
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 42

**The Police (Performance and Attendance)
Regulations (Northern Ireland) 2016**

PART 2

General

Police friend

5.—(1) The member concerned may choose a police officer who is not otherwise involved in the matter, to act as his police friend.

(2) A police friend may—

- (a) advise the member concerned throughout the proceedings under these Regulations;
- (b) unless the member concerned has the right to be legally represented and chooses to be so represented, represent the member concerned at a meeting under these Regulations;
- (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations; and
- (d) accompany the member concerned to any meeting which the member concerned is required to attend under these Regulations.

(3) The Chief Constable shall permit a police friend who is a member of the police service to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

Legal representation

6.—(1) Where a member is required to attend a third stage meeting, he has the right to be legally represented at such meeting by counsel or a solicitor of his choice.

(2) If such a member chooses not to be legally represented—

- (a) such meeting may take place and he may be dismissed or receive any other outcome under regulation 39(2) or (6) without his being legally represented; and
- (b) the panel conducting such meeting may nevertheless be advised by counsel or a solicitor at the meeting in accordance with regulation 37(4).

(3) Except in a case where the member concerned has the right to be legally represented and chooses to be so represented, he may be represented at a meeting under these Regulations only by a police friend.

(4) A third stage meeting under regulation 28 shall not take place unless the member concerned has been notified in writing of the effect of this regulation.

Service of notices or documents

7.—(1) Subject to paragraph (2), any written notice or document to be given or supplied to the member concerned under these Regulations shall be given to him in person.

(2) Where the appropriate authority reasonably believes that the member concerned is avoiding service the written notice or document shall be left with some person at, or sent by recorded delivery to, his last known address.

Procedure at meetings under these Regulations

8.—(1) Where the member concerned does not attend a meeting under these Regulations or where the member concerned participates in a third stage meeting by video link or other means under regulation 34(7), he may nonetheless be represented at that meeting by his—

- (a) police friend; or
- (b) where the member is required to attend the third stage meeting under regulation 27 or 28, his counsel or a solicitor.

(2) Where the member concerned does not attend a meeting under these Regulations or participate in a third stage meeting by video link or other means under regulation 34(7), the meeting may be proceeded with and concluded in the absence of the member concerned whether or not he is so represented.

(3) During any meeting under these Regulations, the person representing the member concerned may—

- (a) address the meeting in order to do any or all of the following—
 - (i) put the case of the member concerned;
 - (ii) sum up that case;
 - (iii) respond on behalf of the member concerned to any view expressed at the meeting;
 - (iv) make representations concerning any aspect of proceedings under these Regulations; and
 - (v) in the case of a third stage meeting only, subject to paragraph (7), ask questions of any witnesses;
- (b) confer with the member concerned.

(4) Where the person representing the member concerned is counsel or a solicitor, the police friend of the member concerned may also confer with the member concerned.

(5) Where the member concerned is participating in a third stage meeting by video link or other means in accordance with regulation 34(7), the person representing the member or (if different) his police friend (or both) may also participate in the third stage meeting by such means together with the member concerned.

(6) The police friend, or counsel or solicitor of the member concerned may not answer any questions asked of the member concerned during a meeting.

(7) Whether any question should or should not be put to a witness at a third stage meeting shall be determined by the panel chair.

(8) At any meeting under these Regulations, the person or the panel conducting the meeting shall not make a finding of unsatisfactory performance or attendance or gross incompetence unless—

- (a) he is or they are satisfied on the balance of probabilities that there has been unsatisfactory performance or attendance or gross incompetence; or
- (b) the member concerned consents to such a finding.

(9) The person conducting or chairing a meeting under these Regulations may allow any document to be considered at that meeting notwithstanding that a copy of it has not been—

- (a) supplied to him by the member concerned in accordance with regulation 13(6), 16(6)(b), 20(6), 23(6)(b) or 32(3);
- (b) supplied to the member concerned in accordance with regulation 13(2), 20(2), 27(2) or 29(2); or
- (c) made available to each panel member or given to the member concerned under regulation 30(11).

Nominated persons

9.—(1) A senior manager may appoint another person (a “nominated person”) to carry out any of the functions of the line manager or the second line manager in these Regulations.

(2) Where a person is appointed to carry out any of the functions of the line manager under paragraph (1) he may not also be appointed to carry out any of the functions of the second line manager under that paragraph.

(3) Where a person is appointed to carry out any of the functions of the second line manager under paragraph (1) he may not also be appointed to carry out any of the functions of the line manager under that paragraph.

(4) A nominated person shall be a member and shall be, in the opinion of the appropriate authority, of at least the same or equivalent rank or grade as the person whose functions he is carrying out.

(5) Where a nominated person is appointed by the senior manager, references in these Regulations to a line manager or a second line manager, as the case may be, shall be construed as references to the nominated person, in relation to the functions which the nominated person has been appointed to carry out.

References to certain periods

10.—(1) The appropriate authority may, on the application of the member concerned or otherwise, extend the period specified in accordance with any of the regulations mentioned in paragraph (2) if it is satisfied that it is appropriate to do so.

(2) The regulations mentioned in this paragraph are—

- (a) regulation 14(6)(c); and
- (b) regulation 21(6)(c); and
- (c) regulation 39(7)(c) and (8)(a).

(3) Unless the appropriate authority is satisfied that there are exceptional circumstances making it appropriate, any such period may not be extended if the extension would result in the total length of that period exceeding 12 months.

(4) Where an extension is granted under paragraph (1) to a period specified under a regulation mentioned in paragraph (2), any reference in these Regulations to such period shall be construed as a reference to that period as so extended.

Suspension of certain periods

11.—(1) Any reference in these Regulations to a period mentioned in paragraph (2) shall not include any time the member concerned is taking a career break under regulation 32(13) of the Police Regulations (leave) and the determination of the Department of Justice made under that regulation.

(2) The periods mentioned in this paragraph are—

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- (a) a period specified in accordance with regulation 14(6)(c);
- (b) the validity period of a written improvement notice;
- (c) a period specified in accordance with regulation 21(6)(c);
- (d) the validity period of a final written improvement notice;
- (e) a period specified under regulation 39(7)(c) or (8)(a);
- (f) the validity period of a final written improvement notice extended under regulation 39.