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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 118**

**The Police Investigations and Review Commissioner  
(Investigations Procedure, Serious Incidents  
and Specified Weapons) Regulations 2013**

**Citation and commencement**

1. These regulations may be cited as the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013 and come into force on 1st April 2013.

**Interpretation**

2. In these regulations “the 2006 Act” means the Police, Public Order and Criminal Justice (Scotland) Act 2006(1).

**Duty to refer to the Commissioner**

3.—(1) The chief constable must request the Commissioner to investigate any serious incident involving the police which is a circumstance involving—

- (a) a constable; or
- (b) a member of the police staff.

(2) The Authority must request the Commissioner to investigate any serious incident involving the police which is a circumstance involving a member of the Authority’s staff.

(3) This regulation does not apply to—

- (a) a circumstance mentioned in regulation 6; or
- (b) a circumstance in or in consequence of which a person serving with the police has used a weapon specified in regulation 7.

**Investigation of serious incidents**

4.—(1) Where the Commissioner receives a request from the Authority or the chief constable to investigate a serious incident involving the police (whether in pursuance of regulation 3 or otherwise) the Commissioner must—

- (a) decide whether to carry out an investigation; and
- (b) inform the Authority or (as the case may be) the chief constable of that decision.

(2) The Commissioner need not carry out an investigation of any serious incident involving the police unless—

- (a) it is a circumstance in or in consequence of which a person has died where—

- (i) the person, at or before the time of death, had contact (directly or indirectly) with a person serving with the police acting in the execution of that person's duties; and
- (ii) there is an indication that the contact may have caused (directly or indirectly) or contributed to the death; or

(b) the Commissioner otherwise decides that such an investigation is necessary.

(3) Where the Commissioner decides not to carry out an investigation the Commissioner may refer the matter back to the person who requested the investigation with such recommendations as are considered appropriate.

### **Co-operation and assistance**

**5.**—(1) A relevant person must, where required to do so by the Commissioner for the purposes of an investigation under section 33A(c) or (d) of the 2006 Act(2)—

- (a) produce, in a form acceptable to the Commissioner, any document, record or other information the Commissioner may require;
- (b) permit the Commissioner or a member of the investigation staff to—
  - (i) enter any premises which are used by the Authority or the Police Service;
  - (ii) inspect those premises and anything on those premises which the Commissioner or, as the case may be, member of the investigation staff considers to be relevant to the investigation; and
  - (iii) remove from those premises anything which the Commissioner or, as the case may be, member of the investigation staff considers to be relevant to the investigation; and
- (c) provide such other assistance as the Commissioner may reasonably require.

(2) In this regulation—

- (a) “relevant person” means—
  - (i) the Authority;
  - (ii) any member of the Authority's staff;
  - (iii) any constable; and
  - (iv) any member of the police staff; and
- (b) “member of the investigation staff” means a member of the staff of the Commissioner designated under paragraph 7B(1) of schedule 4 to the 2006 Act(3).

### **Circumstance which is a serious incident**

**6.** Any circumstance in which a person serving with the police has, acting in the execution of that person's duties, used any item to—

- (a) attempt to cause a member of the public a serious injury; or
- (b) cause or attempt to cause a member of the public an injury which is not serious,

is specified for the purposes of section 41B(1)(c) of the 2006 Act.

### **Specified weapon**

**7.** A straight, side-handled or friction lock truncheon (sometimes known as a baton) is a weapon for the purposes of section 41B(1)(b)(ii) of the 2006 Act.

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(2) Section 33A is inserted by section 62 of the Police and Fire Reform (Scotland) Act 2012 (asp 8).

(3) Paragraph 7B(1) is inserted by paragraph 33(17) of schedule 7 to the Police and Fire Reform (Scotland) Act 2012 (asp 8).

St Andrew's House,  
Edinburgh  
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