STATUTORY RULES OF NORTHERN IRELAND

2004 No. 122

POLICE

The Police Service of Northern Ireland (Secondment) (Garda Síochána) Regulations 2004

Made - - - -	*11th March 2004*
To be laid before Parliament	
Coming into operation	*30th April 2004*

The Secretary of State, in pursuance of sections 25, 27 and 33 of the Police (Northern Ireland) Act 1998(**1**), after consulting the Northern Ireland Policing Board and the Police Association for Northern Ireland in accordance with section 25(8) of that Act, and after taking into account the recommendations made by the Police Negotiating Board for the United Kingdom and supplying that Board with a draft of the regulations in accordance with section 62(1) of the Police Act 1996(**2**), hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1.—(1) These regulations may be cited as the Police Service of Northern Ireland (Secondment) (Garda Síochána) Regulations 2004.

(2) These regulations shall come into operation on 30th April 2004.

Interpretation

2.—(1) Any reference in these regulations to a member seconded from the Garda Síochána is a reference to a person –

(a) who is appointed to the Police Service of Northern Ireland under section 36A(1) of the Police (Northern Ireland) Act 2000(**3**) (fixed-term appointments to the PSNI), and

(b) who is a member of the Garda Síochána at the time of the appointment.

(**1**) 1998 c. 32. Section 25 was modified by the Police (Northern Ireland) Act 1998 (Modification) Order 2003 (S.R. 2003 No. 376)
(**2**) 1996 c. 16
(**3**) 2000 c. 32. Section 36A was inserted by the Police (Northern Ireland) Act 2003

(2) In these regulations –

"the 1996 regulations" means the Royal Ulster Constabulary Regulations 1996(**4**);

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

"breach of Garda Síochána discipline" means a breach of discipline according to the law and procedure for the time being governing the discipline of members of the Garda Síochána;

"the conduct regulations" means the Royal Ulster Constabulary (Conduct) Regulations 2000(**5**);

"the Garda Síochána investigation" means, in relation to a member whose case is referred to a supervising member under regulation 14, the investigation mentioned in paragraph (1) of that regulation;

"the inter-governmental agreement" means the agreement of 29th April 2002 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland on police co-operation;

"relevant service" has the same meaning as in section 27 of the 1998 Act.

PART II

SECONDMENTS FROM THE GARDA SÍOCHÁNA

Efficiency and effectiveness of seconded officers

3.—(1) Where a candidate for appointment under section 36A(1) of the Police (Northern Ireland) Act 2000 is a member of the Garda Síochána, the Chief Constable shall not make the appointment unless he is satisfied that the candidate –

(a) is fitted physically and mentally to perform the duties of a member of the Police Service of Northern Ireland, and

(b) is likely to become an efficient and well-conducted member of the Police Service of Northern Ireland.

(2) The Chief Constable shall make arrangements for such training as he considers appropriate for the purposes of ensuring that a member seconded from the Garda Síochána is able to perform the duties of his office efficiently and effectively.

Appointment of seconded officers

4. Where a member of the Garda Síochána is appointed to the Police Service of Northern Ireland under section 36A(1) of the Police (Northern Ireland) Act 2000, the appointment is subject to the provisions of any such protocols, addressing detailed aspects of secondments from the Garda Síochána to the Police Service of Northern Ireland, as may be signed under Article 3 of the inter-governmental agreement.

Seconded officers not eligible for promotion

5. A member who is seconded from the Garda Síochána and appointed to a rank in the Police Service of Northern Ireland under section 36A(1) of the Police (Northern Ireland) Act 2000 shall not be eligible for any promotion to a higher rank.

(**4**) S.R. 1996 No. 473, as amended by S.R. 1997 No. 362, S.R. 1999 No. 412, S.R. 2000 No. 316, S.R. 2002 No. 95, S.R. 2003 No. 184 and S.R. 2003 No. 372

(**5**) S.R. 2000 No. 315, as amended by S.R. 2003 No. 68

Police Association for Northern Ireland

6. In regulation 5 of the Police Association for Northern Ireland Regulations 1991(**6**) (every member of the police force shall be a member of the Police Association) after "force" insert "(other than a member seconded from the Garda Síochána (within the meaning of the Police Service of Northern Ireland (Secondment) (Garda Síochána) Regulations 2004))".

Conditions of service

7. The 1996 regulations shall not apply in relation to any member seconded from the Garda Síochána, except as provided by Schedule 1.

Conduct

8.—(1) In relation to any member seconded from the Garda Síochána, the conduct regulations shall have effect with the modifications set out in Schedule 2.

(2) The Royal Ulster Constabulary (Appeals) Regulations 2000(**7**) shall not apply in relation to any member seconded from the Garda Síochána.

Notices about misconduct cases

9.—(1) Where the Chief Constable suspends a member seconded from the Garda Síochána under regulation 5 of the conduct regulations, the Chief Constable shall notify the Commissioner of the Garda Síochána in writing of the suspension.

(2) Where an officer appointed under regulation 8 of the conduct regulations ("the investigating officer") gives notice under regulation 9 of those regulations to a member seconded from the Garda Síochána of the matters mentioned in regulation 9(a) of those regulations, the investigating officer shall send a copy of the notice to the Commissioner of the Garda Síochána.

(3) Where the investigating officer appointed to investigate a case relating to the conduct of a member seconded from the Garda Síochána submits a report under regulation 10 of the conduct regulations, he shall send a copy of the report to the Commissioner of the Garda Síochána.

(4) Where an officer to whom a case is referred under regulation 7 of the conduct regulations gives notice to a member seconded from the Garda Síochána under regulation 13(1) of the conduct regulations of a decision to refer the case to a hearing, he shall send to the Commissioner of the Garda Síochána –

(a) a copy of the notice, and

(b) copies of anything supplied to the member under regulation 13(1).

(5) At the conclusion of any hearing under the conduct regulations the presiding officer or (in a directed hearing) the Chief Constable shall inform the Commissioner of the Garda Síochána in writing of the finding and shall send to the Commissioner a copy of the record of the hearing taken under regulation 30 of those regulations.

(6) The Chief Constable may delegate any of his functions under paragraph (1) or (5) to another senior officer.

Members of the Garda Síochána whose appointment to the PSNI has ended

10.—(1) The conduct regulations shall apply to any person –

(a) who was a member seconded from the Garda Síochána,

(**6**) S.R. 1991 No. 168
(**7**) S.R. 2000 No. 317

(b) whose appointment under section 36A(1) of the Police (Northern Ireland) Act 2000 has ended, and

(c) who remains a member of the Garda Síochána,

as if he were still a member seconded from the Garda Síochána, subject to the modifications set out in paragraphs (2) to (4).

(2) In regulation 5(3) after "paragraph (2)(a) to (d)" there shall be inserted "or until the member concerned ceases to be a member".

(3) Any reference to the rank of the member concerned shall be construed as –

(a) a reference to the rank which he held under the appointment referred to in paragraph (1)(b), or

(b) (if higher) the rank which is designated by the Secretary of State for the purposes of this regulation as the rank in the Police Service of Northern Ireland corresponding to the rank which the member holds for the time being in the Garda Síochána.

(4) Any reference to the sub-division or branch in which a member under investigation is serving includes a reference to any sub-division or branch in which the member served during the appointment referred to in paragraph (1)(b).

Pensions and injury benefit

11. The regulations relating to Police Service of Northern Ireland pensions and injury benefit for the time being in force shall not apply in relation to any service as a member seconded from the Garda Síochána.

Unsatisfactory performance

12. The Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000(**8**) shall not apply in relation to any member seconded from the Garda Síochána.

PART III

SECONDMENTS TO THE GARDA SÍOCHÁNA

Conduct of member on relevant service with Garda Síochána

13. Where an investigation is carried out in accordance with the law and procedure for the time being governing the discipline of members of the Garda Síochána into whether any conduct by a member of the Police Service of Northern Ireland engaged on relevant service with the Garda Síochána amounts to a breach of Garda Síochána discipline, any requirement imposed on the member under that law and procedure shall be treated as imposed under the conduct regulations.

Supervising member

14.—(1) Where the Chief Constable is notified that an investigation is being or has been carried out by the Garda Síochána into an alleged breach of Garda Síochána discipline by a member engaged on relevant service with the Garda Síochána ("the member concerned"), he may refer the case to an officer ("the supervising member") to supervise the consideration of the question of imposing any sanction.

(**8**) S.R. 2000 No. 316

(2) A supervising member must satisfy the conditions in regulation 7(3) of the conduct regulations.

(3) The Chief Constable shall supply to the supervising member any report, notice or other document which he receives from the Garda Síochána in connection with the case.

Referring case to hearing

15.—(1) The supervising member to whom a case is referred under regulation 14 shall decide whether to refer a case to a hearing on the question of whether to impose a sanction.

(2) The supervising member shall not decide to refer a case to a hearing until he has been informed –

(a) that a decision has been taken –

(i) at a hearing under the law and procedure for the time being governing the discipline of members of the Garda Síochána, or

(ii) on appeal against the finding of such a hearing,

that the conduct of the member concerned was a breach of Garda Síochána discipline, and

(b) that –

(i) no appeal lies against the decision, or

(ii) if leave to appeal against the decision is required, leave is refused or the time to apply for leave has expired without leave being granted, or

(iii) if leave to appeal against the decision is granted or is not required, the time to appeal against the finding has expired without any appeal being brought.

(3) Where the supervising member is informed that a decision has been taken not to refer the case to a hearing under the law and procedure for the time being governing the discipline of members of the Garda Síochána, the supervising member shall not refer the case to a hearing.

(4) Where the supervising member decides not to refer the case to a hearing, no reference to the case shall be made on the personal record of the member concerned.

(5) Where the supervising member decides to refer the case to a hearing –

(a) the Garda Síochána investigation, and any steps taken in relation to it, shall be treated as having been carried out by an investigating officer appointed under regulation 8 of the conduct regulations;

(b) any hearing –

(i) to which the case is referred under the law and procedure for the time being governing the discipline of members of the Garda Síochána, or

(ii) on an appeal from such a hearing,

and any steps taken in relation to either such hearing, shall be treated as having been carried out in accordance with regulations 13 to 30 of the conduct regulations; and

(c) any decision of such a hearing that the member concerned did commit a breach of Garda Síochána discipline shall be treated as a decision taken under regulation 23(3) of the conduct regulations that his conduct did not meet the appropriate standard.

Withdrawal of case

16.—(1) At any time before the beginning of the hearing the supervising member to whom a case is referred under regulation 14 may direct that the case be withdrawn.