

## SCHEDULE 2

Regulation 39

### SPECIAL CASES

#### PART I

#### CONDITIONS

- 1.—(1) The conditions referred to in regulation 39 are—
- (a) the report, complaint or allegation indicates that the conduct of the member concerned is of a serious nature and that an imprisonable offence may have been committed by the member concerned; and
  - (b) the conduct is such that, were the case to be referred to a hearing under regulation 11 and the officers conducting that hearing were to find that the conduct failed to meet the appropriate standard, they would in the opinion of the appropriate officer be likely to impose the sanction specified in regulation 31(1)(a) (dismissal from the force); and
  - (c) the report, complaint or allegation is supported by written statements, documents or other material which is, in the opinion of the appropriate officer, sufficient without further evidence to establish on the balance of probabilities that the conduct of the member concerned did not meet the appropriate standard; and
  - (d) the appropriate officer is of the opinion that it is in the public interest for the member concerned to cease to be a member of a police force without delay.
- (2) In this paragraph an “imprisonable offence” means an offence which is punishable with imprisonment in the case of a person aged 21 or over.

#### PART II

#### MODIFICATIONS

2. For regulations 12 and 13 there shall be substituted the following regulations:
- “12. At any time before the beginning of the hearing the appropriate officer may direct that the case be returned to the supervising officer.
- 13.—(1) The appropriate officer shall ensure that, as soon as practicable, the member concerned is invited to an interview with the appropriate officer at which he shall be given written notice of the decision to refer the case to a hearing and supplied with copies of—
- (a) the certificate issued under regulation 11(3)(b)(i);
  - (b) any statement he may have made to the investigating officer; and
  - (c) any relevant statement, document or other material obtained during the course of the investigation.
- (2) The notice given under paragraph (1) shall specify the conduct of the member concerned which it is alleged failed to meet the appropriate standard and the paragraph of the Code of Conduct in respect of which the appropriate standard is alleged not to have been met.
- (3) In this regulation any reference to a copy of a statement shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (4) Where the member concerned fails or is unable to attend the interview referred to in paragraph (1), the notice and copy document referred to in that paragraph shall be—
- (a) delivered to the member concerned personally, or
  - (b) left with some person at, or sent by recorded delivery to, the address at which he is, with the approval of the chief constable, residing.”
3. For regulations 15 and 16 there shall be substituted the following regulations:
- “15. The appropriate officer shall fix a date for the hearing which shall be not less than 21 and not more than 28 days from the date on which notice is given under regulation 13 and shall ensure that the member concerned is forthwith notified of the time, date and place of the hearing.
16. The appropriate officer shall cause the member concerned to be given notice in writing, at the same time as he is given notice of the hearing under regulation 15, of the opportunity to elect to be legally represented at the hearing and of the effect of section 84(1) to (3) of the 1996 Act.”
4. In regulation 17 (procedure on receipt)—
- (a) in paragraph (1), for the words from “on which he is notified” to the end there shall be substituted the words  
“on which he receives the documents referred to in regulation 13—
  - (a) whether or not he accepts that his conduct did not meet the appropriate standard; and
  - (b) whether he wishes to be legally represented at the hearing”; and
  - (b) paragraphs (2) and (3) shall be omitted.
5. For regulation 18 there shall be substituted the following regulation:
- “18.—(1) Subject to paragraph (2), a case which is referred to a hearing under regulation 11(3)(b)(i) shall be heard by the chief officer concerned.
- (2) Where the chief officer concerned is an interested party, the case shall be heard by the chief officer of another force who has agreed to act in that capacity.”
6. Regulation 19 shall be omitted.
7. In regulation 20 (documents to be supplied to officers conducting the hearing), for “officers” there shall be substituted “officer” and for paragraphs (a) and (b) there shall be substituted the words “copy of the notice given, and of any documents provided to the member concerned, under regulation 13”.
8. In regulation 21 (representation), in paragraph (1) for “supervising” there shall be substituted “appropriate”.
9. For regulation 22 (conduct of hearing) there shall be substituted the following regulation—
- “22. The officer conducting the hearing may adjourn if it appears to him to be necessary or expedient to do so; but
- (a) shall not exercise the power to adjourn more than once; and
  - (b) shall not adjourn for longer than a period of one week or, on application by the member concerned, 4 weeks.”
10. In regulation 23 (procedure at hearing)—
- (a) for “officers” wherever occurring there shall be substituted “officer”; and

- (b) for “their” in paragraph (1) there shall be substituted “his”.
- 11.** In regulation 25 (attendance of complainant at hearing)—
- (a) in paragraph (2) for the words “paragraphs (3) and (5)” there shall be substituted “paragraph (5)” and the words “while witnesses are being examined, or cross-examined,” shall be omitted;
  - (b) paragraphs (3) and (4) and, in paragraph (5), the words “subject as aforesaid,” shall be omitted; and
  - (c) for the words “presiding officer” wherever they occur there shall be substituted “officer conducting the hearing”.
- 12.** In regulation 26 (attendance of others at hearing), paragraph (4) shall be omitted and for “presiding officer” there shall be substituted “officer conducting the hearing”.
- 13.** Regulation 27 shall be omitted.
- 14.** In regulation 28 (statements in lieu of oral evidence)—
- (a) in paragraph (1), the words “, or whether any question should or should not be put to a witness,” shall be omitted;
  - (b) in paragraph (2), for “13(1)” there shall be substituted “13(1) or (4)”;
  - (c) for the words “presiding officer” wherever they occur there shall be substituted “officer conducting the hearing”; and
  - (d) at the end there shall be added the following paragraph:
    - “(3) No witnesses shall be called by either party to the case.”.
- 15.** In regulation 29 (remission of cases)—
- (a) paragraphs (2)(b), (3) and (4) shall be omitted;
  - (b) for the words “presiding officer” wherever they occur there shall be substituted “officer conducting the hearing”; and
  - (c) at the end there shall be added the following paragraph:
    - “(6) The officer conducting the hearing may return the case to the supervising officer if, either before or during the hearing, the officer conducting the hearing considers it appropriate to do so.”.
- 16.** In regulation 30 (record of hearing) for “presiding officer” there shall be substituted “officer conducting the hearing”.
- 17.** In regulation 31(1) (sanctions) for “officers” there shall be substituted “officer”.
- 18.** In regulation 32 (personal record to be considered before sanction imposed)—
- (a) for “officers” there shall be substituted “officer”;
  - (b) in sub-paragraph (a) for the words from “may receive evidence” to the word “officers” there shall be substituted “may admit such documentary evidence as would in the opinion of the officer”; and
  - (c) in sub-paragraph (b) after the word “adduce” there shall be inserted “documentary”.
- 19.** In regulation 33 (notification of finding) for “three days” there shall be substituted “24 hours”.
- 20.** In regulation 34 (request for a review)—
- (a) in paragraph (1) for the words from “chief officer” to the end there shall be substituted “chief officer concerned to refer the case to the chief officer of another force who has

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

agreed to act in that capacity (“the reviewing officer”) to review the finding or the sanction imposed or both the finding and the sanction”; and

- (b) in paragraph (2), for the words “reviewing officer” in the first place where they occur there shall be substituted “chief officer concerned” and the words from “unless” to the end shall be omitted.

**21.** In regulation 36 (finding of the review)—

- (a) in paragraph (1), for “three days” there shall be substituted “24 hours”; and
- (b) at the end there shall be added the following paragraph:

“(5) Where the reviewing officer considers that the officer conducting the hearing should have returned the case to the supervising officer under regulation 29(6), he shall so return the case and the case shall thereafter be deemed to have been returned under that paragraph.”

**22.** Regulation 37 shall be omitted.