
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations confer functions on the Independent Police Complaints Commission (“IPCC”) in relation to Her Majesty’s Revenue and Customs (“HMRC”). They provide for the provisions of Part 2 of the Police Reform Act 2002 (c. 30) and secondary legislation made under Part 2 to apply with modifications to HMRC.

Regulation 1 provides for the Regulations to come into force on 28th December 2005.

Regulation 3(1) provides for Part 2 of the 2002 Act to apply for the purpose of conferring functions on the IPCC in relation to the Commissioners for Revenue and Customs and officers of Revenue and Customs.

Regulation 3(2) provides for sections 9 to 29 of the Act to have effect with the modifications made by Schedule 1 to the Regulations. Those modified sections confer on IPCC functions of monitoring and securing the effectiveness of a scheme for recording, handling and investigating complaints about the conduct of the Commissioners and their officers—as well as conduct for which no complaint is made (conduct matters)—and incidents of death or serious injury (DSI).

As a result of the modifications made by Schedule 1, the functions of the IPCC will be exercisable in relation to DSI and those other types of conduct which must or may be referred to the IPCC or which the IPCC may call in for examination. Amongst the IPCC’s functions is the provision of advice and recommendations for modifying the arrangements of the scheme. The IPCC will be required to provide an annual report to the Chancellor of the Exchequer.

Regulations 3(4) and 3(5) provide for Schedule 3 to the 2002 Act containing the scheme for handling complaints, conduct matters and DSI matters to have effect subject to the modifications set out in Schedule 3 to the Regulations. The principal effects of the modifications are as follows. The duties and powers under the scheme are conferred on the Head of the Home Civil Service, the Chairman of the Commissioners, and the other Commissioners (each being known in the Regulations as the “appropriate authority”). They each have responsibility for different grades of HMRC persons whose conduct is in question. They are under a duty to record complaints and conduct matters and deal with them in accordance with the procedures set out in the scheme. Complaints relating to certain types of conduct must be referred to IPCC for decisions about their form of investigation. The appropriate authority has a discretion to refer other classes of cases to IPCC. The IPCC may decide that an investigation should be carried out by the police and in such a case the appropriate authority is required to pay for the assistance provided by the police force carrying out that investigation. A complainant has a right of appeal against the non-recording of any complaint of a type which must be referred. Other types of conduct which are not or do not have to be referred may be dealt with in such manner as the appropriate authority thinks appropriate- as may a complaint which the IPCC determines does not have to be investigated. In relation to conduct matters, the Head of the Home Civil Service will be required to record and deal with a matter which contains an indication that a criminal offence may have been committed. The Chairman and Commissioners will be required to record and deal with similar conduct matters—and conduct matters justifying disciplinary proceedings but not those which are unlikely to result in dismissal.

The provisions of the 2002 Act specified in regulations 3(2) to (4) have effect from the date these Regulations come into force. The provisions of Schedule 3 specified in regulation 3(5) have effect from 1st April 2006.

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

Regulation 4 provides for the application, from the date these Regulations come into force, of secondary legislation made under Part 2 of the 2002 Act with the modifications made by Schedule 4.

Regulation 5 precludes the disclosure by the IPCC of information obtained in the course of performing functions under these Regulations except to the extent that Part 2 of the 2002 Act or the Complaints Regulations permits disclosure.

Regulation 6 precludes the IPCC from using information obtained in the course of performing functions conferred by these Regulations for any purpose other than those functions.

Regulation 7 requires the Commissioners to pay the Secretary of State for functions performed by the IPCC.

Regulation 8 precludes Part 2 of the Act and secondary legislation made under it from having effect in relation to complaints made about conduct which occurs before 1st April 2006. Regulation 9 makes similar provision in relation to conduct matters but this restriction does not apply to any conduct matter which the appropriate authority may refer to the IPCC.

A Regulatory Impact Assessment is not required. This legislation will not have an impact on business.