 54(3)(b), a final written warning shall remain in force for a period of 24 months from the date on which it takes effect.

(5) The reference to the period of—

(a) 12 months in paragraph (4)(a); and

(b) 24 months in paragraph (4)(b) and 18 months in regulations 36(7) and 54(4),

shall not include any time when the member concerned is taking a career break (under regulation 32(13) of the Police Regulations (leave) and the determination of the Department of Justice made under that regulation).

(6) Where the appropriate authority is the Chief Constable, he may, subject to paragraph (7), delegate any of his functions under these Regulations to a member of at least the rank of chief inspector.

(7) Where the Chief Constable delegates his functions under regulation 10 or 42, the decisions shall be taken by a senior officer.

(8) Any proceedings under these Regulations are disciplinary proceedings for the purposes of section 50(1) of the 1998 Act (interpretation).

The harm test

4. Information in documents which are stated to be subject to the harm test under these Regulations shall not be supplied to the member concerned in so far as the appropriate authority considers that preventing disclosure to him is—

(a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to or may be used in, any criminal proceedings;

(b) necessary in the interests of national security;

(c) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;

(d) necessary for the purpose of the prevention or detection of misconduct by other members or a member of the police support staff or their apprehension for such matters;

(e) justified on the grounds that providing the information would involve disproportionate effort in comparison to the seriousness of the allegations against the member concerned;

(f) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or

(g) otherwise in the public interest.