

2005 No. 3311

REVENUE AND CUSTOMS, ENGLAND AND WALES

**The Revenue and Customs (Complaints and Misconduct)
Regulations 2005**

Made - - - - - 1st December 2005

Laid before Parliament 2nd December 2005

Coming into force - - 28th December 2005

The Treasury, in exercise of the powers conferred on them by sections 28(1) and (2), and 29(3) of the Commissioners for Revenue and Customs Act 2005(a), make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Revenue and Customs (Complaints and Misconduct) Regulations 2005 and shall come into force on 28th December 2005.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“2002 Act” means the Police Reform Act 2002(b);

“Commission” means the Independent Police Complaints Commission;

“Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“Complaints Regulations” means the Police (Complaints and Misconduct) Regulations 2004(c);

“conduct matter” has the meaning given by section 12 of the 2002 Act;

“functions” has the meaning given by section 51(2)(a) of the Commissioners for Revenue and Customs Act 2005;

“Investigatory Powers Order” means the Independent Police Complaints Commission (Investigatory Powers) Order 2004(d);

“officers” means officers of Revenue and Customs;

“Staff Conduct Regulations” means the Independent Police Complaints Commission (Staff Conduct) Regulations 2004(e).

(a) 2005 c. 11.
(b) 2002 c. 30.
(c) S.I. 2004/643.
(d) S.I. 2004/815.
(e) S.I. 2004/660.

Application of provisions of Part 2 of the 2002 Act with modifications(a)

3.—(1) The provisions specified in paragraphs (2), (3) and (4) shall apply for the purpose of conferring functions on the Commission in relation to the Commissioners and officers.

(2) Sections 9 to 29 of the 2002 Act shall have effect with the modifications made by Schedule 1 to these Regulations.

(3) Schedule 2 to the 2002 Act shall have effect with the modifications made by Schedule 2 to these Regulations.

(4) Paragraphs 10 to 24, 27 and 29 of Schedule 3 to the 2002 Act shall have effect with the modifications made by Schedule 3 to these Regulations.

(5) Paragraphs 1 to 9, 25, 26 and 28 of Schedule 3 to the 2002 Act shall have effect with the modifications made by Schedule 3 to these Regulations.

(6) The provisions specified in—

(a) paragraphs (2), (3) and (4) shall have effect from the date these Regulations come into force;

(b) paragraph (5) shall have effect from 1st April 2006.

(7) The references in regulations 5, 8 and 9(1) to Part 2 of the 2002 Act are references to Part 2 of the 2002 Act as modified by Schedules 1, 2 and 3 to these Regulations.

Application of the Investigatory Powers Order, the Complaints Regulations and the Staff Conduct Regulations with modifications

4.—(1) The provisions specified in paragraph (2) shall apply for the purpose of conferring functions on the Commission in relation to the Commissioners and officers.

(2) From the date these Regulations come into force—

(a) the Investigatory Powers Order shall have effect,

(b) the Complaints Regulations shall have effect with the modifications made by Part 1 of Schedule 4 to these Regulations, and

(c) the Staff Conduct Regulations shall have effect with the modifications made by Part 2 of Schedule 4 to these Regulations.

(3) The references in regulations 5, 8 and 9(1) to—

(a) the Complaints Regulations,

(b) the Staff Conduct Regulations,

are references to those Regulations as modified by Parts 1 and 2 of Schedule 4 to these Regulations.

Disclosure of information

5. Where the Commission, or any person acting on its behalf, obtains information in the course of performing a function under these Regulations it or he may not disclose it except as permitted by Part 2 of the 2002 Act or the Complaints Regulations.

Use of information

6. Where the Commission, or any person acting on its behalf, obtains information in the course of performing a function under these Regulations it or he may not use it for any purpose other than the performance of a function under these Regulations.

(a) Where the Schedules to these Regulations modify amended or new provisions of Part 2 of the Police Reform Act 2002 those amendments or new provisions are cited in the Schedules. The following provisions of Part 2 of the 2002 Act (which apply but are not modified) have also been amended: section 12(2A) was amended by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 12, paragraph 3; section 13 was amended by paragraph 4 of that Schedule; sections 21(1), (2), (3), (5), (6), (7), (9) and (10) were amended by paragraph 7 of that Schedule; sections 22(2) and (5) by paragraph 8 of that Schedule; section 23(2) by paragraph 9 of that Schedule.

Payments

7.—(1) The Commissioners shall pay such amount to the Secretary of State in respect of functions performed by the Commission under these Regulations as may be agreed between the Commissioners and the Commission.

(2) In the absence of an agreement, the Commissioners shall pay such amount in respect of those functions as the Treasury, after consultation with the Secretary of State, shall determine.

Complaints about conduct occurring before 1st April 2006

8. Nothing in Part 2 of the 2002 Act, the Investigatory Powers Order, the Complaints Regulations or the Staff Conduct Regulations shall have effect in relation to a complaint made about the conduct of a Commissioner or an officer occurring before 1st April 2006.

Conduct matter occurring before 1st April 2006

9.—(1) Subject to paragraph (2), nothing in Part 2 of the 2002 Act, the Investigatory Powers Order, the Complaints Regulations or the Staff Conduct Regulations shall have effect in relation to a conduct matter relating to the conduct of a Commissioner or an officer occurring before 1st April 2006.

(2) Paragraph (1) does not apply to any conduct matter which the appropriate authority may refer to the Commission under paragraph 13(2) of Schedule 3 to the 2002 Act.

Vernon Coaker
Tom Watson

1st December 2005

Two of the Lords Commissioners of Her Majesty's Treasury

MODIFICATION OF SECTIONS 9 TO 29 OF THE 2002 ACT

1. At the end of section 9(3) insert—
 - “(g) any person who holds or has held office or employment as a Commissioner or officer.”.
- 2.—(1) Section 10 shall be modified as follows.
 - (2) In subsection (1) after “the Commission” insert “, in relation to the Commissioners and officers,”.
 - (3) In subsection (1)(a) for “police authorities and chief officers” substitute “the Commissioners”.
 - (4) In subsection (1)(e) omit “and also of police practice in relation to other matters,”.
 - (5) Omit subsection (1)(f).
 - (6) In subsection (2)(a) for “persons serving with the police” substitute—
 - “Commissioners or officers which the appropriate authority—
 - (i) has a duty to refer to the Commission under paragraph 4(1) of Schedule 3 or,
 - (ii) may refer to the Commission under paragraph 4(2) or (3) of Schedule 3;”.
 - (7) In subsection (2)(b) for the words from “appears that” to the end substitute—
 - “appears that—
 - (i) there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings, and
 - (ii) that conduct or behaviour is conduct or behaviour which the appropriate authority has a duty to refer to the Commission under paragraph 13(1) of Schedule 3 or may refer to the Commission under paragraph 13(2) or (3) of that Schedule.”.
 - (8) In subsection (2)(ba)(a) for “a person serving with the police” insert “an officer”.
 - (9) Omit subsection (3).
 - (10) In subsection (4)(a) for “subsections (1) and (3)” insert “subsection (1)”.
 - (11) In subsection (5)(a) after “functions” insert “in relation to the Commissioners and officers”.
 - (12) Omit subsections (7)(b) and (c).
 - (13) In subsection (8) for the words from “control of a police force” to the end substitute “control of Her Majesty’s Revenue and Customs by the Commissioners”.
- 3.—(1) Section 11 shall be modified as follows.
 - (2) In subsections (1), (2), (3), and (5) for “Secretary of State” insert “Chancellor of the Exchequer”.
 - (3) Omit subsection (4)(b).
 - (4) In subsection (6) for the words from “under subsection (1)” to the end substitute “under subsection (1) to the Commissioners”.
 - (5) In subsection (7) for the words from “under subsection (3)” to the end substitute “under subsection (3) to the Commissioners”.
 - (6) Omit subsections (8) and (9).

(a) Section 10(2)(ba) was inserted by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 12, paragraph 2(2).

(7) In subsection (10) for paragraphs (a) to (g) substitute—

- “(a) the Chancellor of the Exchequer, and
- (b) the Commissioners.”.

(8) In the heading for “Reports to the Secretary of State” substitute “Reports to the Chancellor of the Exchequer”.

4.—(1) Section 12 shall be modified as follows.

(2) In subsections (1) and (2) for “a person serving with the police” substitute “a Commissioner or an officer”.

(3) In subsections (2B)(a), (2C)(a) and (2D)(a) for “a person serving with the police” (on each occasion the words occur) substitute “an officer”.

5.—(1) Section 14 shall be modified as follows.

(2) In subsection (1) for the words from “control of a police force” to the end substitute “control of Her Majesty’s Revenue and Customs by the Commissioners”.

(3) Omit subsections (2) and (3).

6.—(1) Section 15 shall be modified as follows.

(2) In subsection (1)—

- (a) for the words in paragraph (a) substitute “the Commissioners and ”;
- (b) omit paragraph (b);
- (c) for “it or he is” substitute “they are or he is” and for “that force” substitute “Her Majesty’s Revenue and Customs”.

(3) In subsection (3)—

- (a) for paragraph (a) substitute—
“(a) the Commission requires the chief officer of a police force to provide a member of his force for appointment under paragraph 17A or 18A of Schedule 3,”;
- (b) omit paragraphs (b) and (c);
- (c) omit “or Director General”.

(4) In subsection (4)—

- (a) omit paragraphs (c) and (d), and
- (b) after paragraph (d) insert—
“(e) the Commissioners,”.

(5) In subsection (5)—

- (a) omit paragraphs (c) and (d);
- (b) for “16, 17 or 18” substitute “17A or 18A”.

(6) After subsection (5) insert—

“(5A) It shall be the duty of the Head of the Home Civil Service, the Chairman and Commissioners to ensure that a person appointed under paragraph 16,17, 17A, 18 or 18A of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require.”.

(7) Omit subsections (6) and (7).

7.—(1) Section 16 shall be modified as follows.

(2) In subsection (1)—

- (a) in paragraph (a)—
 - (i) for “one” substitute “a”;
 - (ii) omit “to another”;
 - (iii) delete “or”;
- (b) at the end of paragraph (b) insert “; or”;
- (c) after paragraph (b) insert—
“(c) a police force provides assistance by agreement under paragraph 17A(2) or 18A(2) of Schedule 3.”.

(a) Sections 12(2B) to 12(2D) were inserted by paragraph 3 of Schedule 12 to 2005 c. 15.

- (3) In subsection (2)(a)—
- (a) in paragraph (a) for—
 - (i) “one police force to another” substitute “a police force”,
 - (ii) “the first force (“the assisting force”)” substitute “that force”;
 - (iii) in sub-paragraph (i) for “a member of the other force” substitute “a Commissioner or an officer”;
 - (iv) in sub-paragraph (ii) for “a member of the other force” substitute “an officer”;
 - (b) in paragraph (b)—
 - (i) omit “(the assisting force)”;
 - (ii) in sub-paragraph (i) for “not a member of that force” substitute “a Commissioner or an officer”;
 - (iii) in sub-paragraph (ii) for “not a member of that force” substitute “an officer”.
- (4) In subsection (3)—
- (a) for “one police force to another” substitute “a police force”;
 - (b) for “police authority maintaining that other police force” substitute “appropriate authority”;
 - (c) for “the assisting force” substitute “that force”;
 - (d) omit “(if any)”;
 - (e) in paragraph (b)(i) after “generally” insert “and the Commissioners”, and
 - (f) in paragraph (b)(ii) omit “by one police force to another”.
- (5) After subsection (3) there shall be inserted—
- “(3A) Subsection (3) shall have effect in relation to assistance which a police force provides by agreement under paragraph 17A (2) or 18A (2) of Schedule 3 as if the reference in that subsection to required to be provided were a reference to provided by agreement under paragraph 17A(2) or 18A(2) of Schedule 3.”.
- (6) Omit subsections (5), (6) and (7).

8.—(1) Section 17 shall be modified as follows.

- (2) From the beginning of subsection (1) to the end of paragraph (b) of that subsection substitute “It shall be the duty of the Commissioners”.
- (3) In subsection (2)—
- (a) for the words “every police authority and of every chief officer” substitute “the Commissioners”, and
 - (b) in paragraph (a) for the words “that authority and or chief officer” substitute “the Commissioners”.
- (4) In subsection (4)—
- (a) for the words “a police authority or chief officer” substitute “the Commissioners”, and
 - (b) in paragraph (a) for the words “that authority and or chief officer” substitute “the Commissioners”.

9.—(1) Section 18 shall be modified as follows.

- (2) In subsection (1)(a)—
- (a) for paragraphs (i) and (ii) substitute “the Commissioners”; and
 - (b) for “that force” substitute “Her Majesty’s Revenue and Customs”.
- (3) In subsection (1) for “the authority or, as the case may be, of the chief officer” substitute “the Commissioners”.
- (4) In subsection (2)(a)(b) for “the force in question” substitute “the Commissioners”.
- (5) In subsection (3) for “the authority or chief officer” substitute “the Commissioners”.
- (6) In subsection (5)(b) for “police authorities and chief officers” substitute “the Commissioners”.
- (7) In the heading to the section for “police premises” substitute “Her Majesty’s Revenue and Customs premises”.

10.—(1) Section 22 shall be modified as follows.

- (2) In subsection (1) for the words from “guidance” to the end of paragraph (c) substitute “guidance to the Commissioners and officers”.

(a) Section 16(2) was amended by paragraph 5 of Schedule 12 to 2005 c. 15.
 (b) Section 18(2) was amended by paragraph 6 of Schedule 12 to 2005 c. 15.

- (3) In subsection (3)—
- (a) for paragraph (a) substitute—
“the Commissioners and”;
 - (b) omit paragraph (b).
- (4) In subsection (4) for “the Secretary of State” substitute “the Chancellor of the Exchequer”.
- (5) Omit subsection (5)(c).
- 11.** Omit sections 25 and 26.
- 12.—**(1) Section 29 shall be modified as follows.
- (2) In subsection (1)(a)—
- (a) for the definition of “the appropriate authority” substitute the following definition—
““the appropriate authority” —
 - (a) in relation to the Chairman, the Deputy Chairman, a Commissioner or an officer or in relation to any complaint, matter or investigation relating to the conduct of such a person, means—
 - (i) if that person is the Chairman or Deputy Chairman, the Head of the Home Civil Service,
 - (ii) if that person is a Commissioner, the Chairman, or
 - (iii) if that person is an officer, the Commissioners” and
 - (b) in relation to a death or serious injury matter and the relevant officer, means the Commissioners.”;
 - (b) after the definition of “the appropriate authority” insert—
““the Chairman” means the chairman of the Commissioners”;
 - (c) after the definition of “the Commission” insert—
““the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;”;
 - (d) after the definition of “conduct matter” insert—
““the Deputy Chairman” means the Deputy Chairman of the Commissioners;”;
 - (e) for the definition of “disciplinary proceedings” substitute—
““disciplinary proceedings” means any proceedings or management process during which the conduct of the Chairman, Deputy Chairman, a Commissioner or an officer is considered in order to determine whether a sanction or punitive measure should be imposed against him in relation to that conduct;”;
 - (f) after the definition of “local resolution” insert the following definition—
““officers” means officers of Revenue and Customs;”, and
 - (g) omit the definitions of “local resolution” “relevant force”, and “senior officer”.
- (3) In subsection (1A)(b) for “person serving with the police (within the meaning of section 12(7))” substitute “officer” and for “such person” substitute “such officer”.
- (4) In subsection (1B)(c) for “persons serving with the police” substitute “officers”.
- (5) Omit subsection (7).
- (6) In subsection (3) for the words from “falling within” to the end of that subsection substitute “who is a Commissioner or an officer (whether at the time of the conduct or any subsequent time)”.
- (7) In subsection (4)—
- (a) for paragraph (a) substitute—
“(a) a person who, at the time when the conduct was supposed to have taken place in relation to him, was a Commissioner or an officer (whether or not he was on duty in his capacity as a Commissioner or officer at that time).”;
 - (b) omit paragraph (b)(i);
 - (c) for “person falling within subsection (3)(a) to (d)” substitute “Commissioner or officer”.

(a) Section 29(1) was amended by paragraph 10 of Schedule 12 to 2005 c. 15.
(b) Section 29(1A) was inserted by paragraph 10 of Schedule 12 to 2005 c. 15.
(c) Section 29(1B) was inserted by paragraph 10 of Schedule 12 to 2005 c. 15.

MODIFICATION OF SCHEDULE 2 TO THE 2002 ACT

1. After paragraph 6(2) insert—

“(2A) The Commission may make arrangements with the Commissioners under which officers of Revenue and Customs are engaged on temporary service with the Commission.”.
2. In paragraph 17(1)(c) after “Secretary of State” insert “, the Treasury”.

MODIFICATION OF SCHEDULE 3 TO THE 2002 ACT

- 1.—(1) Paragraph 1 shall be modified as follows.
- (2) For sub-paragraph (1) substitute—

“(1) Where—

 - (a) complaint is made to the Head of the Home Civil Service about the conduct of the Chairman or Deputy Chairman, or
 - (b) the Head of the Home Civil Service becomes aware that a complaint about the conduct of the Chairman or Deputy Chairman has been made to the Commission,

the Head of the Home Civil Service shall take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.”.
- (3) After sub-paragraph (1) insert—

“(1A) Where—

 - (a) a complaint is made to the Chairman about the conduct of a Commissioner, or
 - (b) the Chairman becomes aware that a complaint about the conduct of a Commissioner has been made to the Commission,

the Chairman shall take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.”.
- (4) For sub-paragraph (2) substitute—

“(2) Where—

 - (a) a complaint is made to the Commissioners about the conduct of an officer, or
 - (b) the Commissioners become aware that a complaint about the conduct of an officer has been made to the Commission,

the Commissioners shall take all such steps as appear to them to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.”.
- (5) For sub-paragraph (3) substitute—

“(3) The duty of the—

 - (a) Head of the Home Civil Service under sub-paragraph (1);
 - (b) Chairman under sub-paragraph (1A);
 - (c) Commissioners under sub-paragraph (2),

must be performed as soon as practicable after the complaint is made or, as the case may be, he or they become aware of it.”.
- (6) In sub-paragraph (4) for—
 - (a) “he shall” substitute “he or they shall”;
 - (b) “he is satisfied” substitute “he is or they are satisfied”; and
 - (c) “appearing to him” substitute “appearing to him or them”.
- (7) Omit sub-paragraph (5).
- (8) In sub-paragraph (6)—
 - (a) for “a chief officer” substitute—

“the—

 - (a) Head of the Home Civil Service;
 - (b) Chairman;
 - (c) Commissioners;”;
 - (b) the words after “a chief officer” become full out words;

- (c) for “he may” substitute “he or they may”, and
- (d) omit “by the police authority maintaining his force or”.

2.—(1) Paragraph 2 shall be modified as follows.

(2) In sub-paragraph (1)(a) for “police authority or chief officer who is” substitute “Head of the Home Civil Service, Chairman or Commissioners who is or are”.

(3) In sub-paragraph (2)—

- (a) for “a police authority, it” substitute “the Head of the Home Civil Service or Chairman, he”;
- (b) in paragraph (a) for “it is itself” substitute “he is himself”; and
- (c) in paragraph (b) for “it determines that it” substitute “he determines that he”.

(4) In sub-paragraph (3) for—

- (a) “a chief officer, he shall” substitute “the Commissioners, they shall”;
- (b) “he is himself” substitute “they are themselves”; and
- (c) “he determines that he is not” substitute “they determine that they are not”.

(5) In sub-paragraph (5) for “a police authority or a chief officer gives” substitute “Head of the Home Civil Service, Chairman or Commissioners gives or give”.

(6) For sub-paragraph (6) substitute—

“(6) Where—

- (a) the Head of the Home Civil Service or Chairman determines, in the case of any complaint made to him, that he is himself the appropriate authority,
- (b) the Commissioners determine, in the case of any complaint made to them, that they are themselves the appropriate authority, or
- (c) a complaint is notified to the Head of the Home Civil Service, Chairman or Commissioners under this paragraph,

the Head of the Home Civil Service, Chairman or Commissioners shall record the complaint.”.

3.—(1) Paragraph 3 shall be modified as follows.

(2) In sub-paragraph (1) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.

(3) In sub-paragraph (2)—

- (a) for “police authority or chief officer” and “authority or chief officer” substitute (on each occasion) “Head of the Home Civil Service, Chairman or Commissioners”
- (b) for “decides” substitute “decides or decide” and
- (c) in paragraph (c) for “that complainant’s right to appeal” substitute “whether the complainant has a right to appeal”.

(4) In sub-paragraph (3)—

- (a) for “police authority or chief officer” substitute “Head of the Home Civil Service, Chairman or Commissioners”; and
- (b) after “paragraph” insert “if, but only if, the failure is in respect of conduct which the Head of the Home Civil Service, Chairman or Commissioners is or are required to refer to the Commission under paragraph 4(1)(a) or (b).”.

(5) In sub-paragraph (4)—

- (a) in paragraph (b) for “police authority or chief officer” substitute “Head of the Home Civil Service, Chairman or Commissioners”; and
- (b) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.

(6) In sub-paragraph (6) for—

- (a) “police authority or, as the case may be, the chief officer” substitute “Head of the Home Civil Service, Chairman or, as the case may be, the Commissioners”; and
- (b) “police authority or chief officer” substitute “Head of the Home Civil Service, Chairman or Commissioners”.

4.—(1) Paragraph 4 shall be modified as follows.

(2) In sub-paragraph (3)—

- (a) for “a police authority” substitute “the Head of the Home Civil Service”;
- (b) in paragraph (a) for “chief officer of police of the police force maintained by that authority” substitute “Chairman”; and

- (c) in paragraph (b) for “the police authority” substitute “the Head of the Home Civil Service”.
- (3) In sub-paragraph (5)(b) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
- (4) In sub-paragraph (6)—
- (a) for “A police authority or chief officer which refers” substitute “Where the Head of the Home Civil Service, Chairman or Commissioners refers or refer”;
 - (b) after “paragraph” insert “he or they”; and
 - (c) in paragraph (b) for “that authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
- 5.—**(1) Paragraph 5 shall be modified as follows.
- (2) In sub-paragraph (1) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
- (3) In sub-paragraph (2) for “paragraph 6” substitute “sub-paragraph (2A)”.
- (4) After sub-paragraph (2) insert—
- “(2A) In a case to which sub-paragraph (2) applies the appropriate authority shall not be required by virtue of any of the provisions of this Schedule to take any action in relation to the complaint but may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint.”.
- (5) For sub-paragraph 3(b) substitute—
- “(b) to the person complained against.”.
- 6.—**(1) Paragraph 6 shall be modified as follows.
- (2) For sub-paragraph (2) substitute—
- “(2) The appropriate authority shall not be required by virtue of any provisions of this Schedule to take any action in relation to the complaint but may handle the complaint in whatever manner it thinks fit or take no action in relation to the complaint.”.
- (3) Omit sub-paragraphs (3) to (7).
- 7.** Omit paragraphs 7, 8 and 9.
- 8.—**(1) Paragraph 10 shall be modified as follows.
- (2) In sub-paragraph (1)—
- (a) in paragraph (a) for—
 - (i) “a police authority or chief officer” (on both occasions where it occurs) substitute “the Head of the Home Civil Service, Chairman or Commissioners”;
 - (ii) for “has received” substitute “has or have received”; and
 - (iii) for “that authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”;
 - (b) in paragraph (b) for “that authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
- (3) In sub-paragraph (2)—
- (a) for “The authority or chief officer” substitute “The Head of the Home Civil Service, Chairman or Commissioners”;
 - (b) in paragraph (a) for “it or, as the case may be, he is” substitute “he is or, as the case may be, they are”; and
 - (c) in paragraph (b) for “if it or he is not” substitute “if he is or they are not”.
- (4) In sub-paragraph (3)—
- (a) at the beginning insert “Subject to sub-paragraphs (3A) and (3B),”;
 - (b) for “a police authority or chief officer determines” substitute “the Head of the Home Civil Service, Chairman or Commissioners determines or determine”;
 - (c) for “it or, as the case may be, he is” substitute “he is, or as the case may be, they are”, and
 - (d) for “it or he” substitute “he or they”.
- (5) After sub-paragraph (3) insert—
- “(3A) Nothing in sub-paragraph (3) shall require the Head of the Home Civil Service, as the appropriate authority, to record a conduct matter if he is satisfied that matter falls within subsection 12(1)(b) of this Act.

(3B) Nothing in sub-paragraph (3) shall require the Chairman or the Commissioners, as the appropriate authority, to record a conduct matter if he is or they are satisfied that—

- (a) the matter falls within subsection 12(1)(b) of this Act; and
- (b) any disciplinary proceedings which were brought would be unlikely to result in the termination of an office or employment.”.

9.—(1) Paragraph 11 shall be modified as follows.

(2) In sub-paragraph (1)—

- (a) at the beginning insert “Subject to paragraphs (2A) and (2B),”;
- (b) in paragraph (a) for “police authority or chief officer who is” substitute “Head of the Home Civil Service, Chairman or Commissioners who is or are”.

(3) After sub-paragraph (2) insert—

“(2A) Nothing in sub-paragraph (1) shall require the Head of the Home Civil Service, as the appropriate authority, to record a conduct matter if he is satisfied that the matter falls within section 12(1)(b) of this Act.

(2B) Nothing in sub-paragraph (1) shall require the Chairman or the Commissioners, as the appropriate authority, to record a conduct matter if he is or they are satisfied that—

- (a) the matter falls within section 12(1)(b) of this Act; and
- (b) any disciplinary proceedings which were brought would be unlikely to result in the termination of an office or employment.”.

10.—(1) Paragraph 12 shall be modified as follows.

(2) Omit sub-paragraph (1).

(3) For sub-paragraph (2) substitute—

“(2) Where—

- (a) the Head of the Home Civil Service becomes aware of any recordable matter relating to the conduct of the Chairman or Deputy Chairman;
- (b) the Chairman becomes aware of any recordable matter relating to the conduct of a Commissioner; or
- (c) the Commissioners become aware of any recordable matter relating to the conduct of an officer,

it shall be his or their duty to take all such steps as appear to him or them to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving the evidence relating to that matter.”.

(4) For sub-paragraph (3) substitute—

“(3) The duty under sub-paragraph (2) of—

- (a) the Head of the Home Civil Service;
- (b) the Chairman;
- (c) the Commissioners,

must be performed as soon as practicable after he becomes or they become aware of the matter in question.”.

(5) In sub-paragraph (4) for—

- (a) “he shall be under a duty, until he is” substitute “he or they shall be under a duty until he is or they are”; and
- (b) “appearing to him” substitute “appearing to him or them”.

(6) Omit sub-paragraph (5).

(7) In sub-paragraph (6)—

- (a) for “the chief officer” substitute “the Chairman or Commissioners”;
- (b) for “he may be directed” substitute “he or they may be directed”; and
- (c) omit “by the police authority maintaining his force or”.

11.—(1) Paragraph 13 shall be modified as follows.

(2) In sub-paragraph (1) for—

- (a) “a police authority or a chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”, and
- (b) “the authority or chief officer is” substitute “any of those persons is or are”.

(3) In sub-paragraph (3)—

- (a) for “a police authority maintaining any police force” substitute “the Head of the Home Civil Service”;

- (b) in paragraph (a) for “chief officer of police of that force” substitute “Chairman”; and
- (c) in paragraph (b) for “police authority” substitute “Head of the Home Civil Service”.

(4) In sub-paragraph (5)(b) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.

(5) In sub-paragraph (6)—

- (a) in paragraph (a) for “a police authority or chief officer refers” substitute “the Head of the Home Civil Service, Chairman or Commissioners refers or refer”;
- (b) in paragraph (b) for “that authority or chief officer does not” substitute “the Head of the Home Civil Service, Chairman or Commissioners does or do not”; and
- (c) for “that authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.

12.—(1) Paragraph 14 shall be modified as follows.

(2) In sub-paragraph (1) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.

(3) In sub-paragraph (2)—

- (a) after “recordable conduct matter” insert “referred by the Head of the Home Civil Service, Chairman or Commissioners”;
- (b) for “appropriate authority” substitute “Head of the Home Civil Service, Chairman or Commissioners”;
- (c) for “that authority” (on the first occasion those words appear) substitute “by him or them”; and
- (d) for “that authority” (on the second occasion those words appear) substitute “he or they”.

13.—(1) Paragraph 14A(a) shall be modified as follows.

(2) For sub-paragraph (1) substitute—

“(1) Where a DSI matter comes to the attention of the Commissioners, being the appropriate authority, it shall be their duty to record that matter.”.

14.—(1) Paragraph 14B(b) shall be modified as follows.

(2) Omit sub-paragraph (1).

(3) In sub-paragraph (2)—

- (a) for the words from “Where” to the end of paragraph (b) substitute “Where a DSI matter comes to the attention of the Commissioners”;
- (b) for “his duty” substitute “their duty”; and
- (c) for “to him” substitute “to them”.

(4) In sub-paragraph (3) for “chief officer’s” substitute “Commissioners” and for “he becomes” substitute “they become”.

(5) In sub-paragraph (4) for “he shall” substitute “they shall”, “he is” substitute “they are” and “to him” substitute “to them”.

(6) Omit sub-paragraph (5).

(7) In sub-paragraph (6) for “chief officer” substitute “Commissioners”, for “he” substitute “they” and omit “by the police authority maintaining his force or”.

15.—(1) Paragraph 14D(c) shall be modified as follows.

(2) In sub-paragraph (1) for “a police authority or a chief officer” substitute “the Commissioners”.

16.—(1) Paragraph 15(d) shall be modified as follows.

(2) After sub-paragraph (4)(b) insert—

“(bb) an investigation by a police force under the supervision of the Commission;”.

(3) In sub-paragraph (4)(c) substitute “the appropriate authority” for “that authority”.

(4) After sub-paragraph (4)(c) insert—

“(cc) an investigation by a police force under the management of the Commission;”.

(a) Paragraph 14A was inserted by paragraph 12 of Schedule 12 to 2005 c. 15.

(b) Paragraphs 14B to 14D were inserted by paragraph 12 of Schedule 12 to 2005 c. 15.

(c) Paragraphs 14B to 14D were inserted by paragraph 12 of Schedule 12 to 2005 c. 15.

(d) Paragraph 15 was amended by paragraph 13 of Schedule 12 to 2005 c. 15.

(5) After sub-paragraph (4) insert—

“(4A) An investigation relating to any conduct of the Chairman, Deputy Chairman or other Commissioners under this paragraph may only be carried out in the form specified in sub-paragraph (4)(bb), (4)(cc) or (4)(d).”.

17.—(1) Paragraph 16(a) shall be modified as follows.

(2) In sub-paragraph (1) omit paragraph (a).

(3) Omit sub-paragraph (2).

(4) In sub-paragraph (3) for the words from “appoint” to the end of the sub-paragraph substitute “appoint an officer to investigate the complaint or matter.”.

(5) Omit sub-paragraph (5).

18.—(1) Paragraph 17(b) shall be modified as follows.

(2) In sub-paragraph (2) for the words from “appoint” to the end of the sub-paragraph substitute “appoint an officer to investigate the complaint or matter.”.

(3) In sub-paragraph (4)(a) for “sub-paragraph 2(a) or (b)” substitute “sub-paragraph (2)”.

(4) Omit sub-paragraphs (6) and (6A).

19. After paragraph 17 insert—

“**17A.**—(1) This paragraph applies where the Commission determines that there should be an investigation by a police force under the supervision of the Commission.

(2) The Commission shall—

(a) identify the police force whose force area includes the geographical area to which the subject matter of the complaint, recordable conduct matter or DSI matter most closely relates, and

(b) take steps to obtain the agreement of—

(i) the chief officer of police of that force, and

(ii) the appropriate authority,

to the appointment by the Commission of that force to carry out the investigation.

(3) In the event that no agreement is reached under sub-paragraph (2) the Commission may require the chief officer of police of any police force it considers appropriate to carry out the investigation.

(4) A chief officer of police of a police force who agrees to or is required to carry out an investigation shall, if he has not already done so, appoint a person serving with the police who is a member of that force to investigate that complaint.

(5) Sub-paragraphs (3) to (5) and (7) of paragraph 17 shall apply as they apply to an investigation by the appropriate authority which the Commission has determined is one that it should supervise and the references to the appropriate authority in those sub-paragraphs shall be treated as references to the chief officer of police concerned.

(6) An appointment of a person under sub-paragraph (4) or (5) shall be notified by the chief officer of police concerned to the appropriate authority.”.

20. After paragraph 18(c) insert—

“**18A.**—(1) This paragraph applies where the Commission determines that there should be an investigation by a police force under the management of the Commission.

(2) The Commission shall—

(a) identify the police force whose force area includes the geographical area to which the subject matter of the complaint, recordable conduct matter or DSI matter most closely relates, and

(b) take steps to obtain the agreement of—

(i) the chief officer of police of that force, and

(ii) the appropriate authority,

to the appointment by the Commission of that force to carry out the investigation.

(3) In the event that no agreement is reached under sub-paragraph (2) the Commission may require the chief officer of police of any police force it considers appropriate to carry out the investigation.

(a) Paragraph 16 was amended by paragraph 14 of Schedule 12 to 2005 c. 15.

(b) Paragraph 17 was amended by paragraph 15 of Schedule 12 to 2005 c. 15.

(c) Paragraph 18 was amended by paragraph 16 of Schedule 12 to 2005 c. 15.

(4) A chief officer of police of a police force who agrees to or is required to carry out an investigation shall, if he has not already done so, appoint a person serving with the police who is a member of that force to investigate that complaint or matter.

(5) Sub-paragraphs (3) to (5) of paragraph 17 shall apply as they apply to an investigation by the appropriate authority which the Commission has determined is one that it should supervise and the references to the appropriate authority in those sub-paragraphs shall be treated as references to the chief officer of police concerned.

(6) An appointment of a person under sub-paragraph (4) or (5) shall be notified by the chief officer of police concerned to the appropriate authority.

(7) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the Commission.”.

21. Omit paragraphs 19(3) and (3A).

22.—(1) Paragraph 20(a) shall be modified as follows.

(2) Omit sub-paragraph (1)(a).

(3) In paragraph 20(3) after “Director of Public Prosecutions” insert “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

23. Omit paragraphs 20A to 20I(b).

24.—(1) Paragraph 21A shall be modified as follows.

(2) In sub-paragraphs (1) and (3) for “a person serving with the police” substitute “an officer”.

(3) In sub-paragraph (1) after “18” insert “or 18A”.

(4) In sub-paragraph (3) for “16 or 17” substitute “16, 17 or 17A”.

25. In paragraph 22(2) for “17 or 18” substitute “17, 17A, 18 or 18A”.

26.—(1) In paragraph 23(2)(c) after “Director of Public Prosecutions” insert “or the Director of Revenue and Customs Prosecutions”.

(2) In paragraphs 23(3), (4) and (6)(b) after “Director of Public Prosecutions” insert “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

27. In paragraphs 24(2)(b), (3), (4) and (6)(b) after “Director of Public Prosecutions” insert “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

28. In paragraphs 24A(4), 24B(1) and 24C(1) for “a person serving with the police” substitute (on each occasion where the words occur) “an officer”.

29. Omit paragraph 25(2A)(c).

30. In paragraph 27(3) for “any person serving with the police” substitute “any officer”.

SCHEDULE 4

Regulation 4(2)

PART 1

MODIFICATION OF THE COMPLAINTS REGULATIONS

1. Omit regulation 4.

2.—(1) In regulation 6(2) for the words from “consent” to the end of the paragraph substitute—
“consent—

(i) in the case of an investigation carried out by an appointed person who is an officer, of the Director of Revenue and Customs Prosecutions, or

(ii) in any other case, of the Director of Public Prosecutions,

to the imposition thereof.”

(2) In regulation 6(3) for—

(a) “a chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”;

(b) “consulting him” substitute “consulting him or them”;

(a) Paragraph 20 was amended by paragraph 18 of Schedule 12 to 2005 c. 15.

(b) Paragraphs 20A to 20I were inserted by paragraph 3 of Schedule 11 to 2005 c. 15.

(c) Paragraph 25(2A) was inserted by paragraph 4 of Schedule 11 to 2005 c. 15.

- (c) “he may make” substitute “he or they may make”.
3. Omit regulations 7(2)(b) and 7(7)(c).
- 4.—(1) In regulation 8(1) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
- (2) In regulation 8(2)(c) for “the police force or police authority which” substitute “the Head of the Home Civil Service, Chairman or Commissioners who”.
- (3) In regulations 8(3)(a) and (7) for “police authority or chief officer” substitute “Head of the Home Civil Service, Chairman or Commissioners”.
- (4) In regulation 8(5) for “A police authority or chief officer” substitute “The Head of the Home Civil Service, Chairman or Commissioners”.
5. Omit regulation 9.
- 6.—(1) Regulation 12 shall be modified as follows.
- (2) After paragraph (1)(b) insert—
- “(c) preventing the disclosure of any information held by the Revenue and Customs in connection with a function of the Revenue and Customs which—
- (i) is obtained from the Head of the Home Civil Service, Chairman, Commissioners or an officer, and
- (ii) relates to a person whose identity is specified in the disclosure or can be deduced from it.”.
- (3) After paragraph (1) insert—
- “(1A) Paragraph (1)(c) does not apply to any information about internal administrative arrangements of Her Majesty’s Revenue and Customs (whether relating to Commissioners, officers or others).”.
- (4) After paragraph (2) insert—
- “(2A) The Commission shall consult the appropriate authority in any case under paragraph (1)(c) before deciding whether or not it is satisfied under paragraph (2).”.
- (5) After paragraph (3) insert—
- “(4) In this regulation “the Revenue and Customs” means—
- (a) the Commissioners;
- (b) an officer;
- (c) a person acting on behalf of the Commissioners or an officer;
- (d) a committee established by the Commissioners;
- (e) a member of a committee established by the Commissioners;
- (f) the Commissioners of Inland Revenue (or any committee or staff of theirs or anyone acting on their behalf);
- (g) the Commissioners of Customs and Excise (or any committee or staff of theirs or anyone acting on their behalf), and
- (h) a person specified in section 6(2) or 7(3) of the Commissioners for Revenue and Customs Act 2005.”.
- 7.—(1) In regulation 18(1) for “17 or 18” substitute “17, 17A, 18 or 18A”.
- (2) Omit regulations 18(1)(d), (2) and (3).
8. In regulation 21 for “person serving with the police” substitute “Commissioner or an officer”.
9. In regulation 24—
- (a) for “Every police authority and chief officer” substitute “The Head of the Home Civil Service, Chairman and Commissioners”, and
- (b) in paragraphs (a) and (b) for “it or him” substitute “him or them”.
- 10.—(1) In regulation 25(1) for “a police authority or chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
- (2) In regulation 25(3) for “(a) and (b)” substitute “(a), (b) and (c)”.
- 11.—(1) Regulation 26 shall be modified as follows.
- (2) In paragraph (1) for—
- (a) “chief officer” substitute “the Head of the Home Civil Service, Chairman or Commissioners”;
- (b) “on him” substitute “on him or them”; and
- (c) “an officer” substitute “a person”.

- (3) In paragraph (2) for sub-paragraphs (a) to (c) substitute—
 - “(a) in the case of the Head of the Home Civil Service, to a member of the Senior Civil Service;
 - (b) in the case of the Chairman, to a member of the Senior Civil Service employed in the service of the Commissioners;
 - (c) in the case of the Commissioners, to an officer.”.
 - (4) Omit paragraph (3).
 - (5) For paragraph (4) substitute—
 - “(4) The Head of the Home Civil Service, Chairman or Commissioners shall not, in any particular case, delegate any power or duty under paragraph (1) to a person who has acted as investigating officer in that case.”.
 - (6) In paragraph (5) for “a chief constable” substitute “the Head of the Home Civil Service, Chairman or Commissioners”.
12. Omit regulations 28, 29 and 30.

PART 2

MODIFICATION OF THE STAFF CONDUCT REGULATIONS

- 1. In regulation 2(3)(a)(i) for “person serving with the police” substitute “Commissioner or officer”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations confer functions on the Independent Police Complaints Commission (“IPCC”) in relation to Her Majesty’s Revenue and Customs (“HMRC”). They provide for the provisions of Part 2 of the Police Reform Act 2002 (c. 30) and secondary legislation made under Part 2 to apply with modifications to HMRC.

Regulation 1 provides for the Regulations to come into force on 28th December 2005.

Regulation 3(1) provides for Part 2 of the 2002 Act to apply for the purpose of conferring functions on the IPCC in relation to the Commissioners for Revenue and Customs and officers of Revenue and Customs.

Regulation 3(2) provides for sections 9 to 29 of the Act to have effect with the modifications made by Schedule 1 to the Regulations. Those modified sections confer on IPCC functions of monitoring and securing the effectiveness of a scheme for recording, handling and investigating complaints about the conduct of the Commissioners and their officers—as well as conduct for which no complaint is made (conduct matters)—and incidents of death or serious injury (DSI).

As a result of the modifications made by Schedule 1, the functions of the IPCC will be exercisable in relation to DSI and those other types of conduct which must or may be referred to the IPCC or which the IPCC may call in for examination. Amongst the IPCC’s functions is the provision of advice and recommendations for modifying the arrangements of the scheme. The IPCC will be required to provide an annual report to the Chancellor of the Exchequer.

Regulations 3(4) and 3(5) provide for Schedule 3 to the 2002 Act containing the scheme for handling complaints, conduct matters and DSI matters to have effect subject to the modifications set out in Schedule 3 to the Regulations. The principal effects of the modifications are as follows. The duties and powers under the scheme are conferred on the Head of the Home Civil Service, the Chairman of the Commissioners, and the other Commissioners (each being known in the Regulations as the “appropriate authority”). They each have responsibility for different grades of HMRC persons whose conduct is in question. They are under a duty to record complaints and conduct matters and deal with them in accordance with the procedures set out in the scheme. Complaints relating to certain types of conduct must be referred to IPCC for decisions about their form of investigation. The appropriate authority has a discretion to refer other classes of cases to IPCC. The IPCC may decide that an investigation should be carried out by the police and in such a case the appropriate authority is required to pay for the assistance provided by the police force carrying out that investigation. A complainant has a right of appeal against the non-recording of any complaint of a type which must be referred. Other types of conduct which are not or do not have to be referred may be dealt with in such manner as the appropriate authority thinks appropriate, as may a complaint which the IPCC determines does not have to be investigated. In relation to conduct matters, the Head of the Home Civil Service will be required to record and deal with a matter which contains an indication that a criminal offence may have been committed. The Chairman and Commissioners will be required to record and deal with similar conduct matters—and conduct matters justifying disciplinary proceedings but not those which are unlikely to result in dismissal.

The provisions of the 2002 Act specified in regulations 3(2) to (4) have effect from the date these Regulations come into force. The provisions of Schedule 3 specified in regulation 3(5) have effect from 1st April 2006.

Regulation 4 provides for the application, from the date these Regulations come into force, of secondary legislation made under Part 2 of the 2002 Act with the modifications made by Schedule 4.

Regulation 5 precludes the disclosure by the IPCC of information obtained in the course of performing functions under these Regulations except to the extent that Part 2 of the 2002 Act or the Complaints Regulations permits disclosure.

Regulation 6 precludes the IPCC from using information obtained in the course of performing functions conferred by these Regulations for any purpose other than those functions.

Regulation 7 requires the Commissioners to pay the Secretary of State for functions performed by the IPCC.

Regulation 8 precludes Part 2 of the Act and secondary legislation made under it from having effect in relation to complaints made about conduct which occurs before 1st April 2006. Regulation 9 makes similar provision in relation to conduct matters but this restriction does not apply to any conduct matter which the appropriate authority may refer to the IPCC.

A Regulatory Impact Assessment is not required. This legislation will not have an impact on business.

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