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STATUTORY INSTRUMENTS

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**1999 No. 1074**

**The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999**

**Preliminary investigation procedure**

5.—(1) Subject to paragraphs (2) to (4), where a report, allegation or complaint is received from which the police authority considers that it may reasonably be inferred that an act or omission of a senior officer amounts, or may amount, to misconduct, the police authority for the force of which that officer is a constable shall appoint an investigating officer to investigate the matter.

(2) Where in the opinion of the police authority a report, allegation or complaint is received which—

- (a) appears to relate, or may relate, to an act or omission of a senior officer; but
- (b) does not contain sufficient particulars to enable the police authority to determine whether there is a reasonable inference that an act or omission of a senior officer amounts, or may amount, to misconduct,

the police authority may take such steps as it considers reasonable to obtain further particulars.

(3) Where in the opinion of the police authority a report, allegation or complaint is received which—

- (a) appears to relate, or may relate, to an act or omission of a senior officer and which alleges, or appears to allege, that the act or omission amounts to misconduct; but
- (b) does not contain any allegation of an act or omission of a senior officer which would, if proven, amount to misconduct on his part,

the police authority may make a finding to that effect and decide that no action shall be taken under these Regulations against the senior officer concerned in relation to the matter, and in that case the police authority shall forthwith notify the senior officer and the complainer in writing.

(4) Where in the case of any report, allegation or complaint referred to in paragraph (1) the police authority considers that it—

- (a) is unfounded or frivolous in nature; or
- (b) contains allegations of acts or omissions of a senior officer which would, if proven, amount to misconduct of a minor or trivial nature only,

the police authority may make a finding to that effect and decide that no action shall be taken under these Regulations in relation to the matter and in particular that an investigating officer shall not be appointed, and in that case the police authority shall forthwith notify the senior officer in writing.

(5) Where an investigating officer requires to be appointed, he shall be a chief constable of a police force in Scotland other than the force of which the senior officer is a member.

(6) The police authority shall not appoint as an investigating officer any chief constable who it appears to it may be a material witness or is interested in the matter otherwise than as a member of a police force and, accordingly, it shall require any chief constable whom it considers for appointment, and that chief constable shall declare, whether he is such a witness or is so interested before the appointment is made.

(7) Subject to regulation 9, as soon as practicable after being appointed, the investigating officer shall—

(a) cause to be prepared an investigation form—

(i) containing a statement of the report, allegation or complaint;

(ii) informing the senior officer that although he is not obliged to do so following receipt of the form, he may make a written or oral statement concerning the matter to the investigating officer and provide the names and addresses of any persons whom he may wish to give evidence; and

(iii) warning him that such a statement may be used in evidence in any subsequent misconduct proceedings; and

(b) send a copy of the investigation form to the senior officer.

(8) Paragraph (7)(a)(ii) is without prejudice to any obligation on the senior officer to make a written or oral statement in the ordinary course of duty.