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STATUTORY INSTRUMENTS

2006 No. 1748

REVENUE AND CUSTOMS, ENGLAND AND WALES

**The Revenue and Customs (Complaints and Misconduct)
(Amendment) Regulations 2006**

<i>Made</i> - - - -	<i>3rd July 2006</i>
<i>Laid before Parliament</i>	<i>4th July 2006</i>
<i>Coming into force</i> - -	<i>27th July 2006</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 28(1) and (2)(a) of the Commissioners for Revenue and Customs Act 2005(a):

Citation and commencement

1.—(1) These Regulations may be cited as the Revenue and Customs (Complaints and Misconduct) (Amendment) Regulations 2006 and shall come into force on 27th July 2006.

(2) The amendments made to the Complaints and Misconduct Regulations by regulations 3, 4, 5 and 6 shall have effect from the date these Regulations come into force.

Interpretation

2. In these Regulations—

“Complaints and Misconduct Regulations” means the Revenue and Customs (Complaints and Misconduct) Regulations 2005(b).

Amendment of the Complaints and Misconduct Regulations

3. After regulation 4 of the Complaints and Misconduct Regulations insert—

“**4A.**—(1) For the purpose of the application of the Complaints Regulations under regulation 4, the amendments made to those Regulations by the provisions specified in paragraph (2) shall apply.

(2) The provisions specified are—

(a) regulation 26 of the Serious Organised Crime and Police Act 2005 (Powers of Arrest) (Consequential Amendments) Order 2005(c), and

(a) 2005 c. 11.
(b) S.I. 2005/3311.
(c) S.I. 2005/3389.

(b) regulation 2 of the Police (Complaints and Misconduct) (Amendment) Regulations 2006(a).

(3) This regulation has effect from 27th July 2006.”

Amendment of Schedule 1 to the Complaints and Misconduct Regulations

4.—(1) Schedule 1 to the Complaints and Misconduct Regulations shall be amended as follows.

(2) In paragraph 4(3) after “(2B)(a),” insert “(2B)(b)(b),”.

Amendment of Schedule 3 to the Complaints and Misconduct Regulations

5.—(1) Schedule 3 to the Complaints and Misconduct Regulations shall be amended as follows.

(2) After paragraph 4(1) insert—

“(1A) After sub-paragraph (1) insert—

“(1A) The obligation on the Head of the Home Civil Service under sub-paragraph (1)(a) or (b) to refer a complaint about the conduct of a person in respect of whom he is the appropriate authority arises only if the Head of the Home Civil Service is satisfied that the complaint contains an indication that a criminal offence may have been committed by that person.

(1B) The obligation on the Chairman or the Commissioners under sub-paragraph (1)(a) or (1)(b) to refer a complaint about the conduct of a person in respect of whom he is or they are the appropriate authority arises only if he is or they are satisfied that the complaint contains an indication that the person may have—

(a) committed a criminal offence; or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings and that such behaviour (if it had taken place) would be likely to lead to the termination of that person’s office or employment.””

(3) Omit paragraphs 8(4)(a), 8(5), 9(2)(a) and 9(3).

(4) After paragraph 11(2) insert—

“(2A) After sub-paragraph (1) insert—

“(1A) Sub-paragraph (1) is subject to sub-paragraphs (1B) and (1C).

(1B) The obligation on the Head of the Home Civil Service under sub-paragraph (1)(a) or (1)(b) to refer a recordable conduct matter in respect of a person for whom he is the appropriate authority arises only if the Head of the Home Civil Service is satisfied that the matter is one in respect of which there is an indication that a criminal offence may have been committed by that person.

(1C) The obligation on the Chairman or the Commissioners under sub-paragraph (1)(a) or (1)(b) to refer a recordable conduct matter in respect of a person for whom he is or they are the appropriate authority arises only if he is or they are satisfied that the matter is one in respect of which there is an indication that the person may have—

(a) committed a criminal offence; or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings and that such behaviour (if it had taken place) would be likely to lead to the termination of that person’s office or employment.””

(5) For paragraph 17(4) substitute—

“(4) For sub-paragraph (3) substitute—

(a) S.I. 2006/1406.

(b) Section 12(2B) of the Police Reform Act 2002 (c.30) was inserted by paragraph 3 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c.15).

“(3) It shall be the duty of the appropriate authority to appoint an officer to investigate the complaint or matter.””

(6) In paragraph 17(5) for “sub-paragraph (5)” substitute “sub-paragraphs (4) and (5)(a)”.

Amendment of Part 1 of Schedule 4 to the Complaints and Misconduct Regulations

6.—(1) Part 1 of Schedule 4 to the Complaints and Misconduct Regulations shall be amended as follows.

(2) In paragraph 9(b) for “and (b)” substitute “, (b) and (ab)(b)”.

(3) Omit paragraph 11(6).

Alan Campbell

Dave Watts

3rd July 2006

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Police Reform Act 2002 , Schedule 3, paragraph 16(4) was amended, and paragraph 16(5) was added, by paragraphs 14(5) and 14(6) of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c.15).

(b) Regulation 24(ab) of the Police (Complaints and Misconduct) Regulations 2004 was inserted by regulation 2(9) of the Police (Complaints and Misconduct) (Amendment) Regulations 2006 (S.I.2006/1406).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I.2005/3311). The 2005 Regulations provide for Part 2 of the Police Reform Act 2002 (c.30), and secondary legislation made under it, to apply with modifications for the purposes of conferring functions on the Independent Police Complaints Commission (“IPCC”) in relation to the Commissioners for Revenue and Customs and officers of Revenue and Customs. Schedules 1 to 4 to the 2005 Regulations set out those modifications.

These Regulations have the following effect.

Regulation 3 inserts regulation 4A into the 2005 Regulations. Regulation 4A provides for specified amendments to the Police (Complaints and Misconduct) Regulations 2004, made after the 2005 Regulations came into force, to apply for the purpose of the 2005 Regulations.

Regulation 4(2) causes the definition of “death or serious injury matter” in section 12(2B)(b) of the 2002 Act to be modified so as to put the definition in a Revenue and Customs context. It corrects a drafting oversight.

The effect of regulation 5(2) is to specify the conditions subject to which a duty to refer a complaint to the IPCC arises in respect of the conduct mentioned in paragraph 4(1)(a) and (b) of Schedule 3 to the 2002 Act.

Regulation 5(3) causes the modifications made to paragraph 10 of Schedule 3 to the 2002 Act to be revoked. Those modifications specified the conditions subject to which a duty to record a conduct matter arose.

The effect of regulation 5(4) is to specify the conditions subject to which a duty to refer a conduct matter to the IPCC arises in respect of the conduct mentioned in paragraph 13(1)(a) and (b) of Schedule 3 to the 2002 Act.

Regulation 5(5) provides for the appropriate authority (namely the Head of the Home Civil Service, the Commissioners for Her Majesty’s Revenue and Customs or the Chairman of the Commissioners as the case may be) to appoint an officer of Revenue and Customs to investigate a complaint or conduct matter which the IPCC has determined should be investigated by the appropriate authority on its own behalf; and regulation 5(6) makes consequential modifications.

Regulation 6(2) puts the obligation under new regulation 24(ab) of the Police (Complaints and Misconduct) Regulations 2004 in a Revenue and Customs context. Regulation 24(ab) came into force on 22nd June 2006. The effect of Regulation 6(3) is to revoke the modification made to regulation 26(5) of those 2004 Regulations to reflect the revocation of regulation 26(5) by regulation 2(10) of the Police (Complaints and Misconduct) (Amendment) Regulations 2006 (S.I. 2006/1406).

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