
STATUTORY INSTRUMENTS

2017 No. 1134

**The Police (Conduct, Complaints and Misconduct
and Appeal Tribunal) (Amendment) Regulations 2017**

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017 and come into force on 15th December 2017.

(2) In these Regulations—

“the 2002 Act” means the Police Reform Act 2002;

“the 2012 Rules” means the Police Appeals Tribunals Rules 2012(1);

“the Conduct Regulations” means the Police (Conduct) Regulations 2012(2);

“the Complaints and Misconduct Regulations” means the Police (Complaints and Misconduct) Regulations 2012(3).

Transitional and saving provisions

2.—(1) Where an allegation in relation to a person came to the attention of an appropriate authority before 15th December 2017 but after 21st November 2012, and the person ceases to be a member of a police force or a special constable (as the case may be) on or after 15th December 2017, these Regulations apply.

(2) Where a complaint or recordable conduct matter relates to the conduct of a person who ceased to be a person serving with the police before 15th December 2017, the Complaints and Misconduct Regulations continue to have effect without the amendments made by regulations 31 and 33 of these Regulations.

(3) In this regulation—

“acting chief officer” means—

(a) a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011(4);

(b) a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 or 45(4) of that Act; or

(1) [S.I. 2012/2630](#).

(2) [S.I. 2012/2632](#).

(3) [S.I. 2012/1204](#).

(4) [2011 c. 13](#).

- (c) a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839⁽⁵⁾;
- “allegation” means an allegation relating to a complaint or conduct matter;
- “appropriate authority” means where the person concerned was—
- (a) the chief officer of police or acting chief officer of any police force at the relevant time, the local policing body for the force’s area;
- (b) any other member of a police force or a special constable at the relevant time, the chief officer of police of the police force concerned;
- “police force concerned” means—
- (a) where the person concerned was a member of a police force at the relevant time, the police force of which that person was a member at that time;
- (b) where the person concerned was a special constable at the relevant time, the police force maintained for the police area for which that person was appointed at that time;
- “relevant time” means the time immediately before the person concerned ceased to be a member of a police force or a special constable.

PART 2

Amendment of the Conduct Regulations

Amendment of the Conduct Regulations

3. The Conduct Regulations are amended in accordance with this Part.

Amendment of regulation 3 (interpretation and delegation)

4. In regulation 3(1)(6), in the appropriate places, insert the following definitions—
- ““barred list report” means a report under section 88A(1) of the 1996 Act⁽⁷⁾”;
- ““police barred list” means the list referred to in section 88B(2) of the 1996 Act⁽⁸⁾”.

Amendment of regulation 5 (application)

5. In regulation 5—
- (a) after paragraph (1), insert—
- “(2) Except as set out in paragraph (6), these Regulations also apply, with the modifications set out in Schedule 3⁽⁹⁾, where—
- (a) an allegation comes to the attention of a relevant body which indicates that the conduct of a person who at the time of the alleged conduct was a police officer (“P”) may amount to gross misconduct; and
- (b) condition A, B or C is satisfied.

⁽⁵⁾ 2 & 3 Vict. c. xciv.

⁽⁶⁾ Regulation 3(1) has been amended but the amendments are not relevant to these Regulations.

⁽⁷⁾ Section 88A was inserted by section 30(1) of, and Schedule 8 to, the Policing and Crime Act 2017.

⁽⁸⁾ Section 88B was inserted by section 30(1) of, and Schedule 8 to, the Policing and Crime Act 2017.

⁽⁹⁾ See sections 50(3A) to (3G) and 51(2B) to (2H) of the Police Act 1996 as inserted by section 29(1) to (3) of the Policing and Crime Act 2017.

- (3) Condition A is that P ceased to be a police officer after the allegation first came to the attention of a relevant body.
- (4) Condition B is that—
- (a) P ceased to be a police officer before the allegation first came to the attention of a relevant body; and
 - (b) the period between the date P ceased to be a police officer and the date the allegation first came to the attention of the relevant body did not exceed 12 months.
- (5) Condition C is that—
- (a) P ceased to be a police officer before the allegation first came to the attention of a relevant body;
 - (b) the period between the date P ceased be a police officer and the date the allegation first came to the attention of the relevant body exceeded 12 months; and
 - (c) the Commission has made a Condition C special determination under Part 1A of these Regulations (as modified by paragraph (2) and Schedule 3) that taking disciplinary proceedings against P in respect of the alleged gross misconduct would be reasonable and proportionate.
- (6) Paragraph (2) does not apply—
- (a) in relation to a person who ceased to be a police officer before 15th December 2017;
 - (b) where the disciplinary proceedings would not be the first disciplinary proceedings to be taken against P in respect of the alleged gross misconduct unless they result from a re-investigation of the allegation (whether carried out under these Regulations or under the 2002 Act) that begins not later than 12 months after the date on which P ceased to be a police officer.”;
- (b) paragraph (2) becomes paragraph (7) and in that paragraph, after “police officer” insert “or person in relation to whom these Regulations apply by virtue of paragraph (2)”;
- (c) after paragraph (7), insert—
- “(8) In this regulation, “relevant body” means—
 - (a) a chief officer of police;
 - (b) a local policing body; or
 - (c) the Commission.”.

Omission of regulation 10A (appropriate authority consent to notice of intention to resign or retire)

6. Omit regulation 10A(10).

Amendment of regulation 15 (written notices)

7. In regulation 15(1), after sub-paragraph (e) insert—
- (ea) that if he is dismissed at misconduct proceedings, his full name and a description of the conduct which led to his dismissal will be added to the police barred list and may be subject to publication for a period of up to five years;”.

Amendment of regulation 29 (participation of Commission and investigator at misconduct proceedings)

8. In regulation 29(5), for “5(2)” substitute “5(7)”.

Amendment of regulation 35 (outcome of misconduct proceedings)

9. In regulation 35(11), at the end insert—

“(15) Paragraph (16) applies where an officer is dismissed (with or without notice) at a misconduct hearing.

(16) The chair of the panel which conducted the misconduct hearing may provide any information to the appropriate authority that the chair considers ought to be included by virtue of regulation 3(2)(l) of the Police Barred List and Advisory List Regulations 2017(12) in the barred list report relating to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).”.

Amendment of regulation 55 (outcome of special case hearing)

10. In regulation 55(13), at the end insert—

“(14) Paragraph (15) applies where an officer is dismissed without notice at a special case hearing.

(15) The person who conducted or chaired the special case hearing may provide any information to the appropriate authority that the person considers ought to be included by virtue of regulation 3(2)(l) of the Police Barred List and Advisory List Regulations 2017 in the barred list report relating to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).”.

New Schedule

11. After Schedule 2 insert Schedule 3 which is set out in Schedule 1 to these Regulations.

PART 3

Amendment of the 2012 Rules

Amendment of the 2012 Rules

12. The 2012 Rules are amended in accordance with this Part.

Amendment of rule 3 (interpretation)

13. In rule 3(1)—

- (a) in the appropriate places insert the following definitions—

““the 1996 Act” means the Police Act 1996;”;

““disciplinary action”—

- (a) in relation to a police officer, has the same meaning as in the Conduct Regulations;

(11) Paragraphs (12) to (14) of regulation 35 were inserted by regulations 2 and 11 of [S.I. 2015/626](#).

(12) [S.I. 2017/1135](#).

(13) Paragraphs (11) to (13) of regulation 55 were inserted by regulations 2 and 18 of [S.I. 2015/626](#).

- (b) in relation to a former police officer, means a finding that he would have been dismissed if he had not ceased to be a member of a police force or a special constable;”;
- ““relevant time” means, in relation to a former police officer, the time immediately before he ceased to be such an officer;”;
- (b) in the definition of “appellant” after “officer” insert “or a former police officer”;
- (c) in the definition of “relevant local policing body”—
 - (i) in paragraph (a)—
 - (aa) after “the appellant” insert “(where the appellant is a police officer)”;
 - (bb) at the end omit “or”;
 - (ii) in paragraph (b) after “the appellant” insert “(where the appellant is a police officer)”;
 - (iii) after paragraph (b) insert—
 - “(c) the police force of which a former police officer who wishes to appeal to a tribunal, or the appellant (where the appellant is a former police officer), was a member at the relevant time; or
 - (d) the police force for the police area for which a former police officer who wishes to appeal to a tribunal, or the appellant (where the appellant is a former police officer), was appointed as a special constable at the relevant time;”;
- (d) in the definition of “relevant decision” for “4 or 5” substitute “4, 5 or 5A”;
- (e) in the definition of “relevant police force”—
 - (i) at the end of paragraph (a) omit “and”;
 - (ii) after paragraph (b) insert—
 - “(c) where the appellant was a member of a police force at the relevant time, the police force of which he was a member; and
 - (d) where the appellant was a special constable at the relevant time, the police force maintained for the police area for which he was appointed.”.

New rule 5A

- 14.** After rule 5 (circumstances in which a police officer may appeal to a tribunal) insert—

“Circumstances in which a former police officer may appeal to a tribunal

5A.—(1) Subject to paragraph (3), a former police officer to whom paragraph (2) applies may appeal to a tribunal in reliance on one or more of the grounds of appeal referred to in paragraph (4) against—

- (a) the finding referred to in paragraph (2)(a) or (b) made under the Conduct Regulations; or
- (b) any decision to impose disciplinary action under the Conduct Regulations in consequence of that finding,

or both.

(2) This paragraph applies to—

- (a) a former police officer against whom a finding of misconduct or gross misconduct has been made at a misconduct hearing; or

- (b) former police officer against whom a finding of gross misconduct has been made at a special case hearing.
- (3) A former police officer may not appeal to a tribunal against the finding referred to in paragraph (2)(a) or (b) where that finding was made following acceptance by the former officer that his conduct amounted to misconduct or gross misconduct (as the case may be).
- (4) The grounds of appeal under this rule are—
 - (a) that the finding or decision to impose disciplinary action was unreasonable;
 - (b) that there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision to impose disciplinary action; or
 - (c) that there was a breach of the procedures set out in the Conduct Regulations, the Police (Complaints and Misconduct) Regulations 2012 or Schedule 3 to the 2002 Act, or other unfairness which could have materially affected the finding or decision to impose disciplinary action.”.

Amendment of rule 6 (notice of appeal)

15. In rule 6—

- (a) in paragraph (1) after “officer” insert “or a former police officer”;
- (b) in paragraph (3) after “officer” insert “or former officer”.

Amendment of rule 7 (notice of appeal)

16. In rule 7—

- (a) in paragraph (1) after “officer” insert “or a former police officer”;
- (b) in paragraph (2)—
 - (i) after “officer” insert “or a former police officer”;
 - (ii) after “officer’s” insert “or former officer’s”.

Amendment of rule 8 (the respondent)

17. In rule 8—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a) after “police” insert “or a former police officer who was a chief officer of police at the relevant time”;
 - (ii) in sub-paragraph (b) after “officer” insert “or a former police officer who was an acting chief officer at the relevant time”;
- (b) in paragraph (2) after “officer” insert “or other former police officer”.

Amendment of rule 9 (procedure on notice of appeal)

18. In rule 9—

- (a) in paragraph (5)(a) after “4(4)(b)” insert “, 5A(4)(b)”;
- (b) in paragraph (9) after “4(4)(b)”, in both places where it appears, insert “, 5A(4)(b)”.

Amendment of rule 14 (notice of the hearing)

19. In rule 14(14)—

- (a) in paragraph (2) after “4(4)(b)” insert “, 5A(4)(b)”;
- (b) in paragraph (4)(a) for “officer concerned” substitute “appellant”;
- (c) in paragraph (9) after “4” insert or “5A”.

Amendment of rule 15 (legal and other representation)

20. In rule 15(4) after “officer of the” insert “relevant”.

Amendment of rule 18 (attendance at hearing)

21. In rule 18(1)(15) after “4” insert “or 5A”.

Amendment of rule 19 (attendance of complainant at hearing)

22. In rule 19(7)(16) after “4” insert “or 5A”.

Amendment of rule 20 (attendance of IPCC at hearing)

23. In rule 20(4)(17) after “4” insert “or 5A”.

Amendment of rule 21 (exclusion from hearing)

24. In rule 21(3)(18) after “4” insert “or 5A”.

Amendment of rule 22 (statement of tribunal’s determination)

25. In rule 22(19)—

- (a) in paragraph (2) for “or rule 5(6)(b) or (c)” substitute “, rule 5(6)(b) or (c) or rule 5A(4)(b) or (c)”;

(b) after paragraph (5) insert—

“(5A) Paragraph (5B) applies in a case where information in relation to the appellant which is included in the police barred list has been published by the College of Policing under section 88G(2) of the Police Act 1996(20).

(5B) The chair may include in the written statement any representations that the chair considers it appropriate to make in relation to the appellant and the question mentioned in regulation 11(2) of the Police Barred List and Advisory List Regulations 2017.”;

- (c) in paragraph (6) before “local” insert “relevant”;

(d) after paragraph (13) insert—

“(13A) In any case where the appellant is a former police officer and disciplinary action was imposed under the Conduct Regulations, if on determination of the appeal the

(14) Paragraphs (4) to (9) were inserted by rules 2 and 4 of S.I. 2015/625.

(15) Rule 18 was substituted by rules 2 and 5 of S.I. 2015/625.

(16) Paragraph (7) was inserted by rules 2 and 6(b) of S.I. 2015/625.

(17) Paragraph (4) was inserted by rules 2 and 7(b) of S.I. 2015/625.

(18) Paragraph (3) was inserted by rules 2 and 8 of S.I. 2015/625.

(19) Paragraphs (9) to (14) were inserted by rules 2 and 9(b) of S.I. 2015/625. There is another amendment of this rule but it is not relevant to these Regulations.

(20) 1996 c.16. Section 88G was inserted by section 30 of, and Schedule 8 to, the Policing and Crime Act 2017.

tribunal's decision results in disciplinary action no longer being imposed, the relevant local policing body shall notify the College of Policing of the decision of the tribunal.”;

(e) for paragraph (14) substitute—

“(14) Paragraphs (9) to (13A) do not apply to an appeal brought in accordance with rule 5.”.

PART 4

Amendment of the Complaints and Misconduct Regulations

Amendment of the Complaints and Misconduct Regulations

26. The Complaints and Misconduct Regulations are amended in accordance with this Part.

Amendment of regulation 1 (citation, commencement and interpretation)

27. In regulation 1(2)—

(a) in the definition of “the Conduct Regulations”, for “2008” substitute “2012”;

(b) after that definition insert the following definition—

““designated police volunteer” means a person designated as a community support volunteer or a policing support volunteer under section 38(1A) of the 2002 Act⁽²¹⁾”;

(c) in the definition of “the Performance Regulations”, for “2008” substitute “2012”;

(d) after that definition insert the following definition—

““police barred list” means the list referred to in section 88B(2) of the Police Act 1996”.

Amendment of regulation 16 (written notices)

28. In regulation 16(1) after sub-paragraph (e) insert—

“(ea) that if he is dismissed at misconduct proceedings, his full name and a description of the conduct which led to his dismissal will be added to the police barred list and may be subject to publication for a period of up to five years”.

Amendment of regulation 17 (police friend)

29. In regulation 17(2)—

(a) after “police staff member”, in the first place where it appears, insert “or designated police volunteer”;

(b) in sub-paragraph (b), after “police staff member’s companion” insert “or designated police volunteer’s companion, as the case may be”;

(c) in sub-paragraph (e), for “a police staff member” substitute “the police staff member or designated police volunteer, as the case may be”.

Amendment of regulation 24 (appointment of persons to carry out investigations)

30. In regulation 24(4), for “and a police staff member serving in that force” substitute “, a police staff member serving in that force and a designated police volunteer serving in that force”.

(21) Subsection (1A) was inserted by section 38(2) of the Policing and Crime Act 2017.

Substitution of regulation 27 (complaints or conduct matters concerning a person who has subsequently ceased to serve with the police)

31. For regulation 27 substitute—

“Complaints and conduct matters relating to the conduct of a person who has ceased to be a person serving with the police

27. Where a complaint or conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct, the provisions of Part 2 (complaints and misconduct) of the 2002 Act and these Regulations apply—

- (a) as if the person were still serving in the position in which he last served; and
- (b) with the modifications to Part 2 of the 2002 Act and to these Regulations set out in Parts 1 and 2 of the Schedule respectively.”

Amendment of regulation 36 (disciplinary proceedings for police staff)

32. In regulation 36(22) in the heading after “police staff” insert “and designated police volunteers”.

New Schedule

33. Insert the Schedule which is set out in Schedule 2 to these Regulations.

22nd November 2017

Nick Hurd
Minister of State
Home Office