
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 122

The Police Service of Northern Ireland
(Secondment) (Garda Síochána) Regulations 2004

PART III

SECONDMENTS TO THE GARDA SÍOCHÁNA

Conduct of member on relevant service with Garda Síochána

13. Where an investigation is carried out in accordance with the law and procedure for the time being governing the discipline of members of the Garda Síochána into whether any conduct by a member of the Police Service of Northern Ireland engaged on relevant service with the Garda Síochána amounts to a breach of Garda Síochána discipline, any requirement imposed on the member under that law and procedure shall be treated as imposed under the conduct regulations.

Supervising member

14.—(1) Where the Chief Constable is notified that an investigation is being or has been carried out by the Garda Síochána into an alleged breach of Garda Síochána discipline by a member engaged on relevant service with the Garda Síochána (“the member concerned”), he may refer the case to an officer (“the supervising member”) to supervise the consideration of the question of imposing any sanction.

(2) A supervising member must satisfy the conditions in regulation 7(3) of the conduct regulations.

(3) The Chief Constable shall supply to the supervising member any report, notice or other document which he receives from the Garda Síochána in connection with the case.

Referring case to hearing

15.—(1) The supervising member to whom a case is referred under regulation 14 shall decide whether to refer a case to a hearing on the question of whether to impose a sanction.

(2) The supervising member shall not decide to refer a case to a hearing until he has been informed

—
(a) that a decision has been taken —

(i) at a hearing under the law and procedure for the time being governing the discipline of members of the Garda Síochána, or

(ii) on appeal against the finding of such a hearing,

that the conduct of the member concerned was a breach of Garda Síochána discipline, and

(b) that —

(i) no appeal lies against the decision, or

- (ii) if leave to appeal against the decision is required, leave is refused or the time to apply for leave has expired without leave being granted, or
- (iii) if leave to appeal against the decision is granted or is not required, the time to appeal against the finding has expired without any appeal being brought.

(3) Where the supervising member is informed that a decision has been taken not to refer the case to a hearing under the law and procedure for the time being governing the discipline of members of the Garda Síochána, the supervising member shall not refer the case to a hearing.

(4) Where the supervising member decides not to refer the case to a hearing, no reference to the case shall be made on the personal record of the member concerned.

(5) Where the supervising member decides to refer the case to a hearing –

(a) the Garda Síochána investigation, and any steps taken in relation to it, shall be treated as having been carried out by an investigating officer appointed under regulation 8 of the conduct regulations;

(b) any hearing –

(i) to which the case is referred under the law and procedure for the time being governing the discipline of members of the Garda Síochána, or

(ii) on an appeal from such a hearing,

and any steps taken in relation to either such hearing, shall be treated as having been carried out in accordance with regulations 13 to 30 of the conduct regulations; and

(c) any decision of such a hearing that the member concerned did commit a breach of Garda Síochána discipline shall be treated as a decision taken under regulation 23(3) of the conduct regulations that his conduct did not meet the appropriate standard.

Withdrawal of case

16.—(1) At any time before the beginning of the hearing the supervising member to whom a case is referred under regulation 14 may direct that the case be withdrawn.

(2) Where a case is withdrawn it shall be treated as if the supervising member had decided not to refer the case to a hearing.

Notice of decision to refer case to hearing

17.—(1) The supervising member to whom a case is referred under regulation 14 shall ensure that, as soon as practicable, the member concerned is given written notice of any decision taken under regulation 15.

(2) A notice given under paragraph (1) shall specify –

(a) the conduct of the member concerned which was alleged to be a breach of discipline;

(b) any admission made by the member concerned that the conduct was a breach of discipline;

(c) any finding, reached by a hearing to which the case is referred under the law and procedure for the time being governing the discipline of members of the Garda Síochána, that the conduct was a breach of discipline; and

(d) any decision taken on an appeal against such a finding.

(3) There shall be supplied to the police officers conducting the hearing a copy of the notice given under paragraph (1).

Notice and documents

18.—(1) The supervising member to whom a case is referred under regulation 14 shall ensure that the member concerned is given written notice –

- (a) informing him that he has the right to seek advice from his Staff Association; and
- (b) informing him that he has the right to be accompanied to any meeting, interview or hearing by a person selected by him, who –
 - (i) shall be a member of the Police Service of Northern Ireland, a member of the Garda Síochána or a member of another police force, and
 - (ii) shall not be an interested party.

(2) The supervising member shall ensure that not less than 28 days before the date of the hearing, the member concerned is supplied with copies of any report, notice or other document submitted to the supervising member under regulation 14(3) and any other relevant documents obtained by the supervising member.

Consideration of facts

19. The officers conducting a hearing to which a case is referred under regulation 15 shall consider the facts of the case and decide whether, in all the circumstances, it would be reasonable to impose a sanction.

Conduct regulations

20.—(1) The following provisions of the conduct regulations, namely –

- (a) regulations 14 to 18,
- (b) regulation 20, except paragraph (b),
- (c) regulations 21, 22, 23(1) and 24,
- (d) regulation 26, except the words “subject to regulation 25 paragraphs (2) and (3)”,
- (e) regulations 27 to 30,
- (f) regulation 31, except the words “or in a directed case, the Chief Constable”, and
- (g) regulations 32 and 33,

shall apply in relation to a hearing to which a case is referred under regulation 15 as they apply in relation to a hearing to which a case is referred under regulation 11 of the conduct regulations.

(2) In the application of the provisions mentioned in paragraph (1) to a hearing to which a case is referred under regulation 15 –

- (a) any reference to giving notice or supplying copies of documents under regulation 13 of the conduct regulations shall be construed as a reference to doing so under regulation 18(2); and
- (b) any reference to conduct not meeting the appropriate standard shall be construed as a reference to a breach of Garda Síochána discipline.

Request for a review

21.—(1) Where a sanction is imposed at a hearing to which a case is referred under regulation 15, the member concerned shall be entitled to request the Chief Constable to review the sanction.

(2) Regulations 34(2) and (3), 35(1) and (3), 36 and 37 of the conduct regulations shall apply to a review requested under this regulation as they apply to a review requested under regulation 34(1) of those regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Disciplinary proceedings

22. Proceedings at or in connection with a hearing to which a case is referred under regulation 15 shall, for the purposes of section 50 of the 1998 Act, be disciplinary proceedings.