
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide the statutory framework and detailed rules in accordance with which the Service Police Complaints Commissioner (“the Commissioner”), established under section 365BA of the Armed Forces Act 2006 (“the 2006 Act”), has oversight of service police conduct and of complaints and other matters relating to the conduct of a member of each service police force including the four Provost Marshals. They broadly correspond to the provisions set out in and made under Part 2 of, and Schedule 3 to, the Police Reform Act 2002 (“the 2002 Act”) that apply to persons serving with the police in England and Wales, with modifications where necessary to reflect differences between the service police and the territorial police.

These Regulations also provide the basis for super-complaints that relate to the service police to be made to the Chief Inspector of Constabulary by a designated body. They broadly correspond to the provisions set out in and made under Part 2A of the 2002 Act.

Part 1 contains introductory provision (regulation 1) and an interpretation provision (regulation 2); this includes a definition of the “appropriate authority”, which performs a number of investigative functions under the framework established by these Regulations.

Part 2 sets out the general functions and duties of the Commissioner (regulations 3, 5 and 6) and makes provision for co-operation between the Commissioner and the Chief Inspector of Constabulary (“the Chief Inspector”) (regulation 4). It also sets out reporting requirements (regulation 7).

Part 3 sets out the procedure for handling complaints, conduct matters, and death and serious injury matters (“DSI matters”).

Chapter 1 sets out some general matters regarding application.

Chapter 2 sets out provisions for the handling of complaints; these relate to the duties on the appropriate authority to preserve evidence relating to complaints (regulation 11), handling and recording of complaints (regulations 12, 15 and 17), referring a complaint to the Commissioner (regulation 13) and imposes duties on the Commissioner when a complaint is so referred (regulation 16). Regulation 18 sets out provisions for a review of a complaint which has not been investigated.

Chapter 3 is concerned with the handling of conduct matters that come to an appropriate authority’s attention either as a result of proposed or actual civil proceedings or otherwise (regulations 21 and 22). This Chapter imposes further duties on the Commissioner in relation to handling of conduct matters.

Chapter 4 contains provisions relating to the handling of DSI matters and sets out the duty to record DSI matters (regulation 27) and preserve evidence (regulation 28). It also imposes duties on the Commissioner when a DSI matter is referred to the Commissioner.

Chapter 5 sets out the framework for investigations and subsequent proceedings, including the basis on which the Commissioner determines the form of an investigation in a matter referred to the Commissioner (regulation 32). This Chapter contains provisions relating to investigations by the appropriate authority on its own behalf (regulation 33) or directed by the Commissioner (regulation 34) or by investigators appointed by the Commissioner (regulation 36). Schedule 1 makes further provision in relation to investigatory powers for investigators appointed by the Commissioner. Schedule 2 makes consequential amendments.

Changes to legislation: *There are currently no known outstanding effects for the The Service Police (Complaints etc.) Regulations 2023. (See end of Document for details)*

Part 4 contains provision in relation to the making of super-complaints to the Chief Inspector by a designated body.

Chapter 1 provides for bodies designated by the Secretary of State to make super-complaints to the Chief Inspector about the service police forces and tri-service serious crime unit, and sets out the criteria that must be applied by the Secretary of State in deciding whether to designate a body and whether to revoke such a designation. It also provides for the Chief Inspector to issue guidance in relation to the making of super-complaints and sets out certain formal requirements for the making of such complaints (regulations 88 to 93).

Chapter 2 sets out certain duties that apply where a super-complaint has been made (regulations 94 to 97).

Chapter 3 sets out other matters relating to the investigation of super-complaints (powers to investigate and information sharing).

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

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