

**EXPLANATORY MEMORANDUM TO
THE REVENUE AND CUSTOMS (COMPLAINTS AND MISCONDUCT)
REGULATIONS 2010**

2010 No. 1813

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument updates and consolidates the legislation relating to the handling of complaints and misconduct by the Independent Police Complaints Commission ("IPCC") insofar as it applies to HMRC.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 These Regulations are made under section 28(1), (2) and (6) and 29(3) of the Commissioners for Revenue and Customs Act 2005.
 - 4.2 The instrument revokes and replaces the Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311) ("the 2005 Regulations") as amended by the Revenue and Customs (Complaints and Misconduct) (Amendment) Regulations 2006 (S.I. 2006/1748). Those Regulations provided for Part 2 to the Police Reform Act 2002 (c.30) ("the 2002 Act"), and the secondary legislation made under that Act, to apply with modifications for the purposes of conferring complaints and conduct handling functions on the IPCC in relation to the Commissioners and officers of Revenue and Customs. Part 2 of the 2002 Act also establishes a system for handling and investigating complaints, conduct matters, and incidents of death or serious injury. The IPCC is required to oversee that system. Schedules 1, 2, 3 and 4 to the 2005 Regulations modified Part 2 of the 2002 Act and the secondary legislation to tailor it to HMRC's requirements.
 - 4.3 The 2002 Act, the Police Complaints and Misconduct Regulations 2004, and the 2005 Regulations (as amended) have been consolidated to focus on the way the legislation applies specifically to HMRC. Additionally, relevant elements of the Police (Conduct) Regulations 2008 (S.I. 2008/2864) have been incorporated.
 - 4.4 The instrument has been updated to take account of the two new positions "the Chief Executive" and "the Permanent Secretary for Tax" within HMRC

and to give clarity to the lines of accountability of the Chairman, the Chief Executive and the Permanent Secretary for Tax.

4.5 This instrument has been structured in order to simplify the legislation without substantially changing it or the procedures stemming from it. Their aim is to assist both the complainant and the appropriate authority handling the complaint or conduct matter.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The 2005 Regulations came into force on 28th December 2005. Their purpose was to confer upon the IPCC the functions of overseeing the system for recording, handling and investigating serious incidents and complaints against officers of Revenue and Customs. The introduction of IPCC jurisdiction over officers of Revenue and Customs formed an integral part of the previous Government's intention to establish independent external scrutiny arrangements over HMRC as announced by the Economic Secretary to the Treasury in his letter to John McFall, Chairman of the Treasury Select Committee, on the 29th September 2004.

7.2 The 2005 Regulations modified and adapted the parent legislation to set out the conditions subject to which a duty arises on the Commissioners for HMRC and the Head of the Home Civil Service to refer a complaint or conduct matter about certain types of conduct to the IPCC.

8. Consultation outcome

8.1 No formal consultation has been undertaken in connection with this instrument. However, in preparing the draft, HMRC have consulted with a range of internal parties. External consultation included detailed discussions with the IPCC.

8.2 All parties consulted accept the consolidation and the proposed changes.

9. Guidance

9.1 The Independent Police Complaints Commission aim to publish revised statutory guidance next year.

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and Review

12.1 The original IPCC Statutory Guidance was issued in December 2005. Work is now ongoing on the revised statutory guidance and the aim is for this to be published in 2011.

12.2 During this revision process, the IPCC are considering means to enable the statutory guidance to be more easily updated as necessary and for updates to be accessible online.

13. Contact

13.1 Ian Henderson of HMRC can assist with any queries on behalf of HM Treasury, Tel: 0161 827 0721 or email: ian.henderson2@hmrc.gsi.gov.uk