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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations were laid before Parliament in draft as they are Regulations under section 84 of the Police Act 1996 coming into force at a time that is the earliest time at which any Regulations under section 84 are to come into force after the commencement of paragraph 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (see section 84(8) of the Police Act 1996).

The Regulations establish procedures for the taking of disciplinary proceedings in respect of the conduct of members of police forces and special constables (“police officers”). They apply to all police officers, although for senior officers (a police officer above the rank of chief superintendent), the persons dealing with some of the proceedings differ. For the purposes of these Regulations, special constables are treated as if they are non-senior officers regardless of their actual level of seniority. These Regulations also make provision in relation to the representation of police officers by a police friend and by a lawyer at proceedings at which the officer concerned may be dismissed.

These Regulations apply where an allegation comes to the attention of an appropriate authority (as defined in regulation 3) which indicates that the conduct of a police officer may amount to misconduct or gross misconduct (as defined in regulation 3). This includes an allegation contained within a complaint or conduct matter referred to the Independent Police Complaints Commission (“IPCC”) in accordance with the Police Reform Act 2002 (“the 2002 Act”), except that Part 3 of these Regulations (Investigations) does not apply in such cases as Schedule 3 to the 2002 Act deals with the investigation of such cases.

Part 1 deals with preliminary matters. Regulation 2 revokes the Police (Conduct) Regulations 2004 save in relation to proceedings outstanding at 1st December 2008. Regulation 3 provides definitions of terms used in these Regulations, including the ‘special conditions’ which trigger the fast track procedure set out in Part 5; makes provision in relation to the delegation of the functions of a chief officer of police under these Regulations and provides that guidance may be issued under section 87(5) of the Police Act 1996 (guidance) in respect of any of the procedures in these Regulations. Regulation 4 sets out the harm test, which mirrors provisions in the Police (Complaints and Misconduct) Regulations 2004, placing restrictions on the disclosure of information to the officer concerned in the public interest.

Part 2 deals with general matters. Regulations 6 and 7 make provision about the role of a police friend under these Regulations and the right to legal representation. Regulation 9 provides that disciplinary or special case proceedings should proceed notwithstanding any criminal proceedings unless the appropriate authority considers they would prejudice such criminal proceedings. Regulation 10 makes provision in relation to the suspension of a police officer.

Part 3 deals with the investigation of conduct allegations other than those dealt with under Schedule 3 to the 2002 Act. Regulation 12 provides that the appropriate authority must make a preliminary assessment as to whether the conduct, if proved, would amount to misconduct, gross misconduct or neither, and sets out what action must or may be taken as a consequence of that assessment. Regulation 13 deals with the appointment of an investigator who, subject to conditions, may be a police officer, a police staff member or any other person. Regulation 14 sets out the purpose of the investigation. Regulation 15 provides for notice to be given to the officer concerned that there is to be an investigation and describes what must be set out in that notice. Regulation 16 provides that the investigator shall consider any suggestions as to lines of inquiry made by the officer concerned within the given time limit. Regulation 17 deals with interviews and regulation 18 with the investigation report.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 4 relates to misconduct proceedings. Regulation 19 provides that on receipt of the investigator's report (under these Regulations or Schedule 3 to the 2002 Act) the appropriate authority must determine whether or not there is a case to answer in respect of misconduct or gross misconduct, and makes provision about the referral of a case to a misconduct meeting or misconduct hearing. Regulation 21 provides that notice must be given to the officer concerned of the referral of their case to misconduct proceedings and provides that he may object to the persons appointed to deal with his case. Regulation 22 sets out the information the officer concerned must and may provide on receipt of such notice. Regulation 23 provides that the person conducting or chairing the misconduct proceedings will decide whether any witnesses will attend the proceedings, and that a witness may only attend where he reasonably believes this to be necessary. Regulations 25 to 27 set out the person(s) who will conduct the misconduct proceedings. Regulations 29 to 33 deal with who shall and may attend those proceedings. Regulation 34 covers the procedure at the proceedings and regulation 35 deals with outcomes. At a misconduct meeting the disciplinary action that may be imposed is management advice, a written warning or a final written warning. Such action is also available at a misconduct hearing, along with dismissal with or without notice or, in exceptional circumstances, the extension of a final written warning. The Police Appeals Tribunals Rules 2008 set out separately the right of appeal to a police appeals tribunal from misconduct proceedings but regulations 38 to 40 deal with an appeal by a non senior officer from a misconduct meeting.

Part 5 deals with the procedures for special case hearings for those cases where there is written or documentary evidence to establish gross misconduct on the balance of probabilities and it is in the public interest for the officer concerned to cease to be a police officer without delay. Procedures for these cases are fast tracked and there are no witnesses at the hearing other than the officer concerned. Regulation 58 requires a record to be kept of all proceedings under these Regulations and appeals.

The Schedule sets out the standards of professional behaviour expected of police officers, breach of which constitutes misconduct and a breach of which so serious that dismissal would be justified, constitutes gross misconduct.