

2014 No. 2406

POLICE, ENGLAND AND WALES

**The Police (Complaints and Misconduct) (Amendment)
Regulations 2014**

<i>Made</i>	- - - -	<i>9th September 2014</i>
<i>Laid before Parliament</i>		<i>10th September 2014</i>
<i>Coming into force</i>	- -	<i>1st October 2014</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 29(1) of, and paragraph 28A(4) of Schedule 3 to, the Police Reform Act 2002(a).

In accordance with section 24 of that Act(b), the Secretary of State has consulted with the Independent Police Complaints Commission, such persons as appear to the Secretary of State to represent the views of police and crime commissioners, the Mayor's Office for Policing and Crime, the Common Council of the City of London, the Association of Chief Police Officers and such other persons as she thinks fit.

In accordance with section 63(3)(b) of the Police Act 1996(c), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration that Board's representations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police (Complaints and Misconduct) (Amendment) Regulations 2014 and come into force on 1st October 2014.

(2) These Regulations extend to England and Wales.

Amendment to the Police (Complaints and Misconduct) Regulations 2012

2.—(1) The Police (Complaints and Misconduct) Regulations 2012(d) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 29 insert—

(a) 2002 c. 30. Paragraph 28A was inserted by section 139 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).
(b) Section 24 was amended by section 6(1) of, and paragraph 12 of Schedule 4 to, the Police and Justice Act 2006 (c. 48), and section 99 of, and paragraphs 277 and 289 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).
(c) 1996 c. 16. Section 63(3) was substituted by section 59 of, and paragraph 78 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15) and section 10 of the Policing and Crime Act 2009 (c. 26).
(d) S.I. 2012/1204.

“Recommendations by the Commission and requirement to respond

29A.—(1) For the purposes of paragraph 28A(4)(a)(ii) of Schedule 3 to the 2002 Act (recommendation following receipt of report relating to specified conduct matter), the following conduct matters are specified—

- (a) a matter falling within paragraph 13(1)(a) of Schedule 3 to the 2002 Act;
- (b) a matter relating to—
 - (i) a serious assault, as defined in guidance issued by the Commission^(a);
 - (ii) a serious sexual assault, as defined in guidance issued by the Commission;
 - (iii) serious corruption, as defined in guidance issued by the Commission;
 - (iv) a criminal offence or behaviour which is liable to lead to misconduct proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person’s race, sex, religion, or other status identified in guidance by the Commission;
 - (v) a relevant offence;
 - (vi) conduct which took place in the same incident as one in which conduct falling within sub-paragraphs (i) to (v) took place; or
- (c) a matter in respect of which the Commission gives a notification to the appropriate authority under paragraph 13(1)(c) of Schedule 3 to the 2002 Act.

(2) For the purposes of paragraph 28A(4)(a)(iii) of Schedule 3 to the 2002 Act (recommendation following receipt of report relating to specified complaint), the following complaints are specified—

- (a) a complaint falling within paragraph 4(1)(a) of Schedule 3 to the 2002 Act;
- (b) a complaint alleging conduct which constitutes—
 - (i) a serious assault, as defined in guidance issued by the Commission;
 - (ii) a serious sexual assault, as defined in guidance issued by the Commission;
 - (iii) serious corruption, as defined in guidance issued by the Commission;
 - (iv) a criminal offence or behaviour which is liable to lead to misconduct proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person’s race, sex, religion, or other status identified in guidance by the Commission;
 - (v) a relevant offence;
- (c) a complaint which arises from the same incident as one in which any conduct falling within sub-paragraphs (a) or (b) took place; or
- (d) a complaint in respect of which the Commission gives a notification to the appropriate authority under paragraph 4(1)(c) of Schedule 3 to the 2002 Act.

(3) For the purposes of paragraph 28A(4)(b) of Schedule 3 to the 2002 Act (recommendation following determination of appeal relating to specified complaint), an appeal relating to a complaint of a type described in paragraph (2) is specified.”.

(3) In sub-paragraph (b) of regulation 36, for “23,” insert “23, 24C.”.

Home Office
9th September 2014

Mike Penning
Minister of State

(a) Guidance issued by the Commission under section 22 of the 2002 Act in January 2013. A copy is available at <https://www.ipcc.gov.uk/page/statutory-guidance>. A copy may be inspected at 90 High Holborn, London WC1V 6BH.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police (Complaints and Misconduct) Regulations 2012 (“the 2012 Regulations”) to give effect to sections 138 and 139 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”).

Section 138 of the 2014 Act amends paragraphs 24C and 27 of Schedule 3 to the Police Reform Act 2002 (“the 2002 Act”) to make provision enabling the Independent Police Complaints Commission (“the Commission”) to recommend and direct unsatisfactory performance procedures in relation to a death or serious injury matter. This reflects the Commission’s existing powers to recommend and direct unsatisfactory performance procedures in complaint and conduct matters.

Section 139 of the 2014 Act inserts new paragraphs 28A and 28B into Schedule 3 to the 2002 Act. These provisions contain a framework in accordance with which the Commission may make recommendations to persons following the completion of an investigation and such persons are required to respond to the recommendation within the period of 56 days beginning on the day on which it was made.

Regulation 2 of these Regulations inserts new regulation 29A into, and amends regulation 36 of, the 2012 Regulations.

Paragraph 28A(4) and (5) sets out the categories of person to which the Commission may make a recommendation. Paragraph 28A(4) provides that a recommendation may be made to any person in death or serious injury matters and the other categories of matter specified in regulations. New regulation 29A specifies those categories.

New regulation 29A(1) sets out the specified conduct matters. These include matters relating to an incident in which a person has died or suffered serious injury, a serious assault or sexual assault, serious corruption and a matter in respect of which the Commission has notified the appropriate authority that the matter must be referred to the Commission for its consideration.

New regulation 29A(2) sets out the specified complaints. These include complaints alleging that the conduct complained of has resulted in death or serious injury, complaints alleging conduct that constitutes a serious assault or sexual assault, serious corruption and complaints which the Commission has notified the appropriate authority must be referred to the Commission for its consideration.

New regulation 29A(3) provides that the determination of an appeal relating to a complaint set out in new regulation 29A(2) is a specified matter.

Regulation 2 also makes a consequential amendment to regulation 36 of the 2012 Regulations to give effect to section 138 of the 2014 Act.

An impact assessment has not been prepared for this instrument as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.

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