
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Ministry of Defence Police (Conduct) Regulations 2015 (SI 2015/25) (“the 2015 Conduct Regulations”), the Ministry of Defence Police (Performance) Regulations 2012 (S.I. 2012/808) (“the 2012 Performance Regulations”) and the Ministry of Defence Police (Tribunals) Regulations 2009 (“the 2009 Tribunals Regulations”), subject to transitional provisions (see regulation 6). They make a number of changes, in part to reflect changes made to the equivalent legislation governing police forces in England and Wales (see the Police (Conduct) Regulations 2020 (S.I. 2020/4), the Police (Performance) Regulations 2020 (S.I. 2020/3), and the Police Appeals Tribunal Rules 2020 (S.I. 2020/1)), following changes to the handling of police complaints and police disciplinary matters made by the Policing and Crime Act 2017 (2017 c. 3) (“the 2017 Act”).

Regulation 3 introduces Schedules 1, 2 and 3 to the Regulations. Schedule 1 contains the Conduct Regulations, which replace the 2015 Conduct Regulations. Part 1 contains preliminary provisions, including interpretation provisions and the application of the Conduct Regulations, and provides for the Regulations to apply with the modifications set out in Schedule 1 to former officers. Part 2 contains general provisions including a statement of the harm test. Part 2 contains general provisions including a statement of the harm test.

Part 3 deals with investigations. Regulation 12 of the Conduct Regulations provides that this Part does not apply to cases investigated under external procedures (including investigations directed or undertaken by the Director General of the Independent Office for Police Conduct (“the Director General”). Regulation 13 of the Conduct Regulations provides for the relevant authority to make a severity assessment in relation to the conduct which is the subject matter of the allegation. There is new provision in this regulation for a matter to be referred to be dealt with under the reflective practice review process under Part 6 of the Regulations (see description below). Regulation 18 of the Conduct Regulations makes provision about the timeliness of investigations. Where an investigation is not completed within a period of 12 months, the relevant authority must provide specified information to the Secretary of State. This duty arises at the end of each 6 month period thereafter.

Part 4 makes provision about misconduct proceedings. New provisions in this Part include, in particular, regulation 24 of the Conduct Regulations, which provides for the Director General or the Police Ombudsman for Northern Ireland to present a case on behalf of the relevant authority; regulation 25 of the Conduct Regulations, which makes provision about joint misconduct proceedings, where 2 or more cases arise from the same matter or incident; regulation 28 of the Conduct Regulations, which specifies the role of the chair of the panel, in the case of a misconduct hearing, and regulation 32 of the Conduct Regulations, which, where a matter is referred to a misconduct hearing, makes provision for a misconduct pre-hearing.

Part 5 makes provision about accelerated misconduct hearings. Such hearings were previously referred to as special case hearings, under the 2015 Conduct Regulations.

Part 6 makes provision for a reflective practice review process. This process does not amount to disciplinary proceedings, as defined in regulation 2(1) of the Conduct Regulations. There is provision for a matter to be referred to be dealt with under this process by the relevant authority when making a severity assessment (under regulation 13(4) of the Conduct Regulations) or, following an investigation, under regulation 23(7) and by a person or persons conducting misconduct proceedings, under regulation 41(1)(b) of the Conduct Regulations. The reflective practice review process consists

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

of 2 stages; a fact-finding stage (dealt with in regulation 68) and a discussion stage (dealt with in regulation 69 of the Conduct Regulations). Following completion of the discussion stage, the reviewer must produce a reflective review development report, in accordance with regulation 70 of the Conduct Regulations.

Regulation 4 introduces Schedule 4 which contains the Performance Regulations, replacing the 2012 Performance Regulations. These Regulations establish procedures for proceedings in respect of unsatisfactory performance or attendance or gross incompetence of members of police forces of the rank of chief superintendent or below excluding constable probationers.

Regulations 11 (meeting following investigation by the Director General) and 12 (provision of information to the Director General) of the Performance Regulations reflect amendments of Schedule 3 to the Police Reform Act 2002 (c 30) (“the 2002 Act”) made by the 2017 Act. Regulation 13 of the Performance Regulations is a new provision for cases which are referred by the relevant authority under the Conduct Regulations to be dealt with under these Regulations. It applies regulation 11 with modifications to such cases.

Regulation 23 of the Performance Regulations is a new provision which enables the relevant authority to require a second stage meeting in circumstances where there has not been a first stage meeting. The regulation applies where a matter is referred under the Conduct Regulations to be dealt with under the Performance Regulations and the relevant authority (a) considers there are reasonable grounds to conclude that the officer concerned has demonstrated a serious inability or failure to perform the duties of the officer’s rank or role to a satisfactory standard such that referral to a second stage meeting is appropriate; and (b) having consulted, is satisfied that the officer concerned has been given a reasonable opportunity to address the issue but has failed to make a sufficient improvement.

Regulations 31 and 32 of the Performance Regulations also reflect amendments of Schedule 3 to the 2002 Act made by the 2017 Act and relate to cases where a third stage meeting may be required without a first or second stage meeting having been held.

Regulation 5 introduces Schedule 5 which contains the Appeals Tribunals Regulations, replacing the 2009 Tribunals Regulations. These Regulations set out the circumstances in which an MDP officer or former MDP officer may appeal to a police appeals tribunal. They also set out the procedures governing such an appeal. Regulation 10 of the Appeals Tribunals Regulations is a new provision, providing that where under the Conduct Regulations the Director General or the Ombudsman presented the case to which the appeal relates at the misconduct hearing or accelerated misconduct hearing, the Director General, or, as appropriate, the Ombudsman, must present the case for the respondent at the appeal.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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Changes and effects yet to be applied to :

- Sch. 1 para. 27(1)(a)(ii) omitted by S.I. 2024/603 reg. 2(7)(a)(i)
- Sch. 1 para. 28(10) omitted by S.I. 2024/603 reg. 2(8)(b)
- Sch. 1 para. 32(17) omitted by S.I. 2024/603 reg. 2(11)(e)
- Sch. 1 para. 55(2) omitted by S.I. 2024/603 reg. 2(20)(b)
- Sch. 1 para. 27(4) substituted by S.I. 2024/603 reg. 2(7)(d)
- Sch. 1 para. 27(5) substituted by S.I. 2024/603 reg. 2(7)(e)
- Sch. 1 para. 27(6) substituted by S.I. 2024/603 reg. 2(7)(g)
- Sch. 1 para. 29(4) substituted by S.I. 2024/603 reg. 2(9)(f)
- Sch. 1 para. 29(5) substituted by S.I. 2024/603 reg. 2(9)(g)
- Sch. 1 para. 55(4) substituted by S.I. 2024/603 reg. 2(20)(d)
- Sch. 1 para. 27(1)(a)(iii) word inserted by S.I. 2024/603 reg. 2(7)(a)(ii)
- Sch. 1 para. 29(3) word omitted by S.I. 2024/603 reg. 2(9)(e)(i)
- Sch. 1 para. 32(1)(b) word omitted by S.I. 2024/603 reg. 2(11)(b)
- Sch. 1 para. 42(5) word omitted by S.I. 2024/603 reg. 2(15)(c)(i)
- Sch. 1 para. 51(2) word omitted by S.I. 2024/603 reg. 2(18)(a)(i)
- Sch. 1 para. 63(4) word omitted by S.I. 2024/603 reg. 2(23)(c)(i)
- Sch. 1 para. 7(7) word substituted by S.I. 2024/603 reg. 2(3)(b)
- Sch. 1 para. 21 word substituted by S.I. 2024/603 reg. 2(6)
- Sch. 1 para. 27(1)(b) word substituted by S.I. 2024/603 reg. 2(7)(b)
- Sch. 1 para. 27(2) word substituted by S.I. 2024/603 reg. 2(7)(b)
- Sch. 1 para. 29(3)(b) word substituted by S.I. 2024/603 reg. 2(9)(e)(ii)
- Sch. 1 para. 29(7) word substituted by S.I. 2024/603 reg. 2(9)(j)(iv)
- Sch. 1 para. 31(1) word substituted by S.I. 2024/603 reg. 2(10)(a)
- Sch. 1 para. 31(2) word substituted by S.I. 2024/603 reg. 2(10)(a)
- Sch. 1 para. 38(6)(c) word substituted by S.I. 2024/603 reg. 2(13)(a)(ii)
- Sch. 1 para. 47 word substituted by S.I. 2024/603 reg. 2(17)
- Sch. 1 para. 2(1) words inserted by S.I. 2024/603 reg. 2(2)(a)(i)
- Sch. 1 para. 27(2) words inserted by S.I. 2024/603 reg. 2(7)(c)
- Sch. 1 para. 29(6) words inserted by S.I. 2024/603 reg. 2(9)(h)(i)
- Sch. 1 para. 29(6) words inserted by S.I. 2024/603 reg. 2(9)(h)(ii)
- Sch. 1 para. 29(7) words inserted by S.I. 2024/603 reg. 2(9)(j)(i)
- Sch. 1 para. 29(7) words inserted by S.I. 2024/603 reg. 2(9)(j)(iii)
- Sch. 1 para. 31(2) words inserted by S.I. 2024/603 reg. 2(10)(b)(ii)
- Sch. 1 para. 55(1) words inserted by S.I. 2024/603 reg. 2(20)(a)
- Sch. 1 para. 2(1) words omitted by S.I. 2024/603 reg. 2(2)(a)(ii)
- Sch. 1 para. 2(1) words omitted by S.I. 2024/603 reg. 2(2)(a)(iii)
- Sch. 1 para. 29(1)(a)(iii) words omitted by S.I. 2024/603 reg. 2(9)(a)(ii)
- Sch. 1 para. 31(2) words omitted by S.I. 2024/603 reg. 2(10)(b)(i)
- Sch. 1 para. 35(5) words omitted by S.I. 2024/603 reg. 2(12)
- Sch. 1 para. 44(1)(b) words omitted by S.I. 2024/603 reg. 2(16)(a)
- Sch. 1 para. 44(4)(b)(i) words omitted by S.I. 2024/603 reg. 2(16)(b)(iii)
- Sch. 1 para. 2(3) words substituted by S.I. 2024/603 reg. 2(2)(b)
- Sch. 1 para. 7(6) words substituted by S.I. 2024/603 reg. 2(3)(a)
- Sch. 1 para. 28(1) words substituted by S.I. 2024/603 reg. 2(8)(a)
- Sch. 1 para. 29(1)(a)(iii) words substituted by S.I. 2024/603 reg. 2(9)(a)(i)
- Sch. 1 para. 29(2) words substituted by S.I. 2024/603 reg. 2(9)(c)
- Sch. 1 para. 29(7) words substituted by S.I. 2024/603 reg. 2(9)(j)(ii)
- Sch. 1 para. 29(8) words substituted by S.I. 2024/603 reg. 2(9)(k)
- Sch. 1 para. 32(1) words substituted by S.I. 2024/603 reg. 2(11)(a)

- Sch. 1 para. 38(6)(c) words substituted by S.I. 2024/603 reg. 2(13)(a)(i)
- Sch. 1 para. 42(1) words substituted by S.I. 2024/603 reg. 2(15)(a)(i)
- Sch. 1 para. 44(4)(a) words substituted by S.I. 2024/603 reg. 2(16)(b)(i)
- Sch. 1 para. 44(4)(b)(i) words substituted by S.I. 2024/603 reg. 2(16)(b)(ii)
- Sch. 1 para. 55(3) words substituted by S.I. 2024/603 reg. 2(20)(c)
- Sch. 1 para. 63(1) words substituted by S.I. 2024/603 reg. 2(23)(a)(i)
- Sch. 2 para. 16(a) omitted by S.I. 2024/603 reg. 3(3)
- Sch. 2 para. 16(b) omitted by S.I. 2024/603 reg. 3(3)
- Sch. 2 para. 23 omitted by S.I. 2024/603 reg. 3(5)
- Sch. 2 para. 27(c) omitted by S.I. 2024/603 reg. 3(7)
- Sch. 2 para. 40 omitted by S.I. 2024/603 reg. 3(10)
- Sch. 2 para. 22(b) substituted by S.I. 2024/603 reg. 3(4)(a)
- Sch. 2 para. 22(c) substituted by S.I. 2024/603 reg. 3(4)(b)
- Sch. 2 para. 33(b)(ii) substituted by S.I. 2024/603 reg. 3(8)
- Sch. 2 para. 37(e) substituted by S.I. 2024/603 reg. 3(9)(b)
- Sch. 2 para. 43(a) substituted by S.I. 2024/603 reg. 3(11)(b)
- Sch. 2 para. 52 substituted by S.I. 2024/603 reg. 3(13)
- Sch. 2 para. 24(e) words substituted by S.I. 2024/603 reg. 3(6)(d)
- Sch. 2 para. 24 words substituted for Sch. 2 para. 24(b) by S.I. 2024/603 reg. 3(6)(a)
- Sch. 2 para. 24(c) words substituted for Sch. 2 para. 24(c)(ii) by S.I. 2024/603 reg. 3(6)(b)
- Sch. 2 para. 24(d) words substituted for Sch. 2 para. 24(d)(ii) by S.I. 2024/603 reg. 3(6)(c)
- Sch. 2 para. 5 words substituted for Sch. 2 para. 5(d) by S.I. 2024/603 reg. 3(2)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 2(4A)-(4D) inserted by S.I. 2024/603 reg. 2(2)(c)
- Sch. 1 para. 11A inserted by S.I. 2024/603 reg. 2(4)
- Sch. 1 para. 14(5) inserted by S.I. 2024/603 reg. 2(5)
- Sch. 1 para. 27(5A)-(5G) inserted by S.I. 2024/603 reg. 2(7)(f)
- Sch. 1 para. 29(1A) inserted by S.I. 2024/603 reg. 2(9)(b)
- Sch. 1 para. 29(2A) inserted by S.I. 2024/603 reg. 2(9)(d)
- Sch. 1 para. 29(3)(c) and word inserted by S.I. 2024/603 reg. 2(9)(e)(iii)
- Sch. 1 para. 29(6A)-(6C) inserted by S.I. 2024/603 reg. 2(9)(i)
- Sch. 1 para. 32(1)(b)(iv) and word inserted by S.I. 2024/603 reg. 2(11)(c)
- Sch. 1 para. 32(8A) inserted by S.I. 2024/603 reg. 2(11)(d)
- Sch. 1 para. 38(6A) inserted by S.I. 2024/603 reg. 2(13)(b)
- Sch. 1 para. 40(14A) inserted by S.I. 2024/603 reg. 2(14)
- Sch. 1 para. 42(1)(e) and word inserted by S.I. 2024/603 reg. 2(15)(a)(ii)
- Sch. 1 para. 42(1A)-(1D) inserted by S.I. 2024/603 reg. 2(15)(b)
- Sch. 1 para. 42(5)(d) and word inserted by S.I. 2024/603 reg. 2(15)(c)(ii)
- Sch. 1 para. 51(2)(c)(d) inserted by S.I. 2024/603 reg. 2(18)(a)(ii)
- Sch. 1 para. 51(2A)-(2M) inserted by S.I. 2024/603 reg. 2(18)(b)
- Sch. 1 para. 52(1A) inserted by S.I. 2024/603 reg. 2(19)
- Sch. 1 para. 55(5)-(11) inserted by S.I. 2024/603 reg. 2(20)(e)
- Sch. 1 para. 59(4) inserted by S.I. 2024/603 reg. 2(21)
- Sch. 1 para. 61(14A) inserted by S.I. 2024/603 reg. 2(22)
- Sch. 1 para. 63(1)(d) and word inserted by S.I. 2024/603 reg. 2(23)(a)(ii)
- Sch. 1 para. 63(1A)-(1D) inserted by S.I. 2024/603 reg. 2(23)(b)
- Sch. 1 para. 63(4)(c) and word inserted by S.I. 2024/603 reg. 2(23)(c)(ii)
- Sch. 2 para. 22(d)-(f) inserted by S.I. 2024/603 reg. 3(4)(c)
- Sch. 2 para. 37(a)(iv) inserted by S.I. 2024/603 reg. 3(9)(a)
- Sch. 2 para. 43(za) inserted by S.I. 2024/603 reg. 3(11)(a)

– Sch. 2 para. 47(c)-(e) inserted by [S.I. 2024/603 reg. 3\(12\)](#)