

The British Transport Police (Complaints and Misconduct) Regulations 2020

Made 21 December 2020

Coming into force 4 January 2021

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).¹

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 Superintendents Association was also consulted and regard was had to their recommendations.

PART 1

Preliminary

Citation, Commencement and Extent

1. (1) These Regulations may be cited as the British Transport Police Authority (Complaints and Misconduct) Regulations 2020 and shall come into force on XXXX 2020.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations-

¹ Railways and Transport Safety Act 2003 c.20. Section 36 was amended by paragraph 18 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c.4). Section 37 was amended by paragraph 19 of Schedule 22 to the Criminal Justice and Immigration Act 2008.

“the 2020 Regulations” means the Police (Complaints and Misconduct) Regulations 2020²;

“the 2003 Act” means the Railways and Transport Safety Act 2003;

“the police force” means the British Transport Police Force as established and maintained in accordance with section 20 of the 2003 Act;

“the police authority” means the British Transport Police Authority” as established under section 18 of the 2003 Act;

“the police” means a police force established and maintained under the Police Act 1996³;

“senior officer” means a member of the police force holding a rank above that of chief superintendent;

“the 2002 Act” means the Police Reform Act 2002⁴.

Revocation and transitional provisions

3. Subject to the following provisions of these Regulations, the British Transport Police (Complaints and Misconduct) Regulations 2015 (the “2015 Complaints and Misconduct Regulations”), as amended by the British Transport Police (Complaints and Misconduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017, are revoked.
4. (1) Nothing in these Regulations shall apply and the 2015 Complaints and Misconduct Regulations shall continue to have effect in circumstances where:
 - (i) a complaint or conduct matter or death or serious injury matter came to the attention of the appropriate authority before 4 January 2021 “a pre-commencement matter” or
 - (ii) a complaint, conduct matter or death or serious injury matter comes to the attention of the appropriate authority after 4 January 2021 which relates to:
 - (a) a matter in respect of which a pre-commencement complaint was made,
 - (b) a pre-commencement conduct matter or
 - (c) a pre-commencement death or serious injury matter,which, at the time it came to the attention of the appropriate authority, is being handled in accordance with the 2002 Act.

² S.I 2020/02.

³ 1996 c.16.

⁴ 2002 c.30.

(2) But these Regulations do apply where the Director General:

(a) determines under section 13(B) of the 2002 Act that a complaint, conduct matter or DSI matter is to be re-investigated; or

(b) makes a section 28A direction in relation to a matter on or after the [date of commencement]

Application to the British Transport Police

5. (1) In so far as Part 2 of the 2002 Act contains provisions relating to procedures to be established and maintained by forces maintained other than by local policing bodies, in relation to matters to which Part 2 applies and subject to the modifications set out in this regulation, Part 2 of the 2002 Act shall apply to any person serving with the police force as it applies in relation to persons serving with the police.

(2) Subject to the modifications set out in these Regulations, the 2020 Regulations shall apply to any person serving with the police force as they apply in relation to persons serving with the police.

(3) In their application to any person serving with the police force, Part 2 of the 2002 Act, the 2020 Regulations and these Regulations shall apply as if-

(a) any reference to a police and crime commissioner or local policing body was a reference to the British Transport Police Authority;

(b) any reference to a chief officer was a reference to the chief constable of the police force appointed in accordance with section 21 of the 2003 Act;

(c) any reference (other than in this regulation) to a person serving with the police is a reference to:

(i) a member of the police force (being a constable of the police force of any rank, appointed in accordance with sections 21, 22, 23 and 24 of the 2003 Act);

(ii) a police staff member (being a person employed in the service of the police force in accordance with section 27 of the 2003 Act);

(iii) a special constable (being a special constable of the police force of any grade, appointed in accordance with section 25 of the 2003 Act);

(d) any reference to the Police (Conduct) Regulations 2020⁵ was a reference to the British Transport Police (Conduct) Regulations 2020;

⁵ S.I. 2020/04.

(e) any reference to the Police (Performance) Regulations 2020⁶ was a reference to the British Transport Police (Performance) Regulations 2020;

(f) any reference to the “appropriate authority” in relation to a person serving with the police force or in relation to any complaint, conduct matter, death or serious injury matter or investigation relating to the conduct of such a person means:

(i) if that person is a senior officer of the police force, the police authority; and

(ii) in any other case, the chief constable of the police force.

Application to persons no longer serving with the British Transport Police

6. Regulation 42 of the 2020 Regulations (Complaints and conduct matters relating to the conduct of a person who has ceased to be a person serving with the police) shall apply as if-

(a) for “15th December 2017” in sub-paragraph (1) there were substituted “[date of commencement] 2020”;

(b) sub-paragraph (2) was omitted;

(c) the references to the list referred to in section 88B(2) of the Police Act 1996 (police barred list) were of no application.

Made by Order of the Police Authority

⁶ S.I. 2020/03.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply the Police (Complaints and Misconduct) Regulations 2020 (“the 2020 Regulations”) to the British Transport Police England and Wales.

These Regulations make provision regarding the handling, including the investigation, of complaints about and related matters concerning the British Transport Police. The changes introduced by these Regulations reflect changes to the provisions of the Police Reform Act 2002 concerning the handling of complaints, conduct matters and death and serious injury matters (“DSI matters”) made by Part 2 of the Policing and Crime Act 2017 (2017 c 3).

Regulation 42 of the 2020 Regulations (which introduces Schedule 2) provides for the application of the 2002 Act (and the 2020 Regulations), with modifications, to cases where the complaint or conduct relates to the conduct of a person who is no longer serving with the British Transport Police. By virtue of regulation 6 of these Regulations, these provisions are only applicable where the relevant person ceased to be serving with the British Transport Police on or after [1st September 2020].