



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IX

POLICE COMPLAINTS AND DISCIPLINE

Modifications etc. (not altering text)

C1 Pt. IX (ss. 83–105) restricted by S.I. 1985/520, reg. 11

The Police Complaints Authority

83 Establishment of the Police Complaints Authority.

- (1) There shall be an authority to be known as “the Police Complaints Authority” and in this Part of this Act referred to as “the Authority.”
- (2) Schedule 4 to this Act shall have effect in relation to the Authority.
- (2) The Police Complaints Board is hereby abolished.

Handling of complaints etc.

84 Preliminary.

- (1) Where a complaint is submitted to the chief officer of police for a police area, it shall be his duty to take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.
- (2) After performing the duties imposed on him by subsection (1) above, the chief officer shall determine whether he is the appropriate authority in relation to the officer against whom the complaint was made.
- (3) If he determines that he is not the appropriate authority, it shall be his duty—

Status: Point in time view as at 05/11/1993.

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- (a) to send the complaint or, if it was made orally, particulars of it, to the appropriate authority; and
 - (b) to give notice that he has done so to the person by or on whose behalf the complaint was made.
- (4) In this Part of this Act—
- “complaint” means any complaint about the conduct of a police officer which is submitted—
- (a) by a member of the public; or
 - (b) on behalf of a member of the public and with his written consent;
- “the appropriate authority” means—
- (a) in relation to an officer of the metropolitan police, the Commissioner of Police of the Metropolis; and
 - (b) in relation to an officer of any other police force—
 - (i) if he is a senior officer, the police authority for the force’s area; and
 - (ii) if he is not a senior officer, the chief officer of the force;
- “senior officer” means an officer holding a rank above the rank of chief superintendent.
- (5) Nothing in this Part of this Act has effect in relation to a complaint in so far as it relates to the direction or control of a police force by the chief officer or the person performing the functions of the chief officer.
- (6) If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal or disciplinary proceedings, none of the provisions of this Part of this Act which relate to the recording and investigation of complaints have effect in relation to the complaint in so far as it relates to that conduct.

85 Investigation of complaints: standard procedure.

- (1) If a chief officer determines that he is the appropriate authority in relation to an officer about whose conduct a complaint has been made and who is not a senior officer, he shall record it.
- (2) After doing so he shall consider whether the complaint is suitable for informal resolution and may appoint an officer from his force to assist him.
- (3) If it appears to the chief officer that the complaint is not suitable for informal resolution, he shall appoint an officer from his force or some other force to investigate it formally.
- (4) If it appears to him that it is suitable for informal resolution, he shall seek to resolve it informally and may appoint an officer from his force to do so on his behalf.
- (5) If it appears to the chief officer, after attempts have been made to resolve a complaint informally—
 - (a) that informal resolution of the complaint is impossible; or
 - (b) that the complaint is for any other reason not suitable for informal resolution,
 he shall appoint an officer from his force or some other force to investigate it formally.
- (6) An officer may not be appointed to investigate a complaint formally if he has previously been appointed to act in relation to it under subsection (4) above.

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- (7) If a chief officer requests the chief officer of some other force to provide an officer of his force for appointment under subsection (3) or (5) above, that chief officer shall provide an officer to be so appointed.
- (8) No officer may be appointed under this section unless he is—
 - (a) of at least the rank of chief inspector; and
 - (b) of at least the rank of the officer against whom the complaint is made.
- (9) Unless the investigation is supervised by the Authority under section 89 below, the investigating officer shall submit his report on the investigation to the chief officer.
- (10) A complaint is not suitable for informal resolution unless—
 - (a) the member of the public concerned gives his consent; and
 - (b) the chief officer is satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

86 Investigation of complaints against senior officers.

- (1) Where a complaint about the conduct of a senior officer—
 - (a) is submitted to the appropriate authority; or
 - (b) is sent to the appropriate authority under section 84(3) above,it shall be the appropriate authority's duty to record it and, subject to subsection (2) below, to investigate it.
- (2) The appropriate authority may deal with the complaint according to the appropriate authority's discretion, if satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.
- (3) In any other case the appropriate authority shall appoint an officer from the appropriate authority's force or from some other force to investigate the complaint.
- (4) A chief officer shall provide an officer to be appointed, if a request is made to him for one to be appointed under subsection (3) above.
- (5) No officer may be appointed unless he is of at least the rank of the officer against whom the complaint is made.
- (6) Unless an investigation under this section is supervised by the Authority under section 89 below, the investigating officer shall submit his report on it to the appropriate authority.

87 References of complaints to Authority.

- (1) The appropriate authority—
 - (a) shall refer to the Authority—
 - (i) any complaint alleging that the conduct complained of resulted in the death of or serious injury to some other person; and
 - (ii) any complaint of a description specified for the purposes of this section in regulations made by the Secretary of State; and
 - (b) may refer to the Authority any complaint which is not required to be referred to them.

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- (2) The Authority may require the submission to them for consideration of any complaint not referred to them by the appropriate authority; and it shall be the appropriate authority's duty to comply with any such requirement not later than the end of a period specified in regulations made by the Secretary of State.
- (3) Where a complaint falls to be referred to the Authority under subsection (1)(a) above, it shall be the appropriate authority's duty to refer it to them not later than the end of a period specified in such regulations.
- (4) In this Part of this Act "serious injury" means a fracture, damage to an internal organ, impairment of bodily function, a deep cut or a deep laceration.

Modifications etc. (not altering text)

C2 Ss. 87–89 excluded by S.I. 1985/623, art. 5

88 References of other matters to Authority.

The appropriate authority may refer to the Authority any matter which—

- (a) appears to the appropriate authority to indicate that an officer may have committed a criminal offence or an offence against discipline; and
- (b) is not the subject of a complaint,

if it appears to the appropriate authority that it ought to be referred by reason—

- (i) of its gravity; or
- (ii) of exceptional circumstances.

Modifications etc. (not altering text)

C3 Ss. 87–89 excluded by S.I. 1985/623, art. 5

89 Supervision of investigations by Authority.

- (1) The Authority shall supervise the investigation—
 - (a) of any complaint alleging that the conduct of a police officer resulted in the death of or serious injury to some other person; and
 - (b) of any other description of complaint specified for the purposes of this section in regulations made by the Secretary of State.
- (2) The Authority shall supervise the investigation—
 - (a) of any complaint the investigation of which they are not required to supervise under subsection (1) above; and
 - (b) of any matter referred to them under section 88 above,
 if they consider that it is desirable in the public interest that they should supervise that investigation.
- (3) Where the Authority have made a determination under this section, it shall be their duty to notify it to the appropriate authority.
- (4) Where an investigation is to be supervised by the Authority they may require—

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- (a) that no appointment shall be made under section 85(3) or 86(3) above unless they have given notice to the appropriate authority that they approve the officer whom that authority propose to appoint; or
 - (b) if such an appointment has already been made and the Authority are not satisfied with the officer appointed, that—
 - (i) the appropriate authority shall, as soon as is reasonably practicable, select another officer and notify the Authority that they propose to appoint him; and
 - (ii) the appointment shall not be made unless the Authority give notice to the appropriate authority that they approve that officer.
- (5) It shall be the duty of the Secretary of State by regulations to provide that the Authority shall have power, subject to any restrictions or conditions specified in the regulations, to impose requirements as to a particular investigation additional to any requirements imposed by virtue of subsection (4) above; and it shall be the duty of a police officer to comply with any requirement imposed on him by virtue of the regulations.
- (6) At the end of an investigation which the Authority have supervised the investigating officer—
 - (a) shall submit a report on the investigation to the Authority; and
 - (b) shall send a copy to the appropriate authority.
- (7) After considering a report submitted to them under subsection (6) above, the Authority shall submit an appropriate statement to the appropriate authority.
- (8) If it is practicable to do so, the Authority, when submitting the appropriate statement under subsection (7) above, shall send a copy to the officer whose conduct has been investigated.
- (9) If—
 - (a) the investigation related to a complaint; and
 - (b) it is practicable to do so,the Authority shall also send a copy of the appropriate statement to the person by or on behalf of whom the complaint was made.
- (10) In subsection (7) above “appropriate statement” means a statement—
 - (a) whether the investigation was or was not conducted to the Authority’s satisfaction;
 - (b) specifying any respect in which it was not so conducted; and
 - (c) dealing with any such other matters as the Secretary of State may by regulations provide.
- (11) The power to issue an appropriate statement includes power to issue separate statements in respect of the disciplinary and criminal aspects of an investigation.
- (12) No disciplinary charge shall be brought before the appropriate authority is submitted to the appropriate authority.
- (13) Subject to subsection (14) below; neither the appropriate authority nor the Director of Public Prosecutions shall bring criminal proceedings before the appropriate statement is submitted to the appropriate authority.

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- (14) The restriction imposed by subsection (13) above does not apply if it appears to the Director that there are exceptional circumstances which make it undesirable to wait for the submission of the appropriate statement.

Modifications etc. (not altering text)

C4 Ss. 87–89 excluded by S.I. 1985/623, art. 5

90 Steps to be taken after investigation—general.

- (1) It shall be the duty of the appropriate authority, on receiving—
- (a) a report concerning the conduct of a senior officer which is submitted to them under section 86(6) above; or
 - (b) a copy of a report concerning the conduct of a senior officer which is sent to them under section 89(6) above,
- to send a copy of the report to the Director of Public Prosecutions unless the report satisfies them that no criminal offence has been committed.
- (2) Nothing in the following provisions of this section or in sections 91 to 94 below has effect in relation to senior officers.
- (3) On receiving—
- (a) a report concerning the conduct of an officer who is not a senior officer which is submitted to him under section 85(9) above; or
 - (b) a copy of a report concerning the conduct of such an officer which is sent to him under section 89(6) above
- it shall be the duty of a chief officer of police—
- (i) to determine whether the report indicates that a criminal offence may have been committed by a member of the police force for his area; and
 - (ii) if he determines that it does, to consider whether the offence indicated is such that the officer ought to be charged with it.
- (4) If the chief officer—
- (a) determines that the report does indicate that a criminal offence may have been committed by a member of the police force for his area; and
 - (b) considers that the offence indicated is such that the officer ought to be charged with it,
- he shall send a copy of the report to the Director of Public Prosecutions.
- (5) Subject to section 91(1) below, after the Director has dealt with the question of criminal proceedings, the chief officer shall send the Authority a memorandum, signed by him and stating whether he has preferred disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.
- (6) If the chief officer—
- (a) determines that the report does indicate that a criminal offence may have been committed by a member of the police force for his area; and
 - (b) considers that the offence indicated is not such that the officer ought to be charged with it,

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he shall send the Authority a memorandum to that effect, signed by him and stating whether he proposes to prefer disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not proposing to do so.

- (7) Subject to section 91(1) below, if the chief officer considers that the report does not indicate that a criminal offence may have been committed by a member of the police force for his area, he shall send the Authority a memorandum to that effect, signed by him and stating whether he has preferred disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.
- (8) A memorandum under this section—
- (a) shall give particulars—
 - (i) of any disciplinary charges which a chief officer has preferred or proposes to prefer in respect of the conduct which was the subject of the investigation; and
 - (ii) of any exceptional circumstances affecting the case by reason of which he considers that section 94 below should apply to the hearing; and
 - (b) shall state his opinion of the complaint or other matter to which it relates.
- (9) Where the investigation—
- (a) related to conduct which was the subject of a complaint; and
 - (b) was not supervised by the Authority,
- the chief officer shall send the Authority—
- (i) a copy of the complaint or of the record of the complaint; and
 - (ii) a copy of the report of the investigation.
- at the same time as he sends them the memorandum.
- (10) Subject to section 93(6) below—
- (a) if a chief officer's memorandum states that he proposes to prefer disciplinary charges, it shall be his duty to prefer and proceed with them; and
 - (b) if such a memorandum states that he has preferred such charges, it shall be his duty to proceed with them.

91 Steps to be taken where accused has admitted charges.

- (1) No memorandum need be sent to the Authority under section 90 above if disciplinary charges have been preferred in respect of the conduct which was the subject of the investigation and the accused has admitted the charges and has not withdrawn his admission.
- (2) In any such case the chief officer shall send to the Authority, after the conclusion of the disciplinary proceedings (including any appeal to the Secretary of State), particulars of the disciplinary charges preferred and of any punishment imposed.
- (3) If—
- (a) the charges related to conduct which was the subject of a complaint; and
 - (b) the investigation of the complaint was not supervised by the Authority,
- the chief officer shall also send the Authority—
- (i) a copy of the complaint or of the record of the complaint; and
 - (ii) a copy of the report of the investigation.

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92 Powers of Authority to direct reference of reports etc. to Director of Public Prosecutions.

- (1) When a chief officer of police has performed all duties imposed on him by sections 90 and 91 above in relation to the report of an investigation concerning the conduct of an officer who is not a senior officer, it shall be the duty of the Authority—
 - (a) to determine whether the report indicates that a criminal offence may have been committed by that officer; and
 - (b) if so, to consider whether the offence is such that the officer ought to be charged with it.
- (2) If the Authority consider that the officer ought to be charged, it shall be their duty to direct the chief officer to send the Director of Public Prosecutions a copy of the report.
- (3) When the Authority give a direction under subsection (2) above, they may also direct the chief officer to send the Director the information contained in the memorandum under section 90 above.
- (4) If the investigation was an investigation of a complaint, the Authority shall direct the chief officer to send the Director a copy of the complaint or of the record of the complaint.
- (5) It shall be the duty of a chief officer to comply with any direction under this section.
- (6) Sections 90 and 91 above shall apply where a copy of a report is sent to the Director under this section as they apply where a copy is sent to him under section 90(4) above.

93 Powers of Authority as to disciplinary charges.

- (1) Where a memorandum under section 90 above states that a chief officer of police has not preferred disciplinary charges or does not propose to do so, the Authority may recommend him to prefer such disciplinary charges as they may specify.
- (2) Subject to subsection (6) below, a chief officer may not withdraw charges which he has preferred in accordance with a recommendation under subsection (1) above.
- (3) If after the Authority have made a recommendation under this section and consulted the chief officer he is still unwilling to prefer such charges as the Authority consider appropriate, they may direct him to prefer such charges as they may specify.
- (4) Where the Authority give a chief officer a direction under this section, they shall furnish him with a written statement of their reasons for doing so.
- (5) Subject to subsection (6) below, it shall be the duty of a chief officer to prefer and proceed with charges specified in such a direction.
- (6) The Authority may give a chief officer leave—
 - (a) not to prefer charges which sections 90(10) above or subsection (5) above would otherwise oblige him to prefer; or
 - (b) not to proceed with charges with which section 90(10) above or subsection (2) or (5) above would otherwise oblige him to proceed.
- (7) The Authority may request a chief officer of police to furnish them with such information as they may reasonably require for the purpose of discharging their functions under this section.

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(8) It shall be the duty of a chief officer to comply with any such request.

94 Disciplinary tribunals.

- (1) Where a chief officer of police prefers a disciplinary charge in respect of a matter to which a memorandum under section 90 above relates, this section applies—
 - (a) to the hearing of any charge in pursuance of a direction under section 93 above; and
 - (b) to the hearing of any other charge to which the Authority direct that it shall apply.
- (2) The Authority may direct that this section shall apply to the hearing of a charge if they consider that to be desirable by reason of any exceptional circumstances affecting the case.
- (3) Where this section applies to the hearing of a disciplinary charge—
 - (a) the function of determining whether the accused is guilty of the charge shall be discharged by a tribunal consisting of—
 - (i) a chairman who shall, subject to subsection (4) below, be the chief officer of police by whom that function would fall to be discharged apart from this section; and
 - (ii) two members of the Authority nominated by the Authority, being members who have not been concerned with the case; and
 - (b) the function of determining any punishment to be imposed shall, subject to subsection (7) below, be discharged by the chairman after consulting the other members of the tribunal.
- (4) Where—
 - (a) the accused is a member of the metropolitan police force; and
 - (b) the function of determining whether he is guilty of the charge would, apart from this section, fall to be discharged by a person or persons other than a chief officer of police (whether the Commissioner of Police of the Metropolis or the chief officer of another police force),the chairman of the tribunal shall be—
 - (i) a person nominated by the Commissioner, being either an Assistant Commissioner of Police of the Metropolis or an officer of the metropolitan police force of such rank as may be prescribed by regulations made by the Secretary of State; or
 - (ii) in default of any such nomination, the Commissioner.
- (5) The Secretary of State may by regulations provide for the procedure to be followed by tribunals constituted under this section.
- (6) The decision of the tribunal as to whether the accused is guilty of the charge may be a majority decision.
- (7) Where—
 - (a) the chairman of the tribunal is not the chief officer of police of the police force to which the accused belongs; and
 - (b) that chief officer is neither interested in the case otherwise than in his capacity as such nor a material witness,

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the function of determining any punishment to be imposed shall be discharged by that chief officer after considering any recommendation as to punishment made by the chairman.

- (8) Before making any recommendation the chairman shall consult the other members of the tribunal.
- (9) Where—
- (a) this section applies to the hearing of a disciplinary charge; and
 - (b) there is another disciplinary charge against the accused which, in the opinion of the chief officer of police of the police force to which he belongs, can conveniently and fairly be determined at the same time,
- the chief officer may direct that this section shall apply also to the hearing of the other charge.

95 Information as to the manner of dealing with complaints etc.

Every police authority in carrying out their duty with respect to the maintenance of an adequate and efficient police force, and inspectors of constabulary in carrying out their duties with respect to the efficiency of any police force, shall keep themselves informed as to the working of sections 84 to 93 above in relation to the force.

96 Constabularies maintained by authorities other than police authorities.

- (1) An agreement for the establishment in relation to any body of constables maintained by an authority other than a police authority of procedures corresponding to any of those established by or by virtue of this Part of this Act may, with the approval of the Secretary of State, be made between the Authority and the authority maintaining the body of constables.
- (2) Where no such procedures are in force in relation to any body of constables, the Secretary of State may by order establish such procedures.
- (3) An agreement under this section may at any time be varied or terminated with the approval of the Secretary of State.
- (4) Before making an order under this section the Secretary of State shall consult—
 - (a) the Authority; and
 - (b) the authority maintaining the body of constables to whom the order would relate.
- (5) The power to make orders under this section shall be exercisable by statutory instrument; and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Nothing in any other enactment shall prevent an authority who maintain a body of constables from carrying into effect procedures established by virtue of this section.
- (7) No such procedures shall have effect in relation to anything done by a constable outside England and Wales.

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97 Reports.

- (1) The Authority shall, at the request of the Secretary of State, report to him on such matters relating generally to their functions as the Secretary of State may specify, and the Authority may for that purpose carry out research into any such matters.
- (2) The Authority may make a report to the Secretary of State on any matters coming to their notice under this Part of this Act to which they consider that his attention should be drawn by reason of their gravity or of other exceptional circumstances; and the Authority shall send a copy of any such report to the police authority and to the chief officer of police of any police force which appears to the Authority to be concerned or, if the report concerns any such body of constables as is mentioned in section 96 above, to the authority maintaining it and the officer having the direction and the control of it.
- (3) As soon as practicable after the end of each calendar year the Authority shall make to the Secretary of State a report on the discharge of their functions during that year.
- (4) The Authority shall keep under review the working of sections 84 to 96 above and shall make to the Secretary of State a report on it at least once in every three years after the coming into force of this section.
- (5) The Secretary of State shall lay before Parliament a copy of every report received by him under this section and shall cause every such report to be published.
- (6) The Authority shall send to every police authority—
 - (a) a copy of every report made by the Authority under subsection (3) above; and
 - (b) any statistical or other general information which relates to the year dealt with by the report and to the area of that authority and which the Authority consider should be brought to the police authority's attention in connection with their functions under section 95 above.

98 Restrictions on disclosure of information.

- (1) No information received by the Authority in connection with any of their functions under sections 84 to 97 above or regulations made by virtue of section 99 below shall be disclosed by any person who is or has been a member, officer or servant of the Authority except—
 - (a) to the Secretary of State or to a member, officer or servant of the Authority or, so far as may be necessary for the proper discharge of the functions of the Authority, to other persons;
 - (b) for the purposes of any criminal, civil or disciplinary proceedings; or
 - (c) in the form of a summary or other general statement made by the Authority which does not identify the person from whom the information was received or any person to whom it relates.
- (2) Any person who discloses information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale^{F1}. . .

Textual Amendments

F1 Words in s. 98(2) repealed (5.11.1993) 1993 c. 50, s. 1(1), Sch. 1 Pt.XIV.

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99 Regulations.

- (1) The Secretary of State may make regulations as to the procedure to be followed under this Part of this Act.
- (2) It shall be the duty of the Secretary of State to provide by regulations—
 - (a) that, subject to such exceptions as may be specified by the regulations, a chief officer of police shall furnish, in accordance with such procedure as may be so specified, a copy of, or of the record of, a complaint against a member of the police force for his area—
 - (i) to the person by or on behalf of whom the complaint was made; and
 - (ii) to the officer against whom it was made;
 - (b) procedures for the informal resolution of complaints of such descriptions as may be specified in the regulations, and for giving the person who made the complaint a record of the outcome of any such procedure if he applies for one within such period as the regulations may provide;
 - (c) procedures for giving a police officer against whom a complaint is made which falls to be resolved informally an opportunity to comment orally or in writing on the complaint;
 - (d) for cases in which any provision of this Part of this Act is not to apply where a complaint, other than a complaint which falls to be resolved by an informal procedure, is withdrawn or the complainant indicates that he does not wish any further steps to be taken;
 - (e) for enabling the Authority to dispense with any requirement of this Part of this Act;
 - (f) procedures for the reference or submission of complaints or other matters to the Authority;
 - (g) for the time within which the Authority are to give a notification under section 89(3) above;
 - (h) that the Authority shall be supplied with such information or documents of such description as may be specified in the regulations at such time or in such circumstances as may be so specified;
 - (j) that any action or decision of the Authority which they take in consequence of their receipt of a memorandum under section 90 above shall be notified if it is an action or decision of a description specified in the regulations, to the person concerned and that, in connection with such a notification, the Authority shall have power to furnish him with any relevant information;
 - (k) that chief officers of police shall have power to delegate any functions conferred on them by or by virtue of the foregoing provisions of this Part of this Act, other than their functions under section 94(3) above.

100 Regulations—supplementary.

- (1) Regulations under this Part of this Act may make different provision for different circumstances and may authorise the Secretary of State to make provision for any purposes specified in the regulations.
- (2) Before making regulations under this Part of this Act, the Secretary of State shall furnish a draft of the regulations to the Police Advisory Board for England and Wales and take into consideration any representations made by that Board.

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- (3) Any power to make regulations under this Part of this Act shall be exercisable by statutory instrument.
- (4) Subject to subsection (5) below, regulations under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this subsection applies shall not be made unless a draft of them has been approved by resolution of each House of Parliament.
- (6) Subsection (5) above applies to regulations made by virtue—
 - (a) of section 87(1)(a)(ii) or 89(1)(b) or (5) above;
 - (b) of section 99(2)(b) or (e) above.

Amendments of discipline provisions

101 Discipline regulations

- (1) Regulations under section 33(2)(e) of the ^{M1}Police Act 1964 (discipline regulations) shall provide—
 - (a) for the determination of questions whether offences against discipline have been committed;
 - (b) for racially discriminatory behaviour to be made a specific disciplinary offence; and
 - (c) for members of police forces who are found to have committed such offences to be punished by way of dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.
- (2) In the case of a police force maintained under section 1 of that Act (county or combined police force) the regulations shall provide for the functions mentioned in subsection (1) (a) or (c) above to be discharged—
 - (a) in relation to the chief constable, any deputy chief constable and any assistant chief constable, by the police authority;
 - (b) in relation to any other member of the police force, by the chief constable, but subject, in a case within paragraph (b) of this subsection, to section 94 above and the following provisions of this section.
- (3) The regulations shall provide for the functions mentioned in subsection (1)(a) and (c) above to be discharged by another chief officer of police if, in a case within subsection (2)(b) above, the chief constable—
 - (a) is interested in the case otherwise than in his capacity as such; or
 - (b) is a material witness.
- (4) Without prejudice to subsection (3) above, the regulations may, as respects any case within subsection (2) (b) above, provide—
 - (a) for enabling a chief constable, where he considers it appropriate to do so, to direct that his function under subsection (1)(a) above shall be discharged by another chief officer of police; and
 - (b) where such a direction is given, for the function mentioned in subsection (1) (c) above to be discharged by the chief constable after considering any recommendation as to punishment made by the other chief officer of police.

Status: Point in time view as at 05/11/1993.

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- (5) Subject to subsection (6) below, the regulations may provide for enabling a chief constable to direct that his functions under subsection (1) above may be discharged by a deputy chief constable in any case—
- (a) which is within subsection (2)(b) above;
 - (b) in which the decision that a disciplinary charge is to be brought is taken, in accordance with the regulations, by an assistant chief constable; and
 - (c) in which it appears appropriate to the chief constable so to direct.
- (6) In subsection (5) above the reference to functions under subsection (1) above does not include the functions mentioned in section 94(3) above.
- (7) If regulations provide by virtue of subsection (5) above that any of the functions of a chief constable may be discharged by a deputy chief constable, they may provide that the deputy chief constable shall have power or shall be under a duty to remit any matter to the chief constable in such circumstances as the regulations may specify.
- (8) If regulations provide as mentioned in subsection (5) above, they shall also provide—
- (a) that a deputy chief constable shall have power to punish only by way of reduction in rate of pay, fine, reprimand or caution;
 - (b) that a police officer dealt with by a deputy chief constable may appeal to the chief constable; and
 - (c) that on such an appeal the chief constable shall have no power to award a punishment greater than the punishment awarded by the deputy chief constable.
- (9) Subsections (2) to (8) above shall apply in the case of the City of London police force as they apply in the case of a police force maintained under section 1 of the ^{M2}Police Act 1964 but with the substitution—
- (a) subject to paragraph (b) below, for references to a deputy chief constable or an assistant chief constable of references to an assistant commissioner of police for the City of London and any officer holding a rank appearing to the Secretary of State to correspond to that of assistant chief constable in a force maintained under that section;
 - (b) for the reference in subsection (5) to a deputy chief constable of a reference to an officer of the City of London police force holding a rank such as is mentioned in paragraph (a) above but who is not the officer who has taken the decision mentioned in paragraph (b) of that subsection; and
 - (c) for references to the chief constable of references to the Commissioner of Police for the City of London.

Marginal Citations

- M1** 1964 c. 48.
M2 1964 c. 48.

101 Discipline regulations **E+W**

- (1) Regulations under section 33(2)(e) of the ^{M4}Police Act 1964 (discipline regulations) shall provide—
- (a) for the determination of questions whether offences against discipline have been committed;

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- (b) for racially discriminatory behaviour to be made a specific disciplinary offence; and
 - (c) for members of police forces who are found to have committed such offences to be punished by way of dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.
- (2) In the case of a police force maintained under section 1 of that Act (county or combined police force) the regulations shall provide for the functions mentioned in subsection (1) (a) or (c) above to be discharged—
 - (a) in relation to the chief constable, any deputy chief constable and any assistant chief constable, by the police authority;
 - (b) in relation to any other member of the police force, by the chief constable, but subject, in a case within paragraph (b) of this subsection, to section 94 above and the following provisions of this section.
- (3) The regulations shall provide for the functions mentioned in subsection (1)(a) and (c) above to be discharged by another chief officer of police if, in a case within subsection (2)(b) above, the chief constable—
 - (a) is interested in the case otherwise than in his capacity as such; or
 - (b) is a material witness.
- (4) Without prejudice to subsection (3) above, the regulations may, as respects any case within subsection (2) (b) above, provide—
 - (a) for enabling a chief constable, where he considers it appropriate to do so, to direct that his function under subsection (1)(a) above shall be discharged by another chief officer of police; and
 - (b) where such a direction is given, for the function mentioned in subsection (1) (c) above to be discharged by the chief constable after considering any recommendation as to punishment made by the other chief officer of police.
- (5) Subject to subsection (6) below, the regulations may provide for enabling a chief constable to direct that his functions under subsection (1) above may be discharged by a deputy chief constable in any case—
 - (a) which is within subsection (2)(b) above;
 - (b) in which the decision that a disciplinary charge is to be brought is taken, in accordance with the regulations, by an assistant chief constable; and
 - (c) in which it appears appropriate to the chief constable so to direct.
- (6) In subsection (5) above the reference to functions under subsection (1) above does not include the functions mentioned in section 94(3) above.
- (7) If regulations provide by virtue of subsection (5) above that any of the functions of a chief constable may be discharged by a deputy chief constable, they may provide that the deputy chief constable shall have power or shall be under a duty to remit any matter to the chief constable in such circumstances as the regulations may specify.
- (8) If regulations provide as mentioned in subsection (5) above, they shall also provide—
 - (a) that a deputy chief constable shall have power to punish only by way of reduction in rate of pay, fine, reprimand or caution;
 - (b) that a police officer dealt with by a deputy chief constable may appeal to the chief constable; and

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- (c) that on such an appeal the chief constable shall have no power to award a punishment greater than the punishment awarded by the deputy chief constable.
- (9) Subsections (2) to (8) above shall apply in the case of the City of London police force as they apply in the case of a police force maintained under section 1 of the ^{M5}Police Act 1964 but with the substitution—
- (a) subject to paragraph (b) below, for references to a deputy chief constable or an assistant chief constable of references to an assistant commissioner of police for the City of London and any officer holding a rank appearing to the Secretary of State to correspond to that of assistant chief constable in a force maintained under that section;
 - (b) for the reference in subsection (5) to a deputy chief constable of a reference to an officer of the City of London police force holding a rank such as is mentioned in paragraph (a) above but who is not the officer who has taken the decision mentioned in paragraph (b) of that subsection; and
 - (c) for references to the chief constable of references to the Commissioner of Police for the City of London.

Marginal Citations

- M4 1964 c. 48.
- M5 1964 c. 48.

102 Representation at disciplinary proceedings.

- (1) On the hearing of a disciplinary charge against a police officer of the rank of chief superintendent or below the punishment of dismissal, requirement to resign or reduction in rank may not be awarded unless he has been given an opportunity to elect to be legally represented at the hearing.
- (2) Where such an officer so elects, he may be represented at the hearing, at his option, either by counsel or by a solicitor.
- (3) Except in a case where such an officer has been given an opportunity to elect to be legally represented and has so elected, he may only be represented at the hearing of a disciplinary charge by another member of a police force.
- (4) Regulations under section 33(2)(e) of the ^{M3}Police Act 1964 shall specify—
 - (a) a procedure for notifying an officer of the effect of subsections (1) to (3) above;
 - (b) when he is to be so notified and when he is to give notice whether or not he wishes to be legally represented at the hearing.
- (5) If an officer—
 - (a) fails without reasonable cause to give notice in accordance with the regulations that he wishes to be legally represented; or
 - (b) gives notice in accordance with the regulations that he does not wish to be legally represented,
 any such punishment as is mentioned in subsection (1) above may be awarded without his being legally represented.

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- (6) If an officer has given notice in accordance with the regulations that he wishes to be legally represented, the case against him may be presented by counsel or a solicitor whether or not he is actually so represented.

Marginal Citations

M3 1964 c. 48.

103 Disciplinary appeals.

- (1) The following section shall be substituted for section 37 of the Police Act 1964—

“37 Disciplinary appeals to Secretary of State.

- (1) A member of a police force who is dealt with for an offence against discipline may appeal to the Secretary of State—
- (a) against the decision on the disciplinary charge which was preferred against him;
 - (b) against any punishment awarded, except where he has a right of appeal to some other person; and in that case he may appeal to the Secretary of State from any decision of that other person.
- (2) On an appeal the Secretary of State may make an order allowing or dismissing the appeal.
- (3) Subject to subsection (4) below, in any case where it appears to him that it is appropriate to do so, he may substitute some other punishment.
- (4) The Secretary of State may not substitute another punishment unless it appears to him—
- (a) that the person or tribunal who heard the disciplinary charge could have awarded it; and
 - (b) that it is less severe than the punishment awarded by that person or tribunal.
- (5) The Secretary of State may direct an appellant to pay the whole or any part of his own costs; but, subject to any such direction, all the costs and expenses of an appeal under this section, including the costs of the parties, shall be defrayed out of the police fund.
- (6) Schedule 5 to this Act shall have effect in relation to any appeal under this section.”.
- (2) The following Schedule shall be substituted for Schedule 5 to that Act—

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“SCHEDULE 5

Section 37.

DISCIPLINARY APPEALS

Notice of appeal

- 1 Any appeal under section 37 of this Act (in this Schedule referred to as “the principal section”) shall be instituted by giving a notice of appeal within the time prescribed under this Schedule.

Respondent

- 2 (1) On any appeal under the principal section against the decision of a police authority the respondent shall be that authority.
- (2) On any other appeal under that section the respondent shall be the chief officer of police of the police force to which the appellant belongs or such other person as the Secretary of State may direct; and the Secretary of State may direct any respondent under this sub-paragraph to act in relation to the appeal in consultation with such other person or persons as the Secretary of State may specify.

Inquiries

- 3 (1) The Secretary of State may appoint three persons to hold an inquiry into and report to him on any appeal under the principal section other than an appeal from a decision of a police authority and, subject to sub-paragraph (2) below, shall do so where—
- (a) it appears to him that the appeal cannot be properly determined without taking evidence; or
 - (b) the appellant has been punished by way of dismissal, requirement to resign or reduction in rank and has requested that such persons be appointed.
- (2) The Secretary of State need not make an appointment under sub-paragraph (1) above if he is satisfied that there are sufficient grounds for allowing the appeal without an inquiry.
- (3) The persons appointed under sub-paragraph (1) above shall be—
- (a) a barrister or solicitor, who shall be chairman;
 - (b) a serving or retired inspector of constabulary or a retired chief officer; and
 - (c) a retired officer of appropriate rank within the meaning of sub-paragraph (4) below.
- (4) A retired officer of appropriate rank means—
- (a) where the appellant was, immediately before the disciplinary proceedings, of the rank of chief superintendent or superintendent, a retired police officer who at the time of his retirement was of either of those ranks; and
 - (b) in any other case, a retired police officer who at the time of his retirement was of the rank of chief inspector or below.

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- (5) The Secretary of State may appoint one or more persons to hold an inquiry into and report to him on an appeal under the principal section from a decision of a police authority.
- (6) The Secretary of State may require persons appointed under this paragraph to deal in their report with any particular matter specified by him.
- (7) Subsections (2) and (3) of section 250 of the Local Government Act 1972 shall apply to any inquiry under this paragraph as they apply to an inquiry under that section.
- (8) The Secretary of State may require persons appointed under this paragraph to hold a hearing.
- (9) Persons so appointed shall hold a hearing in any case where they are not required to do so under sub-paragraph (8) above, unless it appears to them that it is unnecessary to do so.
- (10) A decision whether to hold a hearing shall not be taken under sub-paragraph (9) above unless both the appellant and the respondent have been afforded an opportunity to make written or, if either so requests, oral representations and any such representations have been considered.
- (11) Where a hearing is held in the course of an inquiry, the appellant shall have the right to appear by a serving member of a police force or by counsel or a solicitor; and the respondent shall have the right to appear by an officer of the police force or by the clerk or other officer of the police authority or by counsel or a solicitor.
- (12) Before making an order under the principal section the Secretary of State shall consider any report made to him under this paragraph, as well as the notice of appeal and any other documents submitted to him by the appellant and the respondent in accordance with rules under this Schedule.
- (13) The Secretary of State may, before making an order under the principal section, remit the case for further investigation by the person or persons who held the inquiry or, if he thinks fit, for further consideration by the person or persons whose decision is the subject of the appeal.

Notice and effect of orders

- 4 (1) A copy of any order made by the Secretary of State, together with a written statement of his reasons for making it, shall as soon as made be sent to the appellant and the respondent together with, if an inquiry was held, a copy of the report of the person or persons who held the inquiry; and the order shall be final and binding upon all parties.
- (2) Where an appeal is allowed or the punishment is varied by the Secretary of State, the order shall take effect by way of substitution for the decision appealed from, and as from the date of that decision; and where the effect of the order is to reinstate the appellant in the force or in his rank, he shall, for the purpose of reckoning service for pension, and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in that rank, as the case may be, continuously from the date of the decision to the date of his reinstatement and, if he were suspended

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for a period immediately preceding the date of the decision, the order shall deal with the suspension.

- (3) Any costs payable under the principal section shall be subject to taxation in such a manner as the Secretary of State may direct.

Rules

- 5 (1) The Secretary of State may make rules as to the procedure on appeals and at inquiries under this Schedule and in particular, but without any prejudice to the generality of this provision, may make rules—
- (a) prescribing the form and content of the notice of appeal and the documents to be submitted by the appellant and the time within which such documents are to be submitted; and
 - (b) prescribing the documents to be submitted and the time within which they are to be submitted by the respondent; and
 - (c) providing for the person or persons holding an inquiry to receive evidence or representations in writing instead of holding a hearing.
- (2) Any rules made under this paragraph shall be laid before Parliament after being made.”.

General

104 Restrictions on subsequent proceedings.

- (1) Where a member of a police force has been convicted or acquitted of a criminal offence he shall not be liable to be charged with any offence against discipline which is in substance the same as the offence of which he has been convicted or acquitted.
- (2) Subsection (1) above shall not be construed as applying to a charge in respect of an offence against discipline which consists in having been found guilty of a criminal offence.
- (3) Subject to subsection (4) below, no statement made by any person for the purpose of the informal resolution of a complaint shall be admissible in any subsequent criminal, civil or disciplinary proceedings.
- (4) A statement is not rendered inadmissible by subsection (3) above if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.

105 Guidelines concerning discipline, complaints, etc.

- (1) The Secretary of State may issue guidance to chief officers of police and to other police officers concerning the discharge of their functions—
 - (a) under this Part of this Act; and
 - (b) otherwise in connection with discipline;
 and police officers shall have regard to any such guidance in the discharge of their functions.
- (2) Guidance may not be issued under subsection (1) above in relation to the handling of a particular case.

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- (3) A failure on the part of a police officer to have regard to any guidance issued under subsection (1) above when determining—
 - (a) whether an officer has committed an offence against discipline; or
 - (b) the punishment to be awarded for such an offence,shall be admissible in evidence on any appeal from the determination.
- (4) In discharging their functions under section 93 above the Authority shall have regard to any guidance given to them by the Secretary of State with respect to such matters affecting the preferring and withdrawing of disciplinary charges as are for the time being the subject of guidance under subsection (1) above, and shall have regard in particular, but without prejudice to the generality of this subsection, to any such guidance as to the principles to be applied in cases that involve any question of criminal proceedings and are not governed by section 104 above.
- (5) The report of the Authority under section 97(3) above shall contain a statement of any guidance given to the Authority under subsection (4) above during the year to which the report relates.

Status:

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