

### SCHEDULE 3

Regulations 3(4) and (5)

#### 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”;
  - (c) “appearing to him” substitute “appearing to him or them”.
- (7) Omit sub-paragraph (5).
- (8) In sub-paragraph (6)—

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- (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.

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- (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

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- (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(1) 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(2) 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”.

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

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

(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(3) 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(4) 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;”.

(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(5) 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(6) 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—

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

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

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

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

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- (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(7) 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.

(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).

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



- 22.**—(1) Paragraph 20(8) 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(9).
- 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)(10).
- 30.** In paragraph 27(3) for “any person serving with the police” substitute “any officer”.

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

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

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