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STATUTORY INSTRUMENTS

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**2004 No. 643**

**The Police (Complaints and Misconduct) Regulations 2004**

**Dispensation by the Commission**

3.—(1) For the purposes of paragraph 7 of Schedule 3 to the 2002 Act (dispensation by the Commission from requirements of Schedule 3) the complaints set out in paragraph (2) are hereby specified—

- (2) Those complaints are complaints where the appropriate authority considers that—
- (a) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay;
  - (b) the matter is already the subject of a complaint;
  - (c) the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;
  - (d) the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
  - (e) the complaint is repetitious; or
  - (f) it is not reasonably practicable to complete the investigation of the complaint or any other procedures under Schedule 3 to the 2002 Act.
- (3) For the purposes of paragraph (2)(e) a complaint is repetitious if, and only if—
- (a) it is substantially the same as a previous complaint (whether made by or on behalf of the same or a different complainant), or it concerns substantially the same conduct as a previous conduct matter;
  - (b) it contains no fresh allegations which significantly affect the account of the conduct complained of;
  - (c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and
  - (d) as respects the previous complaint or conduct matter, either—
    - (i) the requirements of paragraph 23(7) or 24(6) of Schedule 3 to the 2002 Act (determination by the appropriate authority of what action to take) were complied with;
    - (ii) the complaint was locally resolved in accordance with the provisions of paragraph 8 of that Schedule;
    - (iii) the Commission gave the appropriate authority a direction under regulation 7(7)(b) (requirement to dispense with the requirements of Part 2 of the 2002 Act);
    - (iv) the complainant gave such notification that he withdrew the complaint as is mentioned in regulation 15(1)(a); or
    - (v) the Commission, under paragraph 7 of Schedule 3 to the 2002 Act, gave the appropriate authority permission to handle the complaint in whatever way it saw fit.

(4) For the purposes of paragraph (2)(f) it is not reasonably practicable to complete the investigation of a complaint or any other procedures under Schedule 3 to the 2002 Act if, and only if—

- (a) it is not reasonably practicable to communicate with the complainant or a person acting on his behalf; or
- (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of—
  - (i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation; or
  - (ii) the lapse of time since the event or events forming the subject-matter of the complaint.

(5) In this regulation any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.

(6) An application under paragraph 7(1) of Schedule 3 to the 2002 Act for permission to handle a complaint in whatever manner (if any) an authority thinks fit shall be in writing and shall be accompanied by—

- (a) a copy of the complaint;
- (b) an explanation of the appropriate authority's reasons for making the application;
- (c) in a case falling within paragraph (2)(e), the previous complaint and a copy of the record of any resolution, withdrawal or dispensation of that complaint;
- (d) copies of any other documents or material in the possession of the appropriate authority which are relevant to the complaint.

(7) The appropriate authority shall supply any further information requested by the Commission for the purpose of considering an application by that authority made under paragraph 7 of Schedule 3 to the 2002 Act.