

The British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017

Made 07 December 2017
Coming into force 22 February 2018

Preamble

The British Transport Police Authority makes the following Regulations in exercise of the powers conferred by Sections 36 and 37 of the Railways and Transport Safety Act 2003 (the 2003 Act).

In accordance with Section 46 of the 2003 Act, the British Transport Police Authority invited the British Transport Police Federation to nominate individuals to meet with an equal number of individuals nominated by the British Transport Police Authority to discuss these Regulations and had regard to the recommendations made by the group. The Transport Salaried Staff Association (TSSA) was also consulted and regard had to their recommendations.

PART 1

Preliminary

Citation and Commencement

1. (1) These Regulations may be cited as the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017 and shall come into force on 8 January 2018.

PART 2

Amendments to secondary regulations

Amendment to the British Transport Police (Conduct) Regulations 2008

2. (1) Where The British Transport Police (Conduct) Regulations 2008 continue to have effect by virtue of regulation 2(2) of the British Transport Police (Conduct) Regulations 2015 they do so with the further modifications in paragraph's (2) and (3) detailed below.
 - (2) For –
 - (a) “Commission” in each place where it occurs except in regulation 3(1), substitute “Director General”;
 - (b) “it” in each place where it occurs and is used as a pronoun in place of “the Commission” substitute “the Director General”.
 - (3) In regulation 3(1) –

(a) omit the definition of “the Commission”; and

(b) at the appropriate place insert –

““the Director General” means the Director General of the Independent Office for Police Conduct;”.

(4) Where as a result of the coming into force of paragraphs (2) and (3) the Director General replaces the Commission in relation to any matter, the BTP (Conduct) Regulations 2008 shall have effect as if anything done, or treated as done, by or in relation to the Commission had been done by or in relation to the Director General.

Amendment to the British Transport Police (Police Appeals Tribunals) Regulations 2008

3. (1) Where The British Transport Police (Police Appeal Tribunals) Regulations 2008 continue to have effect by virtue of regulation 2(2) of The British Transport Police (Police Appeals Tribunals) Regulations 2015 they do so with the further modifications in paragraph’s (2), (3) and (4) detailed below.

(2) In regulation 3(1) after “Police Appeals Tribunals Rules 2008” insert “as amended by The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”.

(3) At the end of regulation 3(1)(d) insert “as amended by The British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

(4) In regulation 3(2) after “provisions of Schedule 6 to the Police Act 1996” insert “as amended by the Criminal Justice and Immigration Act 2008, the Police Reform and Social Responsibility Act 2011 and the Policing and Crime Act 2017”.

Amendment to the British Transport Police (Complaints and Misconduct) Regulations 2015

4. (1) The British Transport Police (Complaints and Misconduct) Regulations 2015 are amended as follows.

(2)

(a) Part 1 paragraph 1(2) “the 2012 Regulations as amended” at the end insert “and The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”.

(b) Part 1 paragraph 4(1)(b)(iv) at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

(c) Part 1 paragraph 4(1)(b)(v) at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

Amendment to the British Transport Police (Conduct) Regulations 2015

5. (1) The British Transport Police (Conduct) Regulations 2015 are amended as follows.

(2) For -

- (a) “Commission” in each place where it occurs, except in regulation 3, substitute “Director General”
- (b) “it” in each place where it occurs and is used as a pronoun in place of “the Commission” substitute “the Director General”.

(3) In regulation 3 –

- (a) omit the definition of “the Commission”;
- (b) at the appropriate place insert –
““Director General” means the Director General of the Independent Office for Police Conduct”;
- (c) “Complaints Regulations” at the end insert “as amended by The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”;
- (d) “the Performance Regulations” at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”;
- (e) “appeal hearing” at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”;
- (f) “disciplinary proceedings” at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”; and
- (g) “personal record” at the end of sub-paragraph (e) insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

(4) In regulation 19(1) –

- (a) at the end of sub-paragraph (a) omit “and”;
- (b) in sub-paragraph (b)
 - (i) after “submitted” insert “or, in the case of an investigation under paragraph 19 of Schedule 3 to the 2002 Act by the Director General acting personally, completed”,

(ii) “in making a determination” to “dealt with in that report” moves to the beginning of the full-out words of the paragraph.

(c) sub-paragraph (c) to become sub-paragraph (d) and at the start of the paragraph insert “Or alternatively in Scotland where sub-paragraphs 19(1)(a),(b) and (c) do not apply ; and

(d) at the end of sub-paragraph (b) delete the word “or” and insert in its place:

“and –

(c) where the investigation was carried out under paragraph 18 or 19 of Schedule 3 to the 2002 Act, on receipt of the Director General’s opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer given under regulation 20 of the Police (Complaints and Misconduct) Regulations 2012.”

as the new sub-paragraph (c).

(5) In regulation 21(1)(c) –

(a) in paragraph (i) omit “and”; and

(b) after paragraph (ii) insert –

“and

(iii) a copy of the opinion given under regulation 20 of the Complaints Regulations.”.

(6) In regulation 27(1)(a) after “21(1)” insert “except any given under regulation 21(1)(c)(iii)”.

Amendment to the British Transport Police (Performance) Regulations 2015

6. (1) The British Transport Police (Performance) Regulations 2015 are amended as follows.

(2) For -

(a) “Commission” in each place where it occurs, except in regulation 4(1), substitute “Director General”

(b) “it” in each place where it occurs and is used as a pronoun in place of “the Commission” substitute “the Director General”.

(3) The amendments made by virtue of paragraph 2(a) above do not apply to occurrences of “Commission” amended by another provision within this regulation.

(4) In regulation 4(1) –

(a) Omit the definition of “the Commission”; and

(b) at the appropriate place insert –

““Director General” means the Director General of the Independent Office for Police Conduct”

(5) In regulation 43(4) at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

Amendment to the British Transport Police Appeals Tribunals Regulations 2015

7. (1) The British Transport Police Appeals Tribunals Regulations 2015 are amended as follows.

(2) In regulation 3(1) after “Police Appeal Tribunals Rules 2012” insert “as amended by The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”.

(3) In regulation 4(1)

(a) at the end of sub-paragraph (e) insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”; and

(b) at the end of sub-paragraph (f) insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

Made by Order of the Police Authority

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the British Transport Police Regulations made under S36 and s37 of the Railways and Transport Safety Act, mainly consequential to amendments to the Police Reform Act 2002⁽¹⁾ made by the Policing and Crime Act 2017. These amendments are to reflect the change from the Independent Police Complaints to the Independent Office for Police Conduct.

⁽¹⁾ 2002 c. 30.