

2014 No. 3347

POLICE, ENGLAND AND WALES

The Police (Conduct) (Amendment) Regulations 2014

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| <i>Made</i> | - - - - | <i>16th December 2014</i> |
| <i>Laid before Parliament</i> | | <i>22nd December 2014</i> |
| <i>Coming into force</i> | - - | <i>12th January 2015</i> |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 50 and 51 of the Police Act 1996(a).

In accordance with section 63(3)(a) of the Police Act 1996(b), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration that Board's representations.

Citation and commencement

1. These Regulations may be cited as the Police (Conduct) (Amendment) Regulations 2014 and come into force on 12th January 2015.

Amendment to the Police (Conduct) Regulations 2012

2.—(1) The Police (Conduct) Regulations 2012(c) are amended in accordance with paragraph (2).
(2) After regulation 10 insert—

“Appropriate authority consent to notice of intention to resign or retire

10A.—(1) The officer concerned may not give notice of intention to resign or retire in a matter to which paragraph (2) applies during the period specified in paragraph (4) without obtaining the consent of the appropriate authority.

(2) Subject to paragraph (3), this paragraph applies to a matter in respect of which these Regulations apply to the officer concerned in accordance with regulation 5.

(3) Paragraph (2) ceases to apply where—

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- (a) 1996 c.16. Section 50 is amended by paragraph 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008, section 3 of the Policing and Crime Act 2009 (c. 26), section 82 of, and paragraph 32 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13), paragraph 23 of Schedule 8 to the Public Service Pensions Act 2013 (c. 25) and section 123(1) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 51 is amended by section 128 of the Police Act 1997 (c. 50), section 35 of the Police Reform Act 2002 (c. 30), paragraph 4 of Schedule 22 to the Criminal Justice and Immigration Act 2008, paragraph 33 of Schedule 16 to the Police Reform and Social Responsibility Act 2011, paragraph 24 of Schedule 8 to the Public Service Pensions Act 2013 and section 123(2) of the Anti-social Behaviour, Crime and Policing Act 2014.
- (b) Section 63(3) was substituted by section 59 of, and paragraph 78 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15) and further amended by paragraph 68 of Schedule 1 to the Police and Justice Act 2006 (c. 48), paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008 and section 10 of the Policing and Crime Act 2009.
- (c) S.I. 2012/2632.

- (a) the assessment of conduct made under regulation 12(1) of these Regulations or paragraph 19B(2) or (3) of Schedule 3 to the 2002 Act (as the case may be) does not determine that the conduct, if proved, would amount to misconduct or gross misconduct; or
 - (b) in the case of an assessment of misconduct (but not gross misconduct) the officer concerned does not have a final written warning in force at the date of the assessment of conduct under regulation 12(1) of these Regulations or paragraph 19B(2) or (3) of Schedule 3 to the 2002 Act (as the case may be).
- (4) The period specified for the purposes of paragraph (1) begins on the date on which these Regulations first apply to the officer concerned in accordance with regulation 5 until—
- (a) it is decided that the conduct of the officer concerned shall not be referred to a misconduct hearing or a special case hearing; or
 - (b) such proceedings have concluded.
- (5) The appropriate authority may consent to the officer concerned giving notice of intention to resign or retire only if it is satisfied that—
- (a) the officer concerned is medically unfit to continue to be the subject of proceedings under these Regulations; or
 - (b) there are other exceptional circumstances which justify the appropriate authority giving consent to the notice of intention to resign or retire.
- (6) The appropriate authority must notify the officer concerned of its decision on consent made under this regulation as soon as is practicable.
- (7) The officer concerned may in relation to the decision make representations in writing that the officer concerned is medically unfit to continue to be the subject of proceedings under these Regulations or there are other exceptional circumstances which justify the appropriate authority giving consent.
- (8) The officer concerned may make representations in accordance with paragraph (7) not later than the end of the period of 20 working days beginning with the first working day after notice is given under paragraph (6).
- (9) Where the officer concerned makes representations in accordance with paragraph (8), the appropriate authority must—
- (a) review its decision; and
 - (b) notify the officer concerned of the outcome of its review before the end of the period of 20 working days beginning with the first working day after representations are made under paragraph (8).”.

Home Office
16th December 2014

Mike Penning
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police (Conduct) Regulations 2012 (“the 2012 Regulations”) to make provision which enables the appropriate authority (e.g. a chief officer of police) to prevent the officer concerned, who has become the subject of misconduct proceedings by virtue of the 2012 Regulations, from resigning or retiring pending the conclusion of those proceedings.

Regulation 2 inserts new regulation 10A into the 2012 Regulations.

New regulation 10A(1) to (4) provides that the officer concerned may not give notice of intention to resign or retire, in respect of a matter to which new regulation 10A(2) applies, without

obtaining the consent of the appropriate authority from the date on which the 2012 Regulations first apply to the officer concerned until it is determined that the matter shall not be referred to a misconduct hearing or a special case hearing or such proceedings have been concluded.

New regulation 10A(2) applies to a matter from the date on which the 2012 Regulations first apply to the officer concerned but, by virtue of new regulation 10A(3), ceases to apply where there is an assessment that the matter does not amount to gross misconduct or, in relation to a case which potentially amounts to misconduct, the officer concerned does not have a final written warning in force at the date of the assessment of conduct (whether under the 2012 Regulations or paragraph 19B(2) or (3) of Schedule 3 to the Police Reform Act 2002).

New regulation 10A(5) provides that the appropriate authority may consent to the officer concerned giving notice of intention to resign or retire if the appropriate authority is satisfied that the officer concerned is medically unfit to continue to be the subject of the proceedings under the 2012 Regulations, or there are other exceptional circumstances which justify the appropriate authority giving consent to the notice of intention to resign or retire.

New regulation 10A(6) to (9) makes provision for the giving by the appropriate authority of its decision and confers a right on the officer concerned to make representations.

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