STATUTORY RULES OF NORTHERN IRELAND

2010 No. 47

POLICE

Police (Unsatisfactory Performance and Attendance) Regulations (Northern Ireland) 2010

Made - - - - 21st February 2010

To be laid before Parliament

Coming into operation 24th March 2010

The Secretary of State, in exercise of the powers conferred by sections 25, 26 and 72(2) of the Police (Northern Ireland) Act 1998(**1**), makes the following Regulations:

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

PART 1

GENERAL

Citation and commencement

1. These regulations may be cited as the Police (Unsatisfactory Performance and Attendance) Regulations (Northern Ireland) 2010 and shall come into operation on 24th March 2010.

Revocation and transitional arrangements

2.—(1) Subject to paragraph (2), the Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007(**2**) are revoked.

(2) Any action commenced under the Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007 shall continue to be actioned under these regulations.

(**1**) 1998 c.32. Sections 25 and 26 are amended by section 78(1) of and paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000.
(**2**) S.R. 2007 No.130.

Interpretation

3.—(1) In these regulations—

"assistant chief constable" means a member of that rank who is required by the Chief Constable to exercise any function of the assistant chief constable specified in these regulations in relation to the member concerned and shall include a member acting in place of the assistant chief constable;

"countersigning officer" means—

(a) a member of a rank not lower than that of inspector who has supervisory responsibility for, and is at least one rank above that of, the member concerned, or

(b) a person employed under section 4 of the Police (Northern Ireland) Act 2000(**3**) ("the 2000 Act") who has supervisory responsibility for the reporting officer;

"deputy chief constable" means a member of that rank who is required by the Chief Constable to exercise any function of the deputy chief constable specified in these regulations in relation to the member concerned and shall include a member acting in place of the deputy chief constable;

"first interview" means an interview arranged under regulation 6;

"human resources manager" means a person employed under section 4 of the 2000 Act or a member who, in either case, has responsibility for personnel matters relating to members;

"interviewing officer" means the member who conducts an interview arranged under regulation 6;

"member" means a member of the Police Service of Northern Ireland; or a member of the Police Service of Northern Ireland Reserve appointed on a full-time basis;

"member concerned" means a member to whom these regulations apply and in respect of whom proceedings under these regulations are, or are proposed to be, taken;

"police appeals tribunal" means the person or persons appointed under regulation 8(1) or (3) of the Royal Ulster Constabulary (Appeals) Regulations 2000(**4**);

"police force" means the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve, a police force within the meaning of the Police Act 1996(**5**) or a police force within the meaning of the Police (Scotland) Act 1967(**6**);

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

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

"reporting officer" means the member of a rank not lower than that of a sergeant or a person employed under section 4 of the 2000 Act who in either case has the immediate supervisory responsibility for the member concerned;

"second interview" means an interview arranged under regulation 10;

"senior officer" means an officer of the rank of chief constable, deputy chief constable or assistant chief constable;

"staff association" means a police officer representative body;

"unsatisfactory attendance" means a level of absence which the Chief Constable has determined is unacceptable or unsustainable;

(**3**) 2000 c.32. Section 4 is amended by Article 9(2) of the Policing (Miscellaneous Provisions)(Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6))
(**4**) S.R. 2000 No. 317. Regulation 8(1) was amended by S.R. 2003 No. 399.
(**5**) 1996 c. 16.
(**6**) 1967 c. 77.

"unsatisfactory performance" means failure to carry out the role of a police officer to the agreed standard;

"unsatisfactory performance or attendance hearing" means a hearing arranged under regulation 14.

(2) In these regulations—

(a) "unsatisfactory performance or attendance" may be construed as a reference to either unsatisfactory performance or unsatisfactory attendance or both;

(b) "performance or attendance" may be construed as a reference to performance or attendance or both.

Application

4. These regulations shall not apply to—

(a) senior officers; or

(b) members of the rank of constable who have not yet completed their period of probation.

PART 2

FIRST INTERVIEW

Circumstances in which a first interview may be required

5.—(1) Where the reporting officer for a member is a member himself and the member's attendance is unsatisfactory or the reporting officer is of the opinion that the member's performance is unsatisfactory, he may require the member concerned to attend an interview (in these regulations referred to as the first interview) to discuss the performance or attendance of the member concerned.

(2) Where the reporting officer for a member is a person employed under section 4 of the 2000 Act and the attendance of the member is unsatisfactory, he may require the member concerned to attend an interview (in these regulations referred to as the first interview) to discuss the attendance of the member concerned.

(3) Where the reporting officer for a member is a person employed under section 4 of the 2000 Act, any other member who has supervisory responsibility for the member first mentioned in paragraph (1) may, if he is of the opinion that the performance of the member is unsatisfactory, require him to attend an interview (in these regulations referred to as the first interview) to discuss his performance, and in such a case references in these regulations to a reporting officer shall be taken to include references to the member with that supervisory responsibility.

Arrangement of the first interview

6.—(1) Where a member is required to attend a first interview the reporting officer shall—

(a) send a notice in writing to the member concerned—

(i) requiring him to attend, at a specified time and place, an interview with the reporting officer conducted under this Part or, if the member concerned so requests, but subject to paragraph (4), with the countersigning officer;

(ii) stating the reasons why his performance or attendance is considered unsatisfactory; and

(iii) informing him that he may be accompanied and represented at the interview by a member selected by him; and

(b) send a copy of the notice to the countersigning officer.

(2) A member who receives a notice pursuant to paragraph (1) may, not later than 7 days (or such longer period as the reporting officer may permit when sending the notice under paragraph (1)(a)) after the date on which the notice was sent to him, request by notice in writing to the reporting officer that the interview be conducted by the countersigning officer.

(3) If the reporting officer receives a notification under paragraph (2), he shall, subject to paragraph (4), arrange for the interview to be conducted by the countersigning officer.

(4) In any case where it is not reasonably practicable for the reporting officer or the countersigning officer to conduct the first interview, another member of the same or higher rank may conduct the interview in his place.

Procedure at first interview

7.—(1) The following provisions of this regulation shall apply to the procedure to be followed at first interview.

(2) The interviewing officer shall—

(a) explain to the member concerned the reasons why the member's attendance is unsatisfactory or why the reporting officer is of the opinion that the member's performance is unsatisfactory; and

(b) provide the member concerned with a full opportunity to make representations in response.

(3) If, after considering any representations made by the member concerned, the interviewing officer is satisfied that the member's performance or attendance has been unsatisfactory, he shall—

(a) inform the member in what respect his performance or attendance is considered unsatisfactory;

(b) warn him that he is required to improve his performance or attendance in any such respect;

(c) inform him of any specific action which he is required to take to achieve such improvement; and

(d) warn him that if sufficient improvement is not made within such period as the interviewing officer shall specify, he may be required to attend a second interview in accordance with regulation 10.

(4) The interviewing officer may, if he considers it appropriate, recommend that the member concerned seek assistance in relation to any matter affecting his health or welfare.

(5) The interviewing officer may adjourn the interview to a specified later time or date if it appears necessary or expedient to do so.

Procedure following first interview

8.—(1) The interviewing officer shall, not later than 7 days after the date of the conclusion of the first interview—

(a) cause to be prepared a written record of the substance of the matters discussed during the interview; and

(b) send a copy of that record to the member concerned together with a notice in writing informing him that he may submit written comments not later than 7 days after the date on which the copy is received.

(2) In a case where a member has been required to attend a first interview to discuss his performance or attendance and he has failed to attend the interview, the interviewing officer shall, if he is satisfied that the performance or attendance of the member concerned is unsatisfactory, not later than 7 days after the date on which the first interview was due to take place—

(a) cause to be prepared a written notice informing and warning the member concerned of the matters mentioned in sub-paragraphs (a) to (c) of regulation 7(3); and

(b) send one copy or, where a member selected by the member concerned attended the interview, two copies, of the notice to the member concerned together with a notice in writing informing him that he may submit written comments, or indicate that he has no comments to make, not later than 7 days after the date on which the copy is received.

(3) Where the interviewing officer is satisfied that the member has good reason for not attending the first interview he may withdraw the notice prepared under paragraph (2) and arrange another first interview.

(4) Subject to paragraph (5), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the interviewing officer not later than 7 days after the date on which it is received.

(5) The interviewing officer may, on application of the member concerned, extend the period specified in paragraph (4) if he is satisfied that it is appropriate to do so.

(6) The interviewing officer shall send a copy of the record of the interview, and of any written comments of the member concerned, to—

(a) the human resources manager; and

(b) if the interview was conducted by—

(i) the reporting officer, the countersigning officer;

(ii) the countersigning officer, the reporting officer; or

(iii) any other officer, the reporting officer and the countersigning officer.

(7) If the interviewing officer receives any written comments under paragraph (4), he shall ensure that they are retained with the record of the interview.

(8) Where a member has been required to attend a first interview in relation to his performance or attendance any second interview shall relate only to the category or categories of behaviour that was or were the subject of the first interview.

PART 3

SECOND INTERVIEW

Circumstances in which a second interview may be required

9.—(1) Where a member who was warned under regulation 7(3)(b) has not made sufficient improvement by the end of the period specified by the interviewing officer under regulation 7(3)(d), the reporting officer may refer the case to the countersigning officer.

(2) Where a case is referred under paragraph (1) the countersigning officer may, after consultation with the human resources manager, require the member concerned to attend a further interview (in these regulations referred to as the second interview) to discuss the performance or attendance of the member concerned.

Arrangement of second interview

10.—(1) Where a member is required to attend a second interview the countersigning officer shall—

(a) send a notice in writing to the member concerned—