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STATUTORY INSTRUMENTS

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**2020 No. 5 (C. 1)**

**POLICE**

**The Policing and Crime Act 2017 (Commencement No. 10 and Transitional and Saving Provisions) Regulations 2020**

Made - - - - 23rd January 2020

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 183(1), (9) and (13) of the Policing and Crime Act 2017<sup>(1)</sup>.

**Citation and interpretation**

1.—(1) These Regulations may be cited as the Policing and Crime Act 2017 (Commencement No. 10 and Transitional and Saving Provisions) Regulations 2020.

(2) In these Regulations, “the 2017 Act” means the Policing and Crime Act 2017.

**Provisions coming into force on 1st February 2020**

2. The day appointed for the coming into force of the following provisions of the 2017 Act, to the extent not already in force, is 1st February 2020—

- (a) section 13 (local policing bodies: functions in relation to complaints);
- (b) section 14 (definition of police complaint);
- (c) section 15 (duty to keep complainant and other interested persons informed);
- (d) section 16 (complaints, conduct matters and DSI matters: procedure);
- (e) section 17 (initiation of investigations by IPCC)<sup>(2)</sup>;
- (f) section 18 (IPCC power to require re-investigation);
- (g) section 19 (sensitive information received by IPCC: restriction on disclosure);
- (h) section 21 (references to England and Wales in connection with IPCC functions);
- (i) section 22 (oversight functions of local policing bodies);
- (j) section 23 (delegation of functions by local policing bodies);

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(1) 2017 c. 3.

(2) Section 9 of the Police Reform Act 2002 (c. 30) established a body known as the Independent Police Complaints Commission (IPCC). Section 9 was amended by section 33 of the 2017 Act to provide that the body corporate known as the IPCC would continue to exist and would be known instead as the Independent Office for Police Conduct (IOPC).

- (k) section 29(8) (disciplinary proceedings: former members of police forces and former special constables)(3);
- (l) section 31 (appeals to Police Appeals Tribunals);
- (m) Schedule 4 (amendments consequential on the amended definition of police complaint);
- (n) Schedule 5 (complaints, conduct matters and DSI matters: procedure), and
- (o) Schedule 7 (disciplinary proceedings: former members of MoD Police, British Transport Police and Civil Nuclear Constabulary).

### Transitional and saving provisions

3.—(1) Subject to paragraph (2), the amendments made by the provisions listed in paragraphs (a) to (e), (g) to (j), (m) and (n) in regulation 2 do not apply where—

- (a) a complaint was made, or a conduct matter or DSI matter came to the attention of an appropriate authority, before 1st February 2020 (a “pre-commencement complaint”, a “pre-commencement conduct matter” or a “pre-commencement DSI matter”);
- (b) a complaint is made, or a conduct matter or DSI matter comes to the attention of an appropriate authority, on or after 1st February 2020 which—
  - (i) relates to—
    - (aa) a matter in respect of which a pre-commencement complaint was made;
    - (bb) a pre-commencement conduct matter;
    - (cc) a pre-commencement DSI matter, and
  - (ii) at the time the complaint is made, or the conduct matter or DSI matter comes to the attention of an appropriate authority, that pre-commencement complaint, pre-commencement conduct matter or pre-commencement DSI matter is being handled in accordance with Schedule 3 to the 2002 Act (handling of complaints and conduct matter etc.).

(2) Paragraph (1) does not apply where the Director General—

- (a) determines, under section 13B of the 2002 Act (power of the Director General to require a re-investigation)(4), that a complaint, conduct matter or DSI matter is to be re-investigated, or
- (b) makes a direction under section 28A(1) or (4) of the 2002 Act (application of Part 2 to old cases)(5) in relation to a matter on or after 1st February 2020,

regardless of when the complaint was made or the matter came to the attention of the appropriate authority.

(3) The amendments made by section 31 of the 2017 Act do not apply in relation to an appeal under section 85 of the Police Act 1996 (appeals against dismissal etc.)(6) against a decision made in accordance with—

- (a) the Police (Performance) Regulations 2008(7);
- (b) the Police (Conduct) Regulations 2008(8);

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(3) By virtue of regulation 2 of S.I. 2017/1139 (C. 107) (see paragraph (b)), as amended by regulation 2 of S.I. 2017/1162 (C. 110), section 29(8) is already in force insofar as it relates to provisions specified in paragraphs 1 to 5 of Schedule 7 to the 2017 Act.

(4) Section 13B is inserted by section 18(1) of the 2017 Act (see paragraph (f) in regulation 2).

(5) Section 28A was inserted by section 2(1) and (2) of the Police (Complaints and Conduct) Act 2012 (c. 22) and amended by paragraphs 15 and 39 of Schedule 9 to the 2017 Act.

(6) 1996 c. 16. Section 85 was substituted by paragraphs 1 and 8 of Schedule 22 to the Criminal Justice and Immigration Act 2008 and amended by section 29(1) and (5) of the 2017 Act.

(7) S.I. 2008/2862, amended by S.I. 2011/3027 and revoked, subject to transitional provisions, by S.I. 2012/2631.

(8) S.I. 2008/2864, amended by S.I. 2011/3027 and revoked, subject to transitional provisions, by S.I. 2012/2632.

- (c) the Police (Performance) Regulations 2012**(9)**, or
- (d) the Police (Conduct) Regulations 2012**(10)**.
- (4) The amendments made by the provisions listed in paragraphs (a) to (g), (i), (j), (m) and (n) in regulation 2 do not apply for the purposes of—
- (a) the UK Border Agency (Complaints and Misconduct) Regulations 2010**(11)**;
- (b) the Revenue and Customs (Complaints and Misconduct) Regulations 2010**(12)**;
- (c) the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012**(13)**;
- (d) the National Crime Agency (Complaints and Misconduct) Regulations 2013**(14)**;
- (e) the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015**(15)**;
- (f) the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017**(16)**.
- (5) In this regulation—
- “the 2002 Act” means the Police Reform Act 2002**(17)**;
- “appropriate authority” has the meaning given to it by section 29(1) of the 2002 Act (interpretation of Part 2)**(18)** as in force immediately before 1st February 2020;
- “complaint” has the meaning given to it by section 12(1) of the 2002 Act (complaints, matters and persons to which Part 2 applies) as in force immediately before 1st February 2020;
- “conduct matter” has the meaning given to it by section 12(2) of the 2002 Act**(19)**;
- “Director General” means the Director General of the Independent Office for Police Conduct;
- “DSI matter” has the meaning given to it by section 12(2A) of the 2002 Act**(20)**.

23rd January 2020

*Kit Malthouse*  
Minister of State  
Home Office

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(9) S.I. 2012/2631, amended by S.I. 2014/2403 and 2017/1250.

(10) S.I. 2012/2632, amended by S.I. 2014/3347, 2015/626, 2017/1134 and 2017/1250.

(11) S.I. 2010/782, amended by S.I. 2011/3058, 2014/834, 2015/383 and 2017/1250.

(12) S.I. 2010/1813, amended by S.I. 2011/3061, 2014/834 and 2017/1250.

(13) S.I. 2012/62, amended by S.I. 2017/1250.

(14) S.I. 2013/2325, amended by S.I. 2017/1250.

(15) S.I. 2015/431, amended by S.I. 2017/1250 and 2018/682.

(16) S.I. 2017/521, amended by S.I. 2017/1250.

(17) 2002 c. 30.

(18) This definition was substituted by paragraphs 1 and 10(1) and (2)(a) of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c. 15) and subsequently amended by paragraphs 277 and 291(a) of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13).

(19) Section 12(2) was amended by section 2(1) and (3)(a) of the Police (Complaints and Conduct) Act 2012 and by paragraphs 1 and 8(6)(a) of Schedule 14 to the Police Reform and Social Responsibility Act 2011.

(20) Section 12(2A) was inserted by paragraphs 1 and 3 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by 2(1) and (3)(b) of the Police (Complaints and Conduct) Act 2012.

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## EXPLANATORY NOTE

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

These Regulations bring into force specified provisions of the Policing and Crime Act 2017 (“the 2017 Act”). Certain provisions have already been brought into force on Royal Assent by section 183(5), and on 31st March 2017 by section 183(6), of the 2017 Act and by previous commencement regulations.

Regulation 2 sets out the provisions of the 2017 Act which will come into force, to the extent not already in force, on 1st February 2020.

Section 13 of the 2017 Act inserts a new section 13A into the Police Reform Act 2002 (c. 30) (“the 2002 Act”) which allows a local policing body, rather than the chief officer, to exercise certain functions in the process for handling complaints. Section 14 amends section 12 of the 2002 Act to substitute the definition of a complaint as a “complaint about the conduct of a person serving with the police” with “any expression of dissatisfaction with a police force” and introduces further consequential amendments of the 2002 Act in Schedule 4. Section 15 amends sections 20 and 21 of, and Schedule 3 to, the 2002 Act to create overarching duties on the “appropriate authority” (as defined in section 29(1), as amended, of the 2002 Act) to keep the complainant and interested parties informed about the handling of a complaint or matter, whether or not it is being investigated, and repeals the notification duties in Schedule 3 which are now covered by those overarching duties. Section 16 introduces Schedule 5 to the 2017 Act which makes amendments to Schedule 3 to the 2002 Act to provide for changes to the way complaints, conduct matters and Death or Serious Injury (“DSI”) matters are handled and investigated.

Section 17 further amends Schedule 3 to the 2002 Act, the effect of which, taken with amendments made by Schedule 5 to the 2017 Act, is to allow the Independent Office for Police Conduct (“the IOPC”) (formerly the Independent Police Complaints Commission or IPCC) to investigate any matter without the need for a referral by the appropriate authority. Section 18 inserts a new section 13B into the 2002 Act which enables the IOPC, in the circumstances specified in that section, to re-investigate a complaint, recordable conduct matter or DSI matter at any time if it is satisfied that there are compelling reasons to do so. Section 19 inserts new sections 21A and 21B into the 2002 Act which set out requirements for the handling of sensitive information by, and the provision of such information to, the IOPC and its investigators. Section 21 amends section 29 of the 2002 Act and makes similar amendments to the Commissioners for Revenue and Customs Act 2005 (c. 11) and the Police and Justice Act 2006 (c. 48) to clarify that the IOPC’s jurisdiction with respect to law enforcement agencies which have agreements with it, HMRC and Border Force includes the territorial waters adjacent to England and Wales.

Section 22 amends sections 1 and 3 of the Police Reform and Social Responsibility Act 2011 (c. 13) (“the 2011 Act”) and section 6ZA of the Police Act 1996 (c. 16) (“the 1996 Act”) to provide for an explicit duty for local policing bodies to hold to account the chief officer (whether the chief constable or the Commissioner for the relevant area) in relation to the handling of complaints under Part 2 of the 2002 Act. Section 23 amends section 23 of the 2002 Act to include a new provision allowing the Secretary of State to make regulations regarding the delegation by local policing bodies of the exercise or performance of the powers and duties they have under Part 2 of the 2002 Act, and amends equivalent delegation powers in the 2011 Act and Local Government Act 1972 (c. 70) to provide that they are subject to that new provision.

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Section 29(8) and Schedule 7, already partially commenced, are brought fully into force so commencing provisions concerning disciplinary measures relating to former members of the British Transport Police and Civil Nuclear Constabulary.

Section 31 amends Schedule 6 to the 1996 Act which determines the composition of police appeals tribunals. Those tribunals hear appeals made by police officers against any disciplinary findings or outcomes (or both) imposed at misconduct hearings or accelerated hearings, or in the case of senior officers, at misconduct meetings, under the Police (Conduct) Regulations 2020, and third stage performance meetings under the Police (Performance) Regulations 2020. The amendments also change the requirements as to the composition of a police appeals tribunal by replacing the requirement for a retired police officer member with the requirement for a lay member who is independent of the police and by the introduction of a “relevant person”, determined by rules made by the Secretary of State, to appoint the members.

Regulation 3 makes transitional and saving provisions in relation to—

- (a) complaints made to, or conduct matters or DSI matters which came to the attention of, certain specified persons before, or, if related to earlier such complaints or matters, after, commencement of the specified provisions;
- (b) appeals against decisions made in accordance with—
  - (i) the Police (Performance) Regulations 2008 (S.I. 2008/2862);
  - (ii) the Police (Conduct) Regulations 2008 (S.I. 2008/2864);
  - (iii) the Police (Performance) Regulations 2012 (S.I. 2012/2631), and
  - (iv) the Police (Conduct) Regulations 2012 (S.I. 2012/2632), and
- (c) complaints and conduct matters under—
  - (i) the UK Border Agency (Complaints and Misconduct) Regulations 2010 (S.I. 2010/782);
  - (ii) the Revenue and Customs (Complaints and Misconduct) Regulations 2010 (S.I. 2010/1813);
  - (iii) the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (S.I. 2012/62);
  - (iv) the National Crime Agency (Complaints and Misconduct) Regulations 2013 (S.I. 2013/2325);
  - (v) the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015 (S.I. 2015/431), and
  - (vi) the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017 (S.I. 2017/521).

#### **NOTE AS TO EARLIER COMMENCEMENT REGULATIONS**

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

The following provisions of the Policing and Crime Act 2017 have been brought into force on the date specified by commencement Regulations made before these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 5	3rd April 2017	2017/399
Section 6 (insofar as it was not already in force)	3rd April 2017	2017/399

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 7	3rd April 2017	2017/399
Section 8 (insofar as it was not already in force)	17th July 2017	2017/726
Section 9(1) and (2)	1st April 2018	2018/227
Section 9(3) (partially)	1st March 2018	2018/227
Section 9(3) (partially)	22nd March 2018	2018/227
Section 9(3) (partially)	1st April 2018	2018/227
Section 10	1st March 2018	2018/227
Section 11(1) to (7) (insofar as it was not already in force)	17th July 2017	2017/726
Section 12	17th July 2017	2017/726
Section 24	18th July 2019	2019/1141
Sections 25 to 27 (insofar as they were not already in force)	16th April 2018	2018/456
Section 29(1) to (7) (insofar as it was not already in force)	15th December 2017	2017/1139 and 2017/1162
Section 29(8) (partially)	15th December 2017	2017/1139 and 2017/1162
Section 30 (insofar as it was not already in force)	15th December 2017	2017/1139 and 2017/1162
Section 32 (insofar as it was not already in force)	3rd April 2017	2017/399
Section 33 (partially)	3rd April 2017	2017/399
Section 33(9) (partially)	17th July 2017	2017/726
Section 33 (insofar as it was not already in force)	8th January 2018	2017/1249
Section 34 (partially)	8th January 2018	2017/1249
Section 35	8th January 2018	2017/1249
Sections 36 and 37	2nd May 2017	2017/399
Section 38 to 44	15th December 2017	2017/1139 and 2017/1162
Section 45 (partially)	3rd April 2017	2017/399
Section 45 (insofar as it was not already in force)	15th December 2017	2017/1139 and 2017/1162
Section 46	1st December 2018	2017/1139
Section 49 and 50	3rd April 2017	2017/399
Section 51 (partially)	3rd April 2017	2017/399
Sections 52 to 62	3rd April 2017	2017/399

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 63 (insofar as it was not already in force)	3rd April 2017	2017/399
Sections 64 to 75	3rd April 2017	2017/399
Sections 77 to 79	3rd April 2017	2017/399
Sections 80 and 81 (insofar as they were not already in force)	11th December 2017	2017/1017
Sections 82 and 83	11th December 2017	2017/1017
Sections 84 to 95 (insofar as they were not already in force)	1st March 2018	2018/227
Sections 96 to 106 (insofar as they were not already in force)	1st March 2018	2018/227
Sections 116 to 119 (insofar as they were not already in force)	1st March 2018	2018/227
Sections 120 to 122	3rd April 2017	2017/399
Section 123	1st April 2018	2018/227
Section 124 (insofar as it was not already in force)	3rd April 2017	2017/399
Section 125 (insofar as it was not already in force)	2nd May 2017	2017/399
Sections 127 to 130	2nd May 2017	2017/399
Section 131	17th April 2018	2018/456
Section 132 (insofar as it was not already in force)	18th July 2019	2019/1141
Sections 133 and 134 (insofar as they were not already in force)	3rd April 2017	2017/399
Sections 135 to 140	6th April 2017	2017/399
Section 141	6th April 2018	2018/456
Sections 143 to 156 (insofar as they were not already in force)	1st April 2017	2017/482
Section 162	13th November 2017	2017/1017
Section 163	3rd April 2017	2017/399
Section 175	3rd April 2017	2017/399
Section 177 (insofar as it was not already in force)	3rd April 2017	2017/399
Section 178	3rd April 2017	2017/399
Schedule 1 (insofar as it was not already in force)	3rd April 2017	2017/399
Schedule 2 (partially)	1st March 2018	2018/227

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 2 (partially)	22nd March 2018	2018/227
Schedule 2 (partially)	1st April 2018	2018/227
Schedule 3 (insofar as it was not already in force)	17th July 2017	2017/726
Schedule 7 (partially)	15th December 2017	2017/1139 and 2017/1162
Schedule 8 (insofar as it was not already in force)	15th December 2017	2017/1139 and 2017/1162
Schedule 9 (partially)	3rd April 2017	2017/399
Schedule 9 (partially)	17th July 2017	2017/726
Schedule 9 (insofar as it was not already in force)	8th January 2018	2017/1249
Schedules 10 and 11	15th December 2017	2017/1139 and 2017/1162
Schedule 12 (partially)	3rd April 2017	2017/399
Schedule 12 (insofar as it was not already in force)	15th December 2017	2017/1139
Schedule 13	1st December 2018	2018/1139
Schedule 14 (partially)	3rd April 2017	2017/399
Schedules 15 to 17	1st March 2018	2018/227