

2004 No. 654

POLICE

**The Ministry of Defence Police (Conduct) (Senior Officers)
Regulations 2004**

<i>Made</i> - - - -	<i>9th March 2004</i>
<i>Laid before Parliament</i>	<i>10th March 2004</i>
<i>Coming into force</i> - -	<i>1st April 2004</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 1(5), 3A and 6A of the Ministry of Defence Police Act 1987(a) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Ministry of Defence Police (Conduct) (Senior Officers) Regulations 2004.

(2) These Regulations come into force on 1st April 2004, but do not apply in relation to conduct which occurred or began before that date.

(3) In any case where the date on which a person's conduct occurred or began is not apparent, it is to be assumed for the purposes of paragraph (2) that the conduct occurred or began on or after the date mentioned in paragraph (2) unless that person shows that it occurred or began before that date.

(4) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“appropriate standard” means the standard set out in the Code of Conduct;

“chief constable” means the chief constable of the force;

“the Code of Conduct” means the code of conduct contained in Schedule 1 to the Ministry of Defence Police (Conduct) Regulations 2004(b);

“the Commission” means the Independent Police Complaints Commission;

“complaint” means—

(a) in relation to England and Wales a matter that would, in accordance with section 12 of the Police Reform Act 2002(c), constitute a complaint for the purposes of Part 2 of that Act, and

(a) 1987 c. 4; Sections 3A and 6A were inserted by the Police Reform Act 2002.

(b) S.I. 2004/653

(c) 2002 c. 30.

- (b) in relation to Scotland, a complaint about the conduct of a senior officer of the force which is submitted by a member of the public or on behalf of a member of the public and with his written consent;

“counsel” means—

- (a) in England and Wales, a barrister, and
- (b) in Scotland, an advocate;

“the force” means the Ministry of Defence Police;

“investigating officer”, in relation to a case, means the officer required under regulation 6 to cause it to be investigated;

“Ministry of Defence Police Committee” means the committee appointed by the Secretary of State under section 1(5) of the Ministry of Defence Police Act 1987 or, in relation to any function under these regulations that that committee has delegated under regulation 24, the sub-committee to which it has been delegated;

“other police force” means a police force other than the force;

“representative”, in relation to proceedings under these Regulations, means counsel, a solicitor or a member of the force selected by the senior officer concerned for the purposes of the proceedings;

“senior officer” means the chief constable, the deputy chief constable or an assistant chief constable of the force, and “the senior officer concerned” means the senior officer in relation to whose conduct there has been a report, complaint or allegation.

Application of Regulations

3.—(1) These Regulations apply only in relation to the conduct, or alleged conduct, of a member of the force who at the time the conduct occurred, or is alleged to have occurred—

- (a) is a senior officer, and
- (b) is serving in Great Britain or outside the United Kingdom whilst on detached duty from a station in Great Britain.

(2) It does not matter for the purposes of this regulation whether or not the member of the force is on duty at the time of the conduct.

Suspension: ordinary procedure

4.—(1) Where there has been a report, complaint or allegation which indicates that the conduct of a senior officer does not meet the appropriate standard, the Ministry of Defence Police Committee may suspend the senior officer concerned from duty.

This is subject to the following provisions of this regulation.

(2) A senior officer may not be suspended from duty under this regulation unless it appears to the Ministry of Defence Police Committee that—

- (a) the effective investigation of the matter may be prejudiced unless the senior officer is suspended, or
- (b) having regard to the nature of the report, complaint or allegation and any other relevant considerations, the public interest requires that he should be suspended.

(3) If the Ministry of Defence Police Committee determine that a senior officer in England and Wales ought to be suspended from duty under this regulation, they must notify the Commission as soon as reasonably practicable of their decision and whether it appears to them that the case falls within sub-paragraph (a) or (b) of paragraph (2) or both of those sub-paragraphs.

(4) If, on being notified under paragraph (3), the Commission are satisfied that one or both of those sub-paragraphs are met, they must notify their approval of the suspension of the senior officer concerned to the Ministry of Defence Police Committee as soon as practicable, and the suspension of the officer only has effect if the approval of the Commission is so given.

(5) The suspension of a senior officer under this regulation takes effect from the time the senior officer receives notice in writing of the decision to suspend him.

(6) Such a suspension remains in effect until—

- (a) the Commission or the Ministry of Defence Police Committee decide that it is to cease to have effect,
- (b) the senior officer concerned is notified that his case is not to be referred to a hearing under regulation 10,
- (c) where his case is so referred, he is notified—
 - (i) that his conduct met the appropriate standard, or
 - (ii) that his conduct failed to meet the appropriate standard, but that no sanction is to be imposed on him under regulation 21,
 - (iii) he is reprimanded under regulation 21, or
 - (iv) he ceases to be a member of the force,

whichever occurs first.

Suspension: urgent cases

5.—(1) In cases of urgency—

- (a) where the senior officer concerned is the chief constable, the Ministry of Defence Police Committee, or any member of that Committee acting on the Committee's behalf, may exercise the same power to suspend as under regulation 4 in relation to the officer with immediate effect, and
- (b) in any other case, the chief constable may exercise that power in relation to the officer with immediate effect.

(2) Where the power of suspension is exercised under paragraph (1)(a) by a member of the Committee acting on the Committee's behalf, that member must immediately notify the Committee.

(3) Where the power of suspension is exercised under paragraph (1)(b), the chief constable must immediately notify the Committee.

(4) Where the power of suspension is exercised under paragraph (1) and the report, complaint or allegation relates to the conduct in England or Wales of a senior officer, the Committee must immediately notify the Commission.

Investigating officers

6.—(1) This regulation applies where a report, complaint or allegation is received by the Ministry of Defence Police Committee which indicates that the conduct of a senior officer did not meet the appropriate standard (whether or not the case arises from a complaint by a member of the public).

(2) Unless the Ministry of Defence Police Committee decide, in the light of such preliminary inquiries as they may make, that no proceedings under regulation 10 need be taken, the matter must be referred to an investigating officer who must cause it to be investigated.

(3) The investigating officer must be of at least the rank of the senior officer concerned.

(4) The investigating officer must be—

- (a) a member of the force (other than the chief constable or a member of the force serving at the same location as the senior officer concerned), or
- (b) if, at the request of the Ministry of Defence Police Committee, the chief officer of some other police force agrees to provide an investigating officer, a member of that force.

(5) In a case where the Commission is supervising or managing the investigation of a report, complaint or allegation in England and Wales and they wish the reference under paragraph (2) to

be made to a particular person, they may require the Ministry of Defence Police Committee to appoint that person instead of any person the Committee have or might otherwise have appointed.

Notice of investigation and invitation to make a statement

7. The investigating officer must, as soon as is reasonably practicable (but without prejudicing his or any other investigation of the matter), cause the senior officer concerned to be given written notice, stating—

- (a) that there is to be an investigation into the case,
- (b) the nature of the report, complaint or allegation,
- (c) that he is not obliged to say anything concerning the matter, but that he may make a written or oral statement concerning the matter to the investigating officer or to the Ministry of Defence Police Committee,
- (d) that if he makes such a statement it may be used in any subsequent proceedings under these Regulations,
- (e) that if he wishes he may seek advice from the Ministry of Defence Police Chief Police Officers Association, and
- (f) that he has the right to be accompanied by a member of a police force, who will not be an interested party, to any meeting, interview or hearing.

Procedure following investigation

8.—(1) Where—

- (a) during or following the investigation of a report, complaint or allegation, it appears to the Ministry of Defence Police Committee that the conduct of a senior officer may not have met the appropriate standard, or
- (b) before the end of the investigation, it appears to the investigating officer that the case is one in respect of which the conditions specified in Part 1 of the Schedule are likely to be met and he informs the Ministry of Defence Police Committee accordingly,

the Committee must consider whether proceedings under regulation 10 need be taken.

(2) Unless the Committee decide that no such proceedings need be taken, as soon as is reasonably practicable they must give the senior officer notice in writing of the report, allegation or complaint—

- (a) asking him whether or not he accepts that his conduct did not meet the appropriate standard,
- (b) informing him that he is not obliged to say anything concerning the matter, but that he may make a written or oral statement concerning the matter to the Committee, and
- (c) informing him that if he makes such a statement it may be used in any subsequent proceedings under these Regulations.

(3) If the Committee decide that no proceedings under regulation 10 need be taken, they must inform the senior officer of that decision in writing immediately.

(4) In a case where paragraph (1)(b) applies, the Committee must—

- (a) determine whether the case is one in respect of which the conditions specified in Part 1 of the Schedule are met, and
- (b) if they determine that it is such a case and are not of the opinion that the circumstances are such that it would be inappropriate to do so, certify the case as a special case.

(5) Where the Committee certify a case under paragraph (4)(b), the notice given under paragraph (2) must inform the senior officer concerned that it has been so certified.

Sanction without hearing

9.—(1) If the senior officer concerned accepts that his conduct did not meet the appropriate standard, the Ministry of Defence Police Committee—

- (a) may impose a sanction under regulation 21 without the case being dealt with in accordance with regulations 10 to 20, and
- (b) where a sanction is so imposed, must provide the senior officer concerned with written notification of their decision and a summary of the reasons for it as soon as reasonably practicable.

(2) But the fact that the senior officer concerned accepts that his conduct did not meet the appropriate standard does not prevent the Ministry of Defence Police Committee from dealing with the matter according to their discretion if, after considering the report of the investigation, they are satisfied that it does not justify the imposition of any sanction under these Regulations.

(3) Where the sanction imposed under paragraph (1) is that the senior officer is dismissed or required to resign, he must be notified in writing of his right of appeal to a Ministry of Defence Police appeals tribunal under the Ministry of Defence Police Appeal Tribunals Regulations 2004(a).

Notice of proceedings

10.—(1) This regulation applies where—

- (a) the senior officer concerned accepts that his conduct did not meet the appropriate standard but the Ministry of Defence Police Committee did not proceed as mentioned in regulation 9(1) or deal with the matter according to their discretion under regulation 9(2), or
- (b) the senior officer concerned does not accept that his conduct failed to meet the appropriate standard but the Committee, after taking into account any statement he may have made in pursuance of a notice given under regulation 7 or 8, are not satisfied that his conduct did meet the appropriate standard.

(2) Subject to paragraph (3), where this regulation applies the Ministry of Defence Police Committee must refer the case to a hearing and instruct the Treasury Solicitor to give written notice to the senior officer concerned that the case is being referred to a hearing, specifying—

- (a) the conduct which it is alleged failed to meet the appropriate standard, and
- (b) the paragraph of the Code of Conduct in respect of which the appropriate standard is alleged not to have been met.

(3) Notwithstanding that a case falls within paragraph (1)(b), if, after considering the report of the investigation, the Ministry of Defence Police Committee are satisfied that the conduct in question would not justify the imposition of any sanction under these Regulations, even if it were found to have failed to meet the appropriate standard—

- (a) paragraph (2) does not apply, and
- (b) the matter may be dealt with according to the Committee's discretion.

Withdrawal of case

11.—(1) At any time after a case has been referred to a hearing under regulation 10, but before the beginning of the hearing, the Ministry of Defence Police Committee may direct that the case be withdrawn.

(2) Where the Committee give a direction under paragraph (1)—

- (a) they must as soon as reasonably practicable cause the senior officer concerned and the Treasury Solicitor to be served with a written notice of the direction, and

(a) S.I. 2004/652

(b) subject to paragraph (3), the case must be treated as if it had not been referred to a hearing.

(3) Where the Committee give a direction under paragraph (1) because they are satisfied that the conduct of the senior officer concerned failed to meet the appropriate standard but is not such as to justify the imposition of a sanction under regulation 21, they may deal with the matter according to their discretion.

Documents to be supplied to senior officer concerned

12.—(1) Where a senior officer is given notice under regulation 10, at least 28 days before the hearing is to be held—

- (a) he must be notified in writing of the time, date and place of the hearing, and
- (b) he must be supplied with copies of—
 - (i) any statement he may have made in pursuance of a notice given under regulation 7 or 8(2)(a), and
 - (ii) any relevant statement, document or other material obtained during the course of the investigation.

(2) In this regulation, in a case where the statement was not made in writing, any reference to a copy of a statement is a reference to a copy of an account of it.

Hearing by tribunal

13.—(1) Where a case is referred to a hearing under regulation 10, it is to be heard by a tribunal consisting of—

- (a) a chairman selected and appointed by the Ministry of Defence Police Committee from a list of persons nominated by the Lord Chancellor or, in the case of a hearing in Scotland, by the Lord President of the Court of Session, and
- (b) one or more assessors selected and appointed by the Committee, with the approval of the chairman of the tribunal, for the purpose of assisting the chairman on matters relating to the police.

(2) One of the assessors appointed under paragraph (1)(b) is to be a chief officer or former chief officer of some other police force.

(3) A person may not be appointed as an assessor under paragraph (1)(b) if he is—

- (a) one of Her Majesty's inspectors of constabulary,
- (b) the chief constable, or
- (c) a member, officer or servant of the Ministry of Defence Police Committee.

Procedure at hearing

14.—(1) A case referred to a hearing under regulation 10 must be heard in private.

(2) The case against the senior officer concerned must be presented by counsel or a solicitor.

(3) The senior officer concerned may conduct his own case or be represented by counsel or a solicitor.

(4) Any question—

- (a) whether any evidence is admissible, or
- (b) whether any question should or should not be put to a witness,

must be determined by the chairman of the tribunal.

(5) A verbatim record of the proceedings before the tribunal must be taken and a transcript of the record be made and sent to the Ministry of Defence Police Committee.

(6) If—

- (a) a sanction is imposed by the Committee, and
- (b) the senior officer concerned so requests within the time limit for any appeal and after he has lodged notice of appeal in accordance with the Ministry of Defence Police Appeal Tribunals Regulations 2004,

a copy of the transcript must be supplied to him.

Power to admit documentary evidence without notice

15. If the senior officer concerned consents, the chairman of the tribunal may allow any document to be adduced in evidence during the hearing notwithstanding that a copy of it has not been supplied to the senior officer concerned in accordance with regulation 12(1).

Adjournment of hearing

16. The chairman of the tribunal may from time to time adjourn the hearing if it appears to him to be necessary or expedient to do so for the due hearing of the case.

Hearing in absence of senior officer concerned

17.—(1) The chairman of the tribunal may proceed with the hearing of the case in the absence of the senior officer concerned if it appears to him to be just and proper to do so.

(2) Where, owing to the absence of the senior officer concerned, it is impossible to comply with any procedure set out in these Regulations, that procedure may be dispensed with.

Attendance of complainant at hearing

18.—(1) This regulation applies where there has been a complaint against the senior officer concerned.

(2) Notwithstanding anything in regulation 14(1), but subject to paragraphs (3), (4), (5), (7) and (8)—

- (a) the tribunal must allow the complainant to attend the hearing while witnesses are being examined or cross-examined, and
- (b) the complainant may at the discretion of the chairman of the tribunal be accompanied by a friend or relative.

(3) Where the complainant is to be called as a witness at the hearing, he may not attend before he gives his evidence.

(4) Where any person allowed to accompany the complainant is to be called as a witness at the hearing, he may not attend—

- (a) if he is to be called as a witness at the hearing, before he has given evidence, and
- (b) if the complainant is to be called as a witness at the hearing, before the complainant has given evidence.

(5) Where it appears to the chairman of the tribunal that a witness, including the senior officer concerned, may in giving evidence disclose information which in the public interest ought not be disclosed to any person attending the hearing by virtue of this regulation, including the complainant, he must require that person to withdraw while the evidence is given.

(6) Where the senior officer concerned gives evidence, then after the person presenting the case has had an opportunity of cross-examining him—

- (a) the chairman of the tribunal must put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination, and
- (b) at the chairman's discretion the complainant himself may be allowed to put such questions to the senior officer concerned.

(7) Subject to paragraph (6), the complainant and any person allowed to accompany him must neither intervene in, nor interrupt, the hearing.

(8) If the complainant or any person allowed to accompany him behaves in a disorderly or abusive manner, or otherwise misconducts himself, the chairman of the tribunal may exclude him from the remainder of the hearing.

(9) In this regulation references to the complainant are references to the originator of the complaint, notwithstanding that it was transmitted to the Ministry of Defence Police Committee by some other person or by the Commission or some other body.

Tribunal's report

19.—(1) The tribunal must review the facts of the case and decide whether or not the conduct of the senior officer concerned met the appropriate standard.

(2) The tribunal may not find that the conduct of the senior officer concerned failed to meet the appropriate standard unless—

- (a) the senior officer concerned admits that his conduct failed to meet that standard, or
- (b) the person presenting the case against the senior officer concerned proves on the balance of probabilities that his conduct failed to meet that standard.

(3) As soon as reasonably practicable after the hearing, the tribunal must submit a report to the Ministry of Defence Police Committee, including—

- (a) a summary of the evidence and of the submissions made to the tribunal,
- (b) the finding of the tribunal under paragraph (1),
- (c) if that finding was that the conduct of the senior officer concerned failed to meet the appropriate standard, a recommendation as to what sanction, if any, should be imposed under regulation 21, and
- (d) any other matter arising out of the hearing which the tribunal wishes to bring to the notice of the Ministry of Defence Police Committee.

(4) The tribunal must send the senior officer concerned a copy of the report.

Decision of Ministry of Defence Police Committee

20.—(1) When they receive the tribunal's report, the Ministry of Defence Police Committee must decide whether—

- (a) to dismiss the case,
- (b) to record a finding that the conduct of the senior officer concerned failed to meet the appropriate standard, but to take no further action, or
- (c) to record such a finding and impose a sanction under regulation 21.

(2) As soon as reasonably practicable after the Committee have made their decision, the decision must be notified in writing to the senior officer concerned and where the decision is that the senior officer should be dismissed or required to resign, he must also be notified in writing of his right of appeal to a Ministry of Defence Police appeals tribunal under the Ministry of Defence Police Appeal Tribunals Regulations 2004.

Sanctions

21.—(1) The sanctions which may be recommended or imposed under this regulation are—

- (a) dismissal from the force,
- (b) requirement to resign from the force as an alternative to dismissal, taking effect forthwith or on such date as may be specified in the recommendation or decision,
- (c) reprimand.

(2) Where the question of the sanction to be imposed under this regulation is being considered by the Ministry of Defence Police Committee under regulation 9(1) or 20—

- (a) they must have regard to the record of police service of the senior officer concerned, as shown on his personal record,
- (b) they may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question, and
- (c) the senior officer concerned, or his representative, must be given an opportunity to make oral or, if appropriate, written representations as respects the question or to adduce evidence that is relevant to it.

(3) Any question whether—

- (a) any such evidence as is referred to in paragraph (2)(a), (b) or (c) is admissible, or
- (b) any question should or should not be put to a witness,

must be determined by the appropriate chairman.

(4) In paragraph (3) “the appropriate chairman” means—

- (a) where the question of the sanction to be imposed is being considered under regulation 9(1), the chairman of the Ministry of Defence Police Committee, and
- (b) where the question of the sanction to be imposed is being considered under regulation 20, the chairman of the tribunal following whose report the sanction is imposed.

Imposition of sanction to be reported to Secretary of State

22.—(1) The Ministry of Defence Police Committee must inform the Secretary of State of any sanction imposed under regulation 9(1).

(2) The Ministry of Defence Police Committee must send a copy of the report of the tribunal, together with the decision of the Committee, to the Secretary of State where a case has been referred to a hearing under regulation 10.

Special cases

23.—(1) This regulation applies to any case—

- (a) in which a report, complaint or allegation is made which indicates that the conduct of a senior officer did not meet the appropriate standard, and
- (b) in respect of which the conditions specified in Part 1 of the Schedule are met and a certificate has been issued under regulation 8(4)(b).

(2) In the application of these Regulations to a case to which this regulation applies, regulations 10 to 21 have effect subject to the modifications specified in Part 2 of the Schedule to these Regulations, except where paragraph (3) applies.

(3) Where the Ministry of Defence Police Committee have determined that the case is one to which this regulation applies, but have directed that the case be returned to the investigating officer, the provisions referred to in paragraph (2) have effect without modification.

(4) In Part 2 of the Schedule, any reference to a provision of these Regulations is to be construed as a reference to that provision as modified by that Part, unless the contrary intention appears.

Delegation of functions of Ministry of Defence Police Committee

24. The Ministry of Defence Police Committee may delegate any function conferred on it by these Regulations to a sub-committee appointed by the Committee.

9th March 2004

Ivor Caplin
Parliamentary Under Secretary of State
Ministry of Defence

SPECIAL CASES

PART 1

CONDITIONS

- 1.—(1) The conditions referred to in regulations 8(1) and 23(1) are that—
- (a) the report, complaint or allegation indicates—
 - (i) that the conduct of the senior officer concerned is of a serious nature, and
 - (ii) that an imprisonable offence may have been committed by the senior officer concerned,
 - (b) the conduct is such that, were the case to be referred to a hearing under regulation 10 and the tribunal hearing the case were to find that the conduct failed to meet the appropriate standard, it would in the opinion of the Ministry of Defence Police Committee be reasonable to impose the sanction specified in regulation 21(1)(a) (dismissal from the force),
 - (c) the report, complaint or allegation is supported by written statements, documents or other material which is, in the opinion of the Ministry of Defence Police Committee, sufficient without further evidence to establish on the balance of probabilities that the conduct of the senior officer concerned did not meet the appropriate standard, and
 - (d) the Ministry of Defence Police Committee are of the opinion that it is in the public interest for the senior officer concerned to cease to be a member of the force without delay.
- (2) In this paragraph “imprisonable offence” means an offence which is punishable with imprisonment in the case of a person aged 21 or over.

PART 2

MODIFICATIONS

- 2.—(1) For regulation 10 (notice of proceedings) there is substituted—

“Notice of proceedings

10.—(1) This regulation applies where the Ministry of Defence Police Committee certify the case as a special case under regulation 8(4)(b) and do not proceed as mentioned in regulation 9(1) or deal with the matter according to their discretion under regulation 9(2).

(2) The Ministry of Defence Police Committee must as soon as practicable—

- (a) refer the case to a hearing and fix a date for it, and
- (b) instruct the Treasury Solicitor to give written notice to the senior officer concerned that the case has been certified as a special case and referred to a hearing, specifying in that notice—
 - (i) the time, date and place of the hearing,
 - (ii) the conduct which it is alleged failed to meet the appropriate standard, and
 - (iii) the paragraph of the Code of Conduct in respect of which the appropriate standard is alleged not to have been met.

(3) The hearing referred to in paragraph (2)(a) must be fixed for a date not less than 21 and not more than 28 days from the date on which notice is given in pursuance of paragraph (2)(b).”.

3. For regulations 12 and 13 there are substituted—

“Return of case to investigating officer

12. At any time before the beginning of the hearing the Ministry of Defence Police Committee may direct that the case be returned to the investigating officer.

Hearing by tribunal

13.—(1) The Ministry of Defence Police Committee must ensure that—

- (a) the notice referred to in regulation 10(2)(b) is delivered to the senior officer concerned personally or left with some person at, or sent by recorded delivery to, the address at which he is residing, and
- (b) that notice is accompanied by copies of—
 - (i) the certificate under regulation 8(4)(b),
 - (ii) any statement he may have made in pursuance of a notice given under regulation 7 or 8(2)(a), and
 - (iii) any relevant statement, document or other material obtained during the course of the investigation.

(2) In this regulation, in a case where a statement was not made in writing, any reference to a copy of the statement is a reference to a copy of an account of it.”.

4. In regulation 14 (procedure at hearing) in paragraph (4), sub-paragraph (b) and the word “or” immediately preceding it are omitted.

5. The provisions of regulation 15 (statements in lieu of oral evidence) become paragraph (1) of that regulation and at the end of that paragraph there is added—

“(2) No witnesses may be called by either party to the case.”.

6. For regulation 16 (adjournment of hearing) there is substituted—

“Adjournment of hearing

16.—(1) The tribunal may adjourn if it appears to them to be necessary or expedient to do so for the due hearing of the case.

(2) But they may not adjourn more than once or for longer than a period of one week or, on application by the senior officer concerned, four weeks.”.

7. In regulation 18 (attendance of complainant at hearing)—

- (a) in paragraph (2) for the words “paragraphs (3), (4), (5), (7) and (8)” there are substituted the words “paragraphs (7) and (8)” and the words “while witnesses are being examined or cross-examined” are omitted, and
- (b) paragraphs (3) to (6) and, in paragraph (7), the words “Except as provided in paragraph (6),” are omitted.

8. In regulation 20 (decision of Ministry of Defence Police Committee), in paragraph (1) after sub-paragraph (a) there is inserted—

“(aa) to direct that it be returned to the investigating officer.”.

9. In regulation 21 (sanctions)—

- (a) in paragraph (2)(b), for the words “receive evidence from any witness whose evidence would” there are substituted the words “admit such documentary evidence as would”, and
- (b) in paragraph (2)(c), after the word “adduce” there is inserted the word “documentary”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the procedure to be followed where there is a report, complaint or allegation about the conduct of a senior officer of the Ministry of Defence Police force (“the force”). Two related sets of regulations, the Ministry of Defence Police (Conduct) Regulations 2004 and the Ministry of Defence Police Appeal Tribunals Regulations 2004 are made at the same time. The Ministry of Defence Police (Conduct) Regulations provide for the investigation and hearing of complaints about the conduct of members of the force other than senior officers and the Ministry of Defence Police Appeal Tribunals Regulations make provision about appeals to be made to Ministry of Defence Police appeal tribunals from decisions under these regulations and the Ministry of Defence Police (Conduct) Regulations.

Regulations 1 and 2 provide for citation, commencement, extent and interpretation. The regulations only apply where the conduct in question occurred and began on or after the commencement date. “Senior officer” is defined as the chief constable, the deputy chief constable or an assistant chief constable.

Regulation 3 restricts the application of the regulations to conduct or alleged conduct of senior officers serving in Great Britain or outside the United Kingdom whilst on detached duty from a station in Great Britain.

Regulation 4 sets out the normal procedure enabling an officer to be suspended by the Ministry of Defence Police Committee where a report, complaint or allegation about his conduct is made indicating that his conduct does not meet the appropriate standard. (This is the standard set out in the Code of Conduct in Schedule 1 to the Ministry of Defence Police (Conduct) Regulations 2004.) The regulation sets out the procedure to be followed for suspension and its duration.

Regulation 5 enables the power of suspension to be exercised with immediate effect in urgent cases.

Regulation 6 sets out what is to happen where the Ministry of Defence Police Committee (“the Committee”) receive a report, complaint or allegation indicating that a senior officer’s conduct does not meet the appropriate standard. Unless the Committee decide to take no proceedings they must refer the case for investigation by an investigating officer.

Regulation 7 obliges an investigating officer to give the officer notice of the investigation and invite a statement from him.

Regulation 8 provides that where at any stage it appears that the officer’s conduct may not have met the appropriate standard or that any of the special conditions set out in Part 1 of the Schedule may be met, the Committee must consider whether to take the steps in regulation 10 for a hearing to take place. It provides for various notices to be given to the officer and for the Committee to certify the case as a special case if those conditions are met.

Regulation 9 enables an immediate sanction to be imposed on an officer who accepts that his conduct did not meet the appropriate standard. If the sanction is dismissal or requirement to resign the officer is to be informed of his right to appeal to a Ministry of Defence Police appeal tribunal.

Regulation 10 sets out the procedure where the officer does not accept that his conduct did not meet the appropriate standard or the Committee do not impose an immediate sanction under regulation 9. In such circumstances the case must be referred to a hearing, unless the Committee does not consider that the conduct would justify a sanction. In that case they may deal with it at their discretion.

Regulation 11 provides for the Committee to direct that a case that has been referred to a hearing is to be withdrawn.

Regulation 12 provides for notices to be given to officers about the details of hearings and the documents to be supplied to them.

Regulation 13 provides for the composition of the tribunal that hears cases.

Regulation 14 sets out the procedure to be followed at hearings.

Regulation 15 enables statements to be adduced in evidence if the senior officer consents despite no copy having been supplied to him.

Regulation 16 enables the chairman of the tribunal to adjourn the hearing from time to time.

Regulation 17 enables the hearing to proceed in the absence of the officer.

Regulation 18 applies where the case originated in a complaint. It provides for the attendance of the complainant at the hearing together with a friend or relative and entitles the complainant to have questions put to the officer concerned.

Regulation 19 concerns the review of the case by the tribunal and provides for it to report to the Committee.

Regulation 20 provides for the decision by the Committee and its notification and, where the decision involves the officer's dismissal or required resignation, for the officer to be informed of his right to appeal to a Ministry of Defence Police appeal tribunal.

Regulation 21 sets out the sanctions that the Committee may impose.

Regulation 22 requires the Committee to send a copy of the tribunal's report and its decision to the Secretary of State.

Regulation 23 applies where a report, complaint or allegation is made that an officer's conduct may not have met the appropriate standard and a certificate is issued under regulation 8 that any of the special conditions set out in Part 1 of the Schedule are met. In such cases it provides for the regulations to apply with the modifications set out in Part 2 of the Schedule unless the Committee have directed the case to be returned to the investigating officer.

Regulation 24 enables the Committee to delegate their functions under these regulations.

Part 2 of the Schedule sets out the conditions the meeting of any of which will result in the case being a special case for the purposes of regulations 8 and 23. The most important of these is where the conduct is of a serious nature and an imprisonable offence may have been committed by the senior officer. Part 2 of the Schedule sets out the modifications to the normal procedure that are applicable where the conditions are met.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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