



STATUTORY INSTRUMENTS.

S.I. No. 641 of 2016

GARDA SÍOCHÁNA ACT 2005 (APPOINTMENTS TO THE RANKS OF
ASSISTANT GARDA COMMISSIONER, CHIEF SUPERINTENDENT
AND SUPERINTENDENT) REGULATIONS 2016

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ARRANGEMENT OF REGULATIONS

1. Citation and commencement
2. Revocation
3. Principles governing selection for appointment
4. Interpretation
5. Authority to keep requirement for competitions under review
6. Competitions undertaken by Authority
7. Eligibility to be apply for competitions
8. Selection process
9. Selection board
10. Requirement to keep record of proceedings of selection boards
11. Appointment of candidates selected for appointment
12. Selected candidates not to be appointed in certain circumstances
13. Competition for specific post at request of Garda Commissioner
14. Procedures for complaint
15. Disqualification

S.I. No. 641 of 2016

GARDA SÍOCHÁNA ACT 2005 (APPOINTMENTS TO THE RANKS OF ASSISTANT GARDA COMMISSIONER, CHIEF SUPERINTENDENT AND SUPERINTENDENT) REGULATIONS 2016

I, FRANCES FITZGERALD, Minister for Justice and Equality, in exercise of the powers conferred on me by sections 122 and 125 of the Garda Síochána Act 2005 (No. 20 of 2005) (as adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 138 of 2011)), having consulted with the Garda Commissioner and the Authority and with the approval of the Government, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Garda Síochána Act 2005 (Appointments to the ranks of Assistant Garda Commissioner, chief superintendent and superintendent) Regulations 2016.

(2) These Regulations shall come into operation on the 1st day of January 2017.

Revocation

2. The Garda Síochána Act 2005 (Police Service of Northern Ireland Appointments) Regulations 2012 (S.I. No. 127 of 2012) are revoked.

Principles governing selection for appointment

3. (1) The selection of candidates for appointment in competitions in accordance with these Regulations shall be based on merit and the readiness and suitability for appointment of the candidates.

(2) A competition shall be conducted in a manner which is—

- (a) fair, impartial and objective,
- (b) in line with best practice,
- (c) consistent throughout, and
- (d) open, accountable and transparent.

Interpretation

4. In these Regulations—

“Act of 2005” means the Garda Síochána Act 2005;

“business of the board” has the meaning assigned to it in Regulation 9(2);

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 3rd January, 2017.

“candidate” means a member or a member of the PSNI who applies for a competition undertaken by the Authority;

“competition” means a competition for selection for appointment to a specified rank and includes, where appropriate, a competition for selection for appointment to a particular post in a specified rank;

“member”, unless the context otherwise requires, means a member of the Garda Síochána other than a reserve member;

“PSNI” means the Police Service of Northern Ireland;

“selection board” means a board established under Regulation 9(1);

“selection for appointment” means—

(a) in the case of a member, selected for appointment by the Authority, and

(b) in the case of a member of the PSNI, selected for appointment by the Authority subject to the approval of the Government;

“selection process” shall be construed in accordance with Regulation 8;

“specified rank” means the rank of Assistant Garda Commissioner, chief superintendent or superintendent in the Garda Síochána, as the case may be.

Authority to keep requirement for competitions under review

5. (1) The Authority shall keep under review the need for competitions to be held for the purpose of making appointments to specified ranks and shall ensure that it has arrangements in place to undertake required competitions without undue delay.

(2) The Garda Commissioner shall keep the Authority fully informed with regard to vacancies likely to arise in each of the specified ranks to enable the Authority to comply with paragraph (1).

Competitions undertaken by Authority

6. (1) A competition shall be undertaken by the Authority in accordance with these Regulations.

(2) The application process for a competition shall be in such form as the Authority may determine.

(3) The Authority shall consult with, and have regard to the views of, the Garda Commissioner in determining the competencies, qualifications, training, skills, expertise or experience, as the case may be, which are required for appointment to a specified rank or a particular post in a specified rank to which a competition relates.

(4) The Authority shall notify the Garda Commissioner and the Chief Constable of the PSNI of its intention to undertake a competition and shall do so

in sufficient time to enable the Garda Commissioner and Chief Constable to afford potential candidates an opportunity to enter the competition.

(5) The Authority shall provide the Garda Commissioner and the Chief Constable of the PSNI with the following information in relation to a competition:

- (a) a description of the general responsibilities of the specified rank or, where applicable, of the particular post in the specified rank to which the competition refers;
- (b) a description of the competencies, qualifications, training, skills, expertise or experience required for appointment to the specified rank, or where applicable, the particular post in a specified rank;
- (c) details of the application process;
- (d) details of the selection process;
- (e) details of any procedures established under Regulation 14;
- (f) the general terms and conditions of appointment of a person;
- (g) the period during which the Authority shall make appointments from a panel of candidates selected for appointment after the competition.

(6) The Authority shall make information in relation to a competition, set out subparagraphs (a) to (g) of paragraph (5), available on its website and shall do so in sufficient time to enable potential candidates to enter the competition.

(7) The Garda Commissioner shall make known throughout the Garda Síochána the Authority's intention to undertake a competition in such manner and in sufficient time to enable potential candidates to enter the competition.

Eligibility to be apply for competitions

7. (1) Subject to paragraphs (2) and (3) of Regulation 15, the following persons are eligible to apply for a competition:

- (a) a member not below the rank of inspector who has served not less than 2 years in that rank on the date on which the competition commences;
- (b) a member of the PSNI not below the rank of inspector who has served not less than 2 years in that rank on the date on which the competition commences.

(2) For the purposes of paragraph (1), a competition commences on the latest date on which a person may enter the competition.

Selection process

8. (1) The selection process for a competition shall be determined by the Authority.

(2) Without prejudice to the generality of paragraph (1), a selection process may include any or all of the following:

- (a) short-listing of candidates for competitive interview on the basis of either or both—
 - (i) information provided for the purposes of the application including any accompanying supporting documentation, or
 - (ii) such tests or exercises as the Authority considers appropriate;
- (b) a competitive preliminary interview;
- (c) a requirement to undertake such tests or exercises as the Authority considers appropriate;
- (d) one or more competitive interviews which may include a requirement to make a presentation.

(3) Where a selection process determined for a competition includes an exercise or test or both, the exercise or test or both, as the case may be, shall be conducted by or on behalf of the Authority and the outcome or result of that exercise, test or both, as the case may be, shall be provided to the selection board established for the purpose of the competition.

(4) In this Regulation—

“exercise” includes a role-playing exercise, a work sample exercise, a group exercise and any other exercise the Authority considers appropriate;

“test” includes an online test, a psychometric test and any other test the Authority considers appropriate.

Selection board

9. (1) The Authority shall establish such and so many selection boards as it considers necessary for the purpose of a competition.

(2) A selection board may conduct the following business (in these Regulations referred to as the “business of the board”):

- (a) short-list candidates;
- (b) conduct competitive preliminary interviews with candidates;
- (c) conduct competitive interviews (other than preliminary interviews) with candidates;
- (d) where the selection process determined under Regulation 8 includes an exercise or test or both, consider the outcomes or results of the exercise, test or both as the case may be.

(3) Where more than one selection board is established under paragraph (1), the Authority shall take steps to ensure that there is consistency between the boards in relation to the manner in which each board conducts the business of the board in relation to a competition.

(4) A selection board shall be comprised of at least three but not more than five persons appointed by the Authority, and shall include a person nominated by the Garda Commissioner who may be—

(a) a member or former member of the Garda Síochána, or

(b) a member of the civilian staff of the Garda Síochána,

(5) Each member of a selection board appointed under paragraph (4) shall be a person whom the Authority or the Garda Commissioner, as the case may be, is satisfied is suitably qualified to be a member of that selection board.

(6) The Authority shall designate one of the members of a selection board to be the chairperson of the selection board.

Requirement to keep record of proceedings of selection boards

10. (1) The Authority shall appoint a person to be in attendance at the proceedings of a selection board who shall—

(a) ensure the business of the board is conducted in accordance with the selection process determined by the Authority under Regulation 8, and

(b) maintain a record of those proceedings.

(2) In paragraph (1) a reference to “proceedings of the selection board” includes the business of the board and all of its deliberations in relation to the selection process.

Appointment of candidates selected for appointment

11. (1) The Authority shall establish a panel of candidates selected for appointment in the order of merit determined by a selection board or boards established for the purposes of a competition and subject to Regulations 12 and 13, shall make appointments to a specified rank to which the competition relates from that panel of candidates in that order of merit.

(2) A panel established under paragraph (1) may be comprised of only one candidate selected for appointment.

(3) The Authority may extend the period referred to in Regulation 6(5)(g) and where it extends that period it shall notify the Garda Commissioner, the Chief Constable of the PSNI and each candidate on the panel concerned of the extension.

Selected candidates not to be appointed in certain circumstances

12. (1) The Authority shall not appoint a candidate selected for appointment to a specified rank—

(a) unless the candidate—

- (i) undertakes any clearance process that may be required by the Authority, and
- (ii) agrees to perform the duties attached to the specified rank or the particular post in the specified rank concerned and to accept the conditions under which those duties are, or may be required to be, performed,

(b) unless the Authority—

- (i) is satisfied as to the outcome of any clearance process undertaken by the candidate under subparagraph (a)(i),
- (ii) is satisfied at the time of the appointment that the candidate is fully competent and is available to undertake, and is fully capable of undertaking, the duties attached to that specified rank, having regard to the conditions under which those duties are, or may be required to be, performed,
- (iii) has made all such enquiries as it considers necessary to verify the information provided in the candidate's application including through seeking references from referees submitted by the candidate at the request of the Authority, and
- (iv) where the candidate is a member of the PSNI, has obtained Government approval for the appointment in accordance with section 52 of the Act of 2005,

and

(c) where the Minister has determined the number of persons who may be appointed to a specified rank in accordance with section 13 of the Act of 2005 and the appointment by the Authority would result in the number of persons so appointed to that specified rank exceeding the number determined by the Minister.

(2) In this Regulation, “clearance process”, in relation to a candidate, includes any process, including vetting, to establish the health and character of the candidate.

Competition for specific post at request of Garda Commissioner

13. Notwithstanding that a panel of candidates selected for appointment referred to in Regulation 11(1) exists and the period referred to in Regulation 6(5)(g) or where the period has been extended under Regulation 11 (3), that

period, has not expired, the Authority may, at the request of the Garda Commissioner, undertake a competition for a particular post in a specified rank and where it does so, the Authority may, subject to Regulation 12, appoint a candidate selected for appointment to the particular post in question.

Procedures for complaint

14. The Authority shall establish procedures, including review procedures, to enable a candidate to bring forward to the Authority any complaint he or she may have concerning a decision made in respect of him or her during a selection process in a competition.

Disqualification

15. (1) A candidate shall be disqualified and excluded from an appointment process where any attempt, direct or indirect, is made by or on behalf of the candidate with his or her knowledge or consent to—

- (a) canvass in relation to the process,
- (b) personate him or her at any stage of the process,
- (c) influence a decision of any person in relation to that process, or
- (d) interfere with or compromise the process in any way.

(2) A candidate who is disqualified from an appointment process under paragraph (1) shall not be eligible to apply for a competition for a period of 5 years immediately following disqualification.

(3) A member who, immediately prior to the coming into operation of these Regulations, is disqualified for a promotion and is not eligible for a promotion under Regulation 18 of the Regulations of 2006 shall, on that coming into operation—

- (a) remain disqualified for the promotion concerned, and
- (b) not be eligible to apply for a competition under these Regulations for such of the period of 5 years, referred to in Regulation 18 of the Regulations of 2006, as remains unexpired on that coming into operation.

(4) In this Regulation—

“appointment process” means a competition and any appointment following the competition;

“Regulations of 2006” means the Garda Síochána (Promotion) Regulations 2006 (S.I. 485 of 2006).

The Government hereby approve of the making of these Regulations.



Given under the Official seal of the Government,
20 December 2016.

ENDA KENNY,
Taoiseach.



Given under my Official Seal,
20 December 2016.

FRANCES FITZGERALD,
Minister for Justice and Equality.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations govern competitions and appointments to the ranks of Assistant Garda Commissioner, Chief Superintendent and Superintendent in the Garda Síochána to be undertaken by the Policing Authority under the Garda Síochána Act 2005, as amended by the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015.

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