

2008 No.

POLICE, ENGLAND AND WALES

The Police (Amendment) Regulations 2008

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - - - *1st December 2008*

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

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

Citation, commencement and interpretation

- 1.—(1) These Regulations may be cited as the Police (Amendment) Regulations 2008.
- (2) These Regulations come into force on 1st December 2008.
- (3) In these Regulations “the 2003 Regulations” means the Police Regulations 2003(b).

Amendments to the 2003 Regulations

2.—(1) Regulation 15 (contents of personal records) of the 2003 Regulations is amended as follows.

(2) In paragraph (3) after the words “Police (Conduct) Regulations 1999” insert the words “, regulation 35 of the Police (Conduct) Regulations 2004(c)”.

(3) After paragraph (4) insert the following paragraphs —

“(4A) Subject to paragraphs (4B), (4C) and (5A), the record of service kept in accordance with paragraph (2)(g) shall also include particulars of all—

(a) disciplinary action, save for management advice—

(i) taken under regulation 35, 40 or 55 of the Police (Conduct) Regulations 2008(d); or

(a) 1996 c.16. Section 50 was amended by paragraph 95 of Schedule 27 to the Greater London Authority Act 1999 (c.29) and section 125 of the Criminal Justice and Police Act 2001 (c.16). It is also amended by paragraph 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c.4). Section 63 was amended by paragraph 78 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c.15) and paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c.4).

(b) S.I. 2003/527, as amended by S.I. 2006/3449, 2005/2834; there are other amendments but none is relevant.

(c) S.I. 2004/645, as amended by S.I. 2006/549.

(d) S.I. 2008/XXX.

- (ii) ordered following an appeal to a police appeals tribunal in accordance with the Police Appeals Tribunals Rules 2008(a);
 - (b) written improvement notices issued under regulation 15 or varied under regulation 18 of the Police (Performance) Regulations 2008(b);
 - (c) final written improvement notices issued under regulation 22 or varied under regulation 25 of the Police (Performance) Regulations 2008; and
 - (d) outcomes, save for redeployment to alternative duties, ordered under regulation 38 of the Police (Performance) Regulations 2008 or following an appeal to a police appeals tribunal in accordance with the Police Appeals Tribunals Rules 2008.
- (4B) In relation to a record of service—
- (a) a written warning shall be expunged after the expiry of the period of 12 months as referred to in regulation 3(3)(a) of the Police (Conduct) Regulations 2008 (subject to regulation 3(4) of those Regulations);
 - (b) a final written warning shall be expunged—
 - (i) after the period of 18 months as referred to in regulation 3(3)(b) of the Police (Conduct) Regulations 2008 (subject to regulation 3(4) of those Regulations); or
 - (ii) in the event of a final written warning being extended under regulation 35(6)(b) or 55(2)(b) of the Police (Conduct) Regulations 2008, on the expiry of that extended warning;
 - (c) a reduction in rank shall be expunged after 5 years from the date the officer concerned was reduced in rank; and
 - (d) a written improvement notice or a final written improvement notice issued or extended shall be expunged at the end of the validity period of such notice as defined in the Police (Performance) Regulations 2008 unless in relation to such a notice a period mentioned in regulation 10(2) of those Regulations has been extended beyond 12 months, in which case that notice shall be expunged at the end of such extended period.

(4C) A written warning or final written warning shall not be expunged from the record of service where before the time period expires for the written notice or final written notice to be expunged under paragraph (4A)(a) or (b) a written notice is served on the officer concerned under regulation 15 of the Police (Conduct) Regulations 2008 or under regulation 14A of the Police (Complaints and Misconduct) Regulations 2004(c). In such cases, the written warning or final written warning shall remain on the record of service until the conclusion of the disciplinary proceedings for which the written notice was served.

(4) After paragraph (5) insert the following paragraph—

“(5A) Where, following an appeal meeting under the Police (Conduct) Regulations 2008, a first stage appeal meeting or second stage appeal meeting under the Police (Performance) Regulations 2008 or an appeal to a police appeals tribunal under the Police Appeals Tribunals Rules 2008, the person or persons hearing the appeal decide to reverse, revoke, vary the terms of or impose a different disciplinary action, outcome or notice, the previous disciplinary action, outcome or notice which was the subject matter of the appeal shall be expunged forthwith.”

Home Office

Minister of State

(a) S.I. 2008/XXX.
 (b) S.I. 2008/XXX.
 (c) S.I. 2004/643, as amended by S.I. 2005/3311 and S.I. 2008/XXX; there are other amending instruments but none is relevant. Regulation 14A is inserted by S.I. 2008/XXX.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 15 of the Police Regulations 2003 following changes to the police performance and disciplinary procedures, set out in the Police (Conduct) Regulations 2008, the Police (Performance) Regulations 2008 and the Police Appeals Tribunals Rules 2008.

New paragraphs (4A) to (4C), as inserted by regulation 2(3), set out the length of time that disciplinary action, outcomes or notices imposed under the new police conduct or performance procedures should remain on an officer's personal record. New paragraph (5A), as inserted by regulation 2(4), provides that where there is an appeal against a disciplinary action, outcome or notice, any previous disciplinary action, outcome or notice recorded following the initial misconduct meeting or hearing (in the case of misconduct proceedings) or first, second or third stage meeting (in the case of performance proceedings), shall be expunged where it is reversed, varied or removed or where a different action, outcome or notice is imposed.