
EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations modify the application of Part 2 of the Police Reform Act 2002 (“the 2002 Act”) and any provision made under it, by virtue of the power in section 28A(10) of that Act, to a matter in relation to which the Independent Police Complaints Commission (“the Commission”) has made a direction under section 28A(1) or (4) of the 2002 Act (“a direction”).

Regulation 3 makes provision to modify the application of the Police (Complaints and Misconduct) Regulations 2012 (S.I. 2012/1204) (“the 2012 Regulations”) to a matter which is the subject of a direction.

Regulation 4 of the 2012 Regulations will apply so as to require the appropriate authority to refer a complaint to the Commission if that complaint is the subject of a direction.

Regulation 7 of the 2012 Regulations will apply so as to require the appropriate authority to refer a conduct matter to the Commission if that matter is the subject of a direction.

The 2012 Regulations will apply as if they contained a further provision (regulation 37), and in relation to a direction this modifies the application of Part 2 of the 2002 Act and any provision made under it in a number of respects.

First, it requires that a complaint, conduct matter or DSI matter is treated as, and recorded as, a new matter regardless of whether it had come to the attention of the appropriate authority before, on or after 22nd November 2012. This ensures that the matter will be investigated in accordance with the legislative framework which applies on and after that date, and not in accordance with the procedures set out in the legislative framework which applies to the investigation of older matters.

Secondly, it provides that exceptions in the 2002 Act from the duty to notify or record a complaint do not apply to a complaint which is the subject of a direction. For example, the exception from the requirement to record a complaint for a repetitious complaint does not apply to a complaint which is the subject of such a direction.

Thirdly, it makes provision which modifies the 2002 Act to the effect that a person who has previously been the subject of a disciplinary procedure in relation to certain conduct may not, as a result of the Commission giving a direction, become subject to a further disciplinary procedure in relation to the same conduct. The earlier disciplinary procedure may relate to the person’s conduct, or performance in respect of that conduct, and need not have been concluded.

An impact assessment has not been prepared for this instrument as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.