

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about investigations which may be carried out by the Police Investigations and Review Commissioner (“the Commissioner”) under Chapter 2 of Part 1 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the 2006 Act”) as amended by Chapter 10 of Part 1 of the Police and Fire Reform (Scotland) Act 2012.

Regulation 3 places a duty on the chief constable of the Police Service of Scotland (“the chief constable”) and the Scottish Police Authority (“the Authority”) to request the Commissioner to investigate incidents involving constables or staff under their control where those are “serious incidents” within the meaning given by the 2006 Act (subject to certain exceptions).

Regulation 4 establishes what the Commissioner must do on receipt of a request from the Authority or the chief constable to carry out a serious incident investigation, whether that request has been made in exercise of the duty in regulation 3 or not. In particular, this regulation grants the Commissioner discretion not to carry out an investigation following a reference from the Authority or chief constable, unless the incident referred involves the death of an individual following contact with a person serving with the police (in which case the Commissioner must investigate).

Regulation 5 places duties on the Authority and the Police Service to co-operate with and assist the Commissioner in specified ways.

Regulation 6 specifies a category of “serious incident” for the purposes of section 41B(1)(c) the 2006 Act.

Regulation 7 specifies a police baton as a weapon for the purposes of section 41B(1)(b)(ii) of the 2006 Act with the effect that use of such a baton is a serious incident which may be investigated by the Commissioner.