
STATUTORY INSTRUMENTS

2010 No. 1813

**The Revenue and Customs (Complaints
and Misconduct) Regulations 2010**

PART 1

GENERAL

Interpretation

3.—(1) In these Regulations—

“2002 Act” means the Police Reform Act 2002(1);

“appropriate authority”—

- (a) in relation to the Commissioners or an officer or in relation to any complaint, matter or investigation relating to the conduct of such a person, means—
 - (i) if that person is the Chairman, the Chief Executive or the Permanent Secretary for Tax, the Head of the Home Civil Service,
 - (ii) if that person is a Commissioner, the Chief Executive unless that Commissioner is the Chairman, the Permanent Secretary for Tax or the Chief Executive, or
 - (iii) if that person is an officer, the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary for Tax), and
- (b) in relation to a death or serious injury matter and the relevant officer, means the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary for Tax);

“the Chairman” means the Chairman of the Board of HMRC;

“the Chief Executive” means the Chief Executive of HMRC;

“chief officer” means the chief officer of police of any police force;

“the Commissioners” unless a contrary intention appears, means the Commissioners for Her Majesty’s Revenue and Customs and for the purposes of these Regulations includes the Chairman (and unless a contrary intention appears, “Commissioner” is to be construed accordingly);

“complainant” shall be construed in accordance with paragraph (4);

“complaint” has the meaning given by regulation 9 (complaints, matters and persons to which these Regulations apply);

“conduct” includes acts, omissions and statements (whether actual, alleged or inferred);

“conduct matter” has the meaning given by regulation 9;

“death or serious injury matter” and “DSI matter” have the meaning given by regulation 9;

(1) 2002 c. 30. The 2002 Act has been amended by a number of amendments.

“disciplinary proceedings” means any proceedings or management process during which the conduct of the Commissioners or an officer is considered in order to determine whether a sanction or punitive measure should be imposed against that person in relation to that conduct;

“document” means anything in which information of any description is recorded;

“function” in relation to the Commissioners or officers has the meaning given by section 51(2) of the Commissioners for Revenue and Customs Act 2005;

“HMRC” means Her Majesty’s Revenue and Customs;

“information” includes estimates and projections, and statistical analyses;

“IPCC” means the Independent Police Complaints Commission and has the meaning given by section 9(1) of the 2002 Act;

“officer” means, unless the context otherwise requires, an officer of Revenue and Customs;

“the Permanent Secretary for Tax” means HMRC’s Permanent Secretary for Tax;

“the person complained against”, in relation to a complaint, means the person whose conduct is the subject-matter of the complaint;

“the person investigating”, in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;

“recordable conduct matter” means—

- (a) a conduct matter that is required to be recorded by the appropriate authority under regulation 23 (conduct matters arising in civil proceedings) or 24 (recording etc. of conduct matters in other cases), or has been so recorded; or
- (b) except in paragraph (3) of regulation 19 (initial handling and recording of complaints), any matter brought to the attention of the appropriate authority under that paragraph;

“relevant offence” means—

- (a) an offence for which the sentence is fixed by law,
- (b) an offence for which a person of 18 years or over (not previously convicted) may be sentenced to imprisonment for a term of seven years or more (or might be so sentenced but for the restrictions imposed by section 33 of the Magistrates’ Courts Act 1980(2));

“serious injury” means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function.

(2) In these Regulations “the relevant officer”, in relation to a DSI matter, means the officer—

- (a) who arrested the person who has died or suffered serious injury,
- (b) in whose custody that person was at the time of the death or serious injury, or
- (c) with whom that person had the contact in question;

and where there is more than one such officer it means, subject to paragraph (3), the one who so dealt with that person last before the death or serious injury occurred.

(3) Where it cannot be determined which of two or more officers dealt with a person last before a death or serious injury occurred, the “relevant officer” is the most senior of them.

(4) References in these Regulations to the complainant, in relation to anything which is or purports to be a complaint, are references—

(2) 1980 c. 43. Section 33 has been amended by sections 17(3)(b) and 101(1) of, and Schedule 4 Part II and paragraph 6 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53); sections 2(3)(a) and (b) of the Aggravated Vehicle-Taking Act 1992 (c. 11); sections 165 and 168(1) of, and paragraph 65 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c. 6).

(a) except in the case of anything which is or purports to be a complaint falling within regulation 9(1)(d) (complaints, matters and persons to which these Regulations apply), to the person by whom the complaint or purported complaint was made; and

(b) in that case, to the person on whose behalf the complaint or purported complaint was made;

but where any person is acting on another's behalf for the purposes of any complaint or purported complaint, anything that is to be or may be done under these Regulations by or in relation to the complainant may be done, instead, by or in relation to the person acting on the complainant's behalf.

(5) Subject to paragraph (6), references in these Regulations, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to any person who is a Commissioner or an officer (whether at the time of the conduct or any subsequent time).

(6) In these Regulations references, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to—

- (a) a person who, at the time when the conduct was supposed to have taken place in relation to that person, was a Commissioner or an officer (whether or not that person was on duty in that person's capacity as a Commissioner or officer at that time), or
- (b) a person who at the time when that person is supposed to have been adversely affected by it, or to have witnessed it, was on duty in that person's capacity as a Commissioner or officer.

(7) For the purposes of these Regulations, a person is adversely affected if that person suffers any form of loss or damage, distress or inconvenience, if that person is put in danger or if that person is otherwise unduly put at risk of being adversely affected.

(8) References in these Regulations to the investigation of any complaint or matter by the appropriate authority on its own behalf, under the supervision of the IPCC, under the management of the IPCC or by the IPCC itself shall be construed as references to its investigation in accordance with—

- (a) regulation 44 (investigations by the appropriate authority on its own behalf),
- (b) regulation 45 (investigations supervised by the IPCC),
- (c) regulation 46 (investigations by a police force under the management or under the supervision of the IPCC),
- (d) regulation 47 (investigations managed by the IPCC), or
- (e) regulation 48 (investigations by the IPCC itself).