

2003 No. 2601

POLICE, ENGLAND AND WALES

The National Crime Squad (Dispensation from Requirement to Investigate Complaints) Regulations 2003

<i>Made</i> - - - - -	<i>14th October 2003</i>
<i>Laid before Parliament</i>	<i>16th October 2003</i>
<i>Coming into force</i> - -	<i>15th November 2003</i>

The Secretary of State, in exercise of the powers conferred on him by section 83 of the Police Act 1997(a), and after supplying a draft of these Regulations to the Police Advisory Board for England and Wales and taking into account their representations in accordance with section 63(3) of the Police Act 1996(b), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Crime Squad (Dispensation from Requirement to Investigate Complaints) Regulations 2003 and shall come into force on 15th November 2003.

Interpretation

2. In these Regulations—
- “the 1996 Act” means the Police Act 1996;
 - “the appropriate authority” means in relation to a member of the National Crime Squad—
 - (a) if he is an officer holding a rank above that of superintendent, the Service Authority for the National Crime Squad, and
 - (b) in any other case, the Director General of that Squad;
 - “the Authority” means the Police Complaints Authority;
 - “complaint” means a complaint made on or after 15th November 2003 to which Chapter 1 of Part 4 of the 1996 Act(c) applies; and “copy of a complaint”, in the case of a complaint made orally, shall include a copy of the record of a complaint; and
 - “complainant” means the member of the public by or on whose behalf a complaint is submitted.

(a) 1997 c. 50; section 83 was amended by section 25(5) of the Police Reform Act 2002 (c. 30).
(b) 1996 c. 16; section 63(3) was amended by section 134(1) of, and paragraphs 72, 83(1) and (3) of Schedule 9 to, the Police Act 1997 and by sections 90(5), 91(5) and 107(1) of, and paragraph 7 of Schedule 7 to, the Police Reform Act 2002.
(c) Chapter 1 of Part 4 of the Police Act 1996 is prospectively repealed by section 107(2) of, and Schedule 8 to, the Police Reform Act 2002 from a day to be appointed under section 108(2) thereof.

Dispensation from requirement to investigate complaints

3.—(1) The appropriate authority may request the Authority to dispense with the requirements of Chapter 1 of Part 4 of the 1996 Act (to the extent that they have not already been satisfied) as respects a complaint where it is of the opinion that paragraph (2) or (3) applies and that it is appropriate to do so.

(2) A complaint is an anonymous or a repetitious one within the meaning of paragraph 2 or 3 of the Schedule to these Regulations, or that a complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints, or that it is not reasonably practicable to complete the investigation of a complaint, within the meaning of paragraph 4 thereof.

(3) More than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay.

4.—(1) Any request made pursuant to regulation 3(1) shall be made in writing and shall be accompanied by—

- (a) a copy of the complaint;
- (b) a memorandum from the appropriate authority explaining the reasons for making the request;
- (c) where the appropriate authority is of the opinion that a complaint is a repetitious complaint and, as respects the previous complaint, the person then the complainant gave such notification as is mentioned in regulation 11 of the Police (Complaints) (General) Regulations 1985(a), a copy of that notification unless it has previously been sent to the Authority; and
- (d) where the appropriate authority is of the opinion that a complaint is a repetitious complaint and the previous complaint has been informally resolved in accordance with the provisions of section 83 of the Police Act 1997, a copy of the record of the outcome of the informal resolution procedure made under regulation 3 of the Police (Complaints) (Informal Resolution) Regulations 1985(b).

(2) If, after considering a request under this regulation, the Authority consider it appropriate, they may dispense with the requirements of Chapter 1 of Part 4 of the 1996 Act (to the extent that they have not already been satisfied) but they shall not reject such a request except after consultation with the appropriate authority.

(3) The Authority shall, as soon as may be practicable, notify the appropriate authority, in writing, of their decision on such a request and, where they dispense with the requirements of Chapter 1 of Part 4 of the 1996 Act (to the extent that they have not already been satisfied), shall inform the complainant of their action unless the complainant is an anonymous one or it otherwise appears to them to be not reasonably practicable so to inform him within a period which is reasonable in all the circumstances of the case.

Home Office
14th October 2003

Caroline Flint
Parliamentary Under-Secretary of State

(a) S.I. 1985/520.

(b) S.I. 1985/672; this Statutory Instrument was originally cited as the Police (Anonymous, Repetitious Etc. Complaints) Regulations 1985.

SCHEDULE

Regulation 3(2)

COMPLAINTS WHICH ARE ANONYMOUS, REPETITIOUS OR INCAPABLE OF INVESTIGATION

1.—(1) In this Schedule any reference to an injured person other than the complainant shall have effect only in the case of a complaint against a member of the National Crime Squad in respect of his conduct towards a person other than the complainant; and, in such a case, any such reference is a reference to that other person.

(2) In this Schedule any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.

2. For the purposes of regulation 3 a complaint is an anonymous one if, and only if, it discloses (or purports to disclose) neither the name and address of the complainant nor that of any other injured person and it is not reasonably practicable to ascertain such a name and address.

3.—(1) For the purposes of regulation 3 a complaint is a repetitious one if, and only if—

- (a) it is substantially the same as a previous complaint (whether made by or on behalf of the same or a different complainant);
- (b) it contains no fresh allegations which significantly affect the account of the conduct complained of;
- (c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and
- (d) such action as is referred to in sub-paragraph (2) has been taken as respects the previous complaint.

(2) The condition in sub-paragraph (1)(d) shall be satisfied if, as respects the previous complaint, either—

- (a) the requirements of section 75(4) and (5) of the 1996 Act were complied with;
- (b) the complaint was informally resolved in accordance with the provisions of section 83 of the Police Act 1997;
- (c) the complainant gave such notification as is mentioned in regulation 3(2)(c); or
- (d) the Authority, under regulation 3, dispensed with the requirements mentioned in paragraph (1) of that regulation.

4.—(1) For the purposes of regulation 3 it shall not be reasonably practicable to complete the investigation of a complaint if, and only if, in the opinion of the appropriate authority or, as the case may be, of the Authority, the circumstances in sub-paragraphs (2) or (3) apply.

(2) It is not reasonably practicable to communicate with the complainant or, as the case may be, the person who submitted the complaint, or any other injured person, notwithstanding that the complaint is not an anonymous one within the meaning of paragraph 2.

(3) It is not reasonably practicable to complete a satisfactory investigation in consequence of—

- (a) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation, or
- (b) a refusal or failure, on the part of an injured person other than the complainant, to support the complaint, evidenced either by a statement in writing (signed by him or by his solicitor or other authorised agent on his behalf) to the effect that he does not support it or by a refusal or failure, on his part, such as is mentioned in sub-paragraph (a) above, or
- (c) the lapse of time since the event or events forming the subject matter of the complaint.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the circumstances in which the Police Complaints Authority may grant a dispensation from the requirement to investigate complaints concerning the conduct of members of the National Crime Squad. The Regulations are modelled on the Regulations applicable to other police officers (the Police (Dispensation from Requirement to Investigate Complaints) Regulations 1985).

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