

EXPLANATORY MEMORANDUM TO
THE POLICE (CONDUCT) (AMENDMENT) REGULATIONS 2014

2014 No. 3347

1. This explanatory memorandum has been prepared by the Home Office (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Police (Conduct) Regulations 2012 (“the 2012 Regulations”) to provide that a police officer may not resign or retire, without the consent of the appropriate authority, once an allegation has come to its attention that may result in the officer’s dismissal from a police force. The appropriate authority is the chief officer of police of the relevant police force (or the local policing body in relation to the force where the officer is the chief officer).

2.2 The appropriate authority may consent if the officer concerned is medically unfit to continue to be subject to disciplinary proceedings or where there are other exceptional circumstances.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Police Act 1996 (“the 1996 Act”) makes provision for the organisation and supervision of police forces in England and Wales. Section 50 of the 1996 Act confers power on the Secretary of State to make regulations in relation to the government, administration and conditions of service of police forces. Section 51 contains equivalent power in relation to special constables.

4.2 The 2012 Regulations are made under the powers in sections 50 and 51 to set out a detailed framework governing the investigation of allegations of misconduct against police officers and special constables, for the taking of misconduct proceedings against them and for the imposition of sanctions. The 2012 Regulations include provision for matters such as suspension, representation, the service of notices and evidence and the composition of panels to hear and determine misconduct allegations. They also provide for the involvement of the Independent Police Complaints Commission (“the IPCC”) and the complainant or other interested persons, in cases where the allegation of misconduct arises from a complaint or other matter dealt with under Part 2 of the Police Reform Act 2002.

5. Territorial Extent and Application

5.1. These Regulations extend to England and Wales only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Police officers are currently able to resign or retire whilst subject to an allegation or investigation that could lead to their dismissal from the police. Annex D to the determinations made by the Secretary of State under the Police Regulations 2003 does provide that an officer cannot give notice to resign or retire without the consent of the appropriate authority where the officer concerned is suspended under regulation 10 of the 2012 Regulations, but there is no such provision in relation to officers who are not so suspended.
- 7.2 The current regulations often mean that officers leave the force before they face the outcome of disciplinary proceedings in high-profile cases of alleged police misconduct. This can lead to a public perception that police officers may easily escape punishment for wrongdoing and results in feelings of injustice on the part of members of the public who have made complaints about the police and the families of those who have died following contact with the police. This in turn can lead to the erosion of trust and confidence in the police, and the police complaints and disciplinary systems. The IPCC, which is the statutory guardian of the police complaints system, has identified this as a problem in relation to its own independent investigations into the most serious and sensitive cases.
- 7.3 The Department considers that it is in the public interest for disciplinary proceedings, which are serious enough that they could lead to the dismissal of the officer concerned, to be taken to their full conclusion at a misconduct hearing. This is to ensure that justice is served for the victims of police misconduct and the public, and to ensure that the full circumstances of misconduct in the police are apparent so that lessons can be learnt and changes made to improve the discipline and conduct of police forces following misconduct cases.
- 7.4 To achieve this, these Regulations amend the 2012 Regulations to provide that an officer subject to an allegation, investigation or misconduct proceedings that could lead to that officer's dismissal cannot give notice to resign or retire without the consent of the appropriate authority. As the intention is that officers should face the full consequences of their actions at a hearing, the appropriate authority may only give consent where the officer is medically unfit to continue to be the subject of misconduct proceedings or where there are other exceptional circumstances. These safeguards are included to ensure that the appropriate authority can give consent where the officer is medically unfit or in the limited circumstances where the public interest in seeing the case through to a full conclusion may be outweighed by exceptional circumstances specific to the case.

- ***Consolidation***

7.5 The Department considers that there is at this stage no scope for consolidation.

8. Consultation outcome

8.1 The Police Advisory Board for England and Wales has been consulted in accordance with the duty in section 63(3)(a) of the Police Act 1996. The Board's comments have been taken into account in preparing these Regulations.

9. Guidance

9.1 The Department will issue guidance to forces in relation to the application of these Regulations as an annex to its statutory guidance on Misconduct, Performance and Attendance Management Procedures.

10. Impact

10.1 There is no impact on businesses, charities or voluntary bodies. A regulatory impact assessment accompanies this explanatory memorandum.

11. Regulating small business

11.1 These Regulations do not apply to small businesses.

12. Monitoring & review

12.1 The Department will review the effect of the application of these Regulations in July 2015.

13. Contact

13.1 Matthew Burton, Police Integrity and Powers Unit, the Home Office on 020 7035 3723 or Matthew.Burton1@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.