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STATUTORY INSTRUMENTS

2005 No. 2834

POLICE, ENGLAND AND WALES

The Police (Amendment) Regulations 2005

<i>Made</i> - - - -	<i>11th October 2005</i>
<i>Laid before Parliament</i>	<i>17th October 2005</i>
<i>Coming into force</i> - -	<i>7th November 2005</i>

The Secretary of State, in exercise of the powers conferred upon him by section 50 of the Police Act 1996(a) and section 79A of the Police Act 1997(b), and after taking into consideration the recommendations of the Police Negotiating Board for the United Kingdom and supplying that Board with a draft of these Regulations in accordance with section 62(1)(c) of the Police Act 1996, and after supplying a draft of these Regulations to the Police Advisory Board for England and Wales and taking into consideration their representations in accordance with section 63(3)(d) of the Police Act 1996, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police (Amendment) Regulations 2005 and shall come into force on 7th November 2005.

(2) In these Regulations “the 2003 Regulations” means the Police Regulations 2003(e).

Amendments to the 2003 Regulations

2.—(1) Regulation 10(1) of the 2003 Regulations (qualifications for appointment to a police force) is amended as follows.

(2) For sub-paragraph (a) substitute the following sub-paragraph—

“(a) must, if not a national of a Member State, Norway, Iceland or Liechtenstein, have leave to enter or remain in the United Kingdom for an indefinite period;”.

(3) After sub-paragraph (h) insert the following sub-paragraph—

“(i) must, unless he is applying to transfer to the force from another police force, on being so required by the chief officer of the force to which he is a candidate for appointment give a sample of saliva or urine to be tested in accordance with procedures determined by the Secretary of State for evidence of such controlled drugs as the Secretary of State may determine.”.

(a) 1996 c. 16; there are amendments to section 50 which are not relevant to these Regulations.
(b) 1997 c. 50; section 79A was inserted by section 89(1) of the Police Reform Act 2002 (c. 30).
(c) There are amendments to section 62 which are not relevant to these Regulations.
(d) There are amendments to section 63 which are not relevant to these Regulations.
(e) S.I. 2003/527; amendments were made by S.I. 2003/2594 and S.I. 2004/3216.

3. Regulation 15 (contents of personal records) of the 2003 Regulations is amended by inserting after paragraph (2)(e) the following sub-paragraph—

“(ea) a record of his service (if any) in the Royal Parks Constabulary;”.

4. After regulation 19 of the 2003 Regulations the following regulation is inserted—

“Testing for substance misuse

19A.—(1) The chief officer of a police force may require any member of the force who—

- (a) gives the chief officer reasonable cause to suspect that he has used a controlled drug;
- (b) is on a period of probation under regulation 12;
- (c) has been identified by the chief officer as being vulnerable because of a specific responsibility for dealing with drugs; or
- (d) is of a description specified in a determination of the Secretary of State;

to give a sample of saliva or urine to be tested for evidence of controlled drugs in accordance with procedures determined by the Secretary of State.

(2) The chief officer of a police force may require a member of the force who falls within paragraph (1)(d) to give a sample of breath to be tested for evidence of alcohol in accordance with procedures determined by the Secretary of State.

(3) A member of a police force who—

- (a) on giving a sample under paragraph (1) is found to have taken a controlled drug specified in a determination of the Secretary of State; or
- (b) falls within paragraph (1)(d) and who, on giving a sample under paragraph (2), is found to have more than 13 microgrammes of alcohol in 100 millilitres of breath

shall face such consequences as are specified in that determination.”

5. After regulation 41 of the 2003 Regulations the following regulation is inserted—

“Reckoning of service in the Royal Parks Constabulary

41A.—(1) Where a member of a police force joined or rejoined that force after having left the Royal Parks Constabulary, on or after 1st July 2004 then, for the purposes of regulations 24 and 33, his service in any rank in the Royal Parks Constabulary shall be treated as if it were service in the corresponding rank in the police force he joined or rejoined as aforesaid:

Provided that in the case of a member of a police force of a rank higher than that of chief inspector this paragraph shall have effect subject to any contrary agreement.

(2) A member of a police force of the rank of constable shall be entitled to reckon, for the purposes of pay for that rank, any period of service in the Royal Parks Constabulary not reckonable under paragraph (1).

(3) In this regulation, any reference to a rank corresponding to a rank in a police force is a reference to a rank in the Royal Parks Constabulary designated by the Secretary of State for the purposes hereof as the rank corresponding to the rank in question.”

6.—(1) Paragraph 1 of Schedule 3 (Interpretation) to the 2003 Regulations is amended by inserting after sub-paragraph (4) the following sub-paragraph—

“(4A) Where a member of the Royal Parks Constabulary in receipt of a housing allowance transfers on or after 1st July 2004 to a police force in England and Wales he shall be treated from the date of his transfer as if he were a qualifying member.”

(2) Sub-paragraph (7) is amended by inserting after the words “British Transport Police Force” the words “or Royal Parks Constabulary”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Regulations 2003 (“the 2003 Regulations”).

Regulation 2(2) has the effect that nationals of the ten states which acceded to the European Union on 1 May 2004 may now qualify for appointment to a police force without having indefinite leave to enter or remain in the United Kingdom. An ambulatory reference to Member States of the European Union is used to avoid the need for further amendments to the regulation if additional countries accede to the European Union.

Regulations 2(3) and 4 introduce a power to test for controlled drugs the following categories of person: applicants to police forces, officers who give cause to suspect that they have used such drugs, probationers, officers whose work involves dealing with drugs, and officers in specialist roles. In the latter case, a power to test for alcohol is also introduced. The Secretary of State is given a power to set out in a determination the consequences of testing positive in any of these situations. A new Annex DD is accordingly inserted into the determinations made by the Secretary of State under the 2003 Regulations.

Regulations 3, 5 and 6 implement, in part, the Police Negotiating Board for the United Kingdom Circular 04/11 (Advisory) (“the PNB Circular”) which relates to the merger of the Royal Parks Constabulary with the metropolitan police service. Regulation 3 ensures that the personal record of a member of a police force shall contain details of his service (if any) with the Royal Parks Constabulary. Regulation 5 enables officers joining or rejoining a police force on or after 1st July 2004 to count service with the Royal Parks Constabulary for the purposes of pay and leave. Regulation 6 provides that where members of the Royal Parks Constabulary in receipt of a housing allowance transfer to a police force on or after 1st July 2004 they are entitled to a replacement allowance.

Changes to Annexes C (probation) and L (maternity pay) of the determinations made by the Secretary of State under the 2003 Regulations have been made as part of the process of implementing the PNB Circular.

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