



Police Act 1976

CHAPTER 46

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SCHEDULE—The Police Complaints Board.

ELIZABETH II



Police Act 1976

1976 CHAPTER 46

An Act to Establish a Police Complaints Board with functions relating to complaints from the public against members of police forces in England and Wales; to amend the law relating to the discipline of those forces; and for connected purposes. [6 August 1976] A.D. 1976

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

COMPLAINTS AGAINST THE POLICE

1.—(1) For the purposes of this Part of this Act there shall be a board known as the Police Complaints Board consisting of not less than nine members appointed by the Prime Minister. The Police
Complaints
Board.

(2) The members of the Board shall not include any person who is or has been a constable in any part of the United Kingdom.

(3) Persons may be appointed as whole-time or part-time members of the Board.

(4) The Prime Minister shall appoint—

- (a) one of the members of the Board to be chairman; and
- (b) either one or two members of the Board (as he may decide) to be deputy chairman or deputy chairmen.

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(5) The Schedule to this Act shall have effect with respect to the Board.

Reference
to Board of
complaint
reports.
1964 c. 48.

2.—(1) Where a chief officer of police receives the report of an investigation into a complaint under section 49 of the Police Act 1964 (complaints by members of the public against the police) he shall, subject to subsection (2) and section 5 below, send to the Police Complaints Board a copy of the report together with—

- (a) a copy of the complaint ; and
- (b) a memorandum signed by him stating—
 - (i) his opinion on the merits of the complaint ;
 - (ii) whether he has preferred disciplinary charges in respect of the matter or matters complained of and, if not, his reasons for not doing so ; and
 - (iii) if he has preferred such disciplinary charges, particulars of the charges and of any exceptional circumstances affecting the case by reason of which he considers that section 4 below should apply to the hearing of them.

(2) Subsection (1) above shall not apply—

- (a) where disciplinary charges have been preferred in respect of the matter or matters complained of and the accused has admitted the charges and not withdrawn his admission ; or
- (b) where, in accordance with regulations made by the Secretary of State under section 6 below, the complaint has been withdrawn or the complainant has indicated that he does not wish any further steps to be taken ; or
- (c) where the complaint is against an officer holding a rank above superintendent and, in accordance with regulations made by the Secretary of State under section 33 of the Police Act 1964, any disciplinary charges would be drawn up by a solicitor and heard by a person selected from a list of persons nominated by the Lord Chancellor.

(3) Where, by virtue of subsection (2)(a) above, subsection (1) above does not apply in relation to a complaint, the chief officer of police shall, after the conclusion of the disciplinary proceedings (including any appeal to the Secretary of State), send to the Board—

- (a) a copy of the complaint and of the report of the investigation under the said section 49 ; and
- (b) particulars of the disciplinary charges preferred and of any punishment imposed.

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(4) Where in the case of any complaint the documents mentioned in subsection (1) above are not sent to the Board before the expiration of such period as may be prescribed by regulations made by the Secretary of State under section 6 below (whether because the investigation has not been completed or for any other reason) the chief officer of police shall send to the Board—

- (a) as soon as possible after the expiration of that period, a copy of the complaint ; and
- (b) when he sends that copy and, in accordance with any provision made by the regulations, from time to time thereafter, information as to the stage reached in dealing with the complaint ;

but the obligations imposed by this subsection shall apply only if and so long as the case is one to which subsection (1) above applies or could apply, and where a copy of the complaint is sent to the Board under this subsection no further copy need be sent under that subsection.

(5) References in this section to a copy of the complaint shall in the case of a complaint made orally, be construed as references to a copy of the record of the complaint.

3.—(1) Where the report of an investigation into a complaint is sent to the Police Complaints Board under section 2(1) above the following provisions shall have effect in relation to disciplinary charges in respect of the matter or matters complained of ; and for the purpose of discharging their functions under those provisions the Board may request the chief officer of police to furnish them with such additional information as they may reasonably require.

Powers of Board as to disciplinary charges.

(2) Where the chief officer of police has not preferred disciplinary charges the Board may, if they disagree with his decision, make recommendations to him as to the charges which they consider should be preferred ; and if, after the Board have made such recommendations and consulted the chief officer, he is still unwilling to prefer such charges as the Board consider appropriate they may direct him to prefer such charges as they may specify.

(3) Where the Board give a chief officer a direction under subsection (2) above they shall furnish him with a written statement of their reasons for doing so.

(4) Where disciplinary charges have been or are preferred they shall not be withdrawn except with the leave of the Board.

(5) Where disciplinary charges have been or are preferred (otherwise than in pursuance of a direction under subsection (2) above) the Board may direct that section 4 below shall apply

PART I

to the hearing of the charges if they consider that to be desirable by reason of any exceptional circumstances affecting the case; and that section shall also apply to the hearing of any charges preferred in pursuance of a direction under that subsection.

(6) Notwithstanding subsection (5) above, section 4 below shall not apply in any case in which the accused admits the charges and does not withdraw his admission before the beginning of the hearing.

(7) A chief officer of police shall comply with any direction given to him under subsection (2) above and, subject to any regulations made by the Secretary of State under section 6 below, with any request under subsection (1) above.

(8) In discharging their functions under subsections (2) and (4) above the Board 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 by him to chief officers of police, including in particular the principles to be applied in cases that involve any question of criminal proceedings and are not governed by section 11 below.

Disciplinary
tribunals.

4.—(1) 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 (2) 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 Police Complaints Board nominated by the Board, being members who were not concerned with the case under section 3 above; and

(b) the function of determining what punishment is to be imposed if the accused is found guilty shall, subject to subsection (4) below, be discharged by the chairman after consulting the other members of the tribunal.

(2) Where the accused is a member of the metropolitan police force and the function mentioned in subsection (1)(a) above 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 or the chief officer of another police force) the chairman of the tribunal shall be—

(a) 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 under section 6 below ; or

(b) in default of any nomination, the Commissioner himself.

(3) The decision of the tribunal in discharging the function mentioned in subsection (1)(a) above may be a majority decision.

(4) Where the chairman of the tribunal is not the chief officer of police of the police force to which the accused belongs (and that chief officer is neither interested in the case otherwise than in his capacity as such nor a material witness) the function mentioned in subsection (1)(b) above shall be discharged by that chief officer after considering any recommendation as to punishment made by the chairman, and before making any recommendation the chairman shall consult the other members of the tribunal.

(5) Where by virtue of section 3(5) above this section applies to the hearing of any disciplinary charge and 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.

5.—(1) Where the report of an investigation into a complaint is sent to the Director of Public Prosecutions in pursuance of section 49(3) of the Police Act 1964 (cases where criminal offences may have been committed) section 2(1) above shall not apply to the complaint until the question of criminal proceedings has been dealt with by the Director. Complaints that may involve criminal proceedings. 1964 c. 48.

(2) Where it appears to the Police Complaints Board that any information furnished to them under section 2 or 3 above—

(a) may be relevant to the question of criminal proceedings against the member of a police force against whom the complaint in question is made ; but

(b) has not been furnished to the Director of Public Prosecutions,

the Board may request the chief officer of that force to transmit that information to the Director ; and the chief officer shall transmit that information accordingly unless it has already been furnished to the Director or the chief officer is satisfied that it cannot be relevant as aforesaid.

PART I

(3) A chief officer of police who is requested under subsection (2) above to transmit any information to the Director shall notify the Board whether he has transmitted it and, if not, his reasons for not doing so.

Complaints
regulations.

6.—(1) The Secretary of State may make regulations—

- (a) as to the procedure to be followed by chief officers of police and the Police Complaints Board in relation to complaints from members of the public against members of police forces ;
- (b) without prejudice to paragraph (a) above—
 - (i) for requiring a chief officer of police to furnish a member of his police force against whom such a complaint is made with a copy of, or of the record of, the complaint ;
 - (ii) for requiring the Board to transmit any such complaint received by them to the chief officer of the police force concerned ;
- (c) for requiring any action or decision of the Board to be notified to the persons concerned and, in connection therewith, for enabling the Board to furnish those persons with any relevant information ;
- (d) for requiring chief officers of police to furnish the Board with information and documents relating to such complaints ;
- (e) as to the procedure to be followed by disciplinary tribunals under section 4 above ;
- (f) for dispensing with any requirements of section 49 of the Police Act 1964 where a complaint is withdrawn or the complainant indicates that he does not wish any further steps to be taken ;
- (g) for enabling the Board to dispense with any requirements of that section or of the foregoing provisions of this Part of this Act in circumstances other than those mentioned in paragraph (f) above ;
- (h) for enabling chief officers of police to delegate any function under the said section 49, under section 2, 3, 4(5) or 5(2) and (3) above or under the regulations ;
- (i) generally for carrying the foregoing provisions of this Part of this Act into effect.

1964 c. 48.

(2) Regulations under this section may make different provision for different circumstances and may authorise the Secretary of State to make provision for any purposes specified in the regulations.

(3) Section 46(3) of the said Act of 1964 (which requires the Secretary of State to consult the Police Advisory Board for England and Wales about regulations under that Act) shall apply also to regulations under this section.

(4) The power to make regulations under this section shall be exercisable by statutory instrument.

(5) Regulations containing any such provision as is mentioned in subsection (1)(g) above shall not be made unless a draft of them has been approved by resolution of each House of Parliament; and other regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

7.—(1) The Police Complaints Board may, with the approval of the Secretary of State, make arrangements with any authority maintaining a body of constables, not being a police authority, for the discharge by the Board in relation to those constables of functions corresponding to any of those conferred on the Board by the foregoing provisions of this Part of this Act; and any such arrangements may, with the like approval, be varied or terminated.

Constabularies maintained by authorities other than police authorities.

(2) If in the case of any body of constables the Board have not within six months after the coming into force of this section made such arrangements as are mentioned in subsection (1) above, the Secretary of State may, if he thinks fit and after consulting the Board and the authority in question, by order make such arrangements as aforesaid.

(3) The power to make orders under this section includes power to vary or revoke a previous order and 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.

(4) Any such authority as aforesaid shall, if it would not otherwise do so, have power to enter into and carry into effect any such arrangements as are mentioned in subsection (1) above.

(5) The Board shall not under any such arrangements exercise functions in relation to anything done by a constable outside England and Wales.

8.—(1) The Police Complaints Board shall, at the request of the Secretary of State, report to him on such matters relating generally to complaints to which this Part of this Act applies as the Secretary of State may specify; and the Board may for that purpose carry out research into any such matters.

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(2) The Board may make to the Secretary of State a report on any matters coming to their notice to which they consider that his attention should be drawn by reason of their gravity or of other exceptional circumstances; and the Board shall send a copy of any such report to the police authority and the chief officer of police of any police force which appears to the Board to be concerned or, if the report concerns any such body of constables as is mentioned in section 7 above, to the authority maintaining, and the officer having the direction and control of, that body of constables.

(3) As soon as practicable after the end of each calendar year the Board shall make to the Secretary of State a report on the discharge by the Board in that year of their functions under the foregoing provisions of this Part of this Act, and the report shall contain a statement of any guidance given to them in that year under section 3(8) above.

(4) The Secretary of State shall lay before Parliament a copy of every report received by him under subsection (3) above and shall cause every such report to be published.

(5) The Board shall send to every police authority—

- (a) a copy of every report made by the Board under subsection (3) above; and
- (b) any statistical or other general information relating to the year dealt with by the report and the area of that authority which the Board consider should be brought to the authority's attention in connection with their functions under section 50 of the Police Act 1964.

1964 c. 48.

(6) The Board shall keep under review the working of this Part of this Act and make to the Secretary of State a report thereon at least once in every three years after the coming into force of this section.

Restriction on disclosure of information.

9.—(1) No information received by the Police Complaints Board in connection with any complaint shall be disclosed by any person who is or has been a member, officer or servant of the Board except—

- (a) to the Secretary of State or any other member, officer or servant of the Board or, so far as may be necessary for the proper discharge of the functions of the Board, 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 Board which does not identify the person

from whom the information was received or to whom it relates.

PART I

(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 not exceeding £400.

PART II

AMENDMENTS OF DISCIPLINE PROVISIONS

10.—(1) Regulations under section 33(2)(e) of the Police Act 1964 (discipline regulations) shall provide— Discipline regulations, 1964 c. 48.

- (a) for the determination of questions whether offences against discipline have been committed ; and
- (b) 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 (b) above to be discharged—

- (a) in relation to the chief constable, 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) above, to section 4 above and subsections (3) and (4) below.

(3) 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,

the regulations shall provide for the functions mentioned in subsection (1)(a) and (b) above to be discharged by another chief officer of police.

(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

PART II

(b) where such a direction is given, for the function mentioned in subsection (1)(b) above to be discharged by the chief constable after considering any recommendation as to punishment made by the other chief officer of police.

(5) Subsections (2) to (4) 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 said Act of 1964 but with the substitution—

(a) for the reference in subsection (2)(a) to the officers there mentioned of a reference 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 ; and

(b) for the references to the chief constable in subsections (2)(b), (3) and (4) of references to the Commissioner of Police for the City of London.

(6) Section 33(3) of the said Act of 1964 (which is superseded by the foregoing provisions) is hereby repealed.

Disciplinary
charges in
criminal cases.

11.—(1) Where a member of a police force has been acquitted or convicted 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 acquitted or convicted.

(2) Subsection (1) above shall not be construed as applying to a charge in respect of an offence against discipline which consists of having been found guilty of a criminal offence.

Disciplinary
appeals.
1964 c. 48.

12.—(1) In subsection (2)(c) of section 37 of the Police Act 1964 (power of Secretary of State to substitute some other punishment (whether more or less severe) where a person appeals to him under that section) for the words “some other punishment (whether more or less severe)” there shall be substituted the words “some other punishment appearing to him to be less severe”.

(2) Subsection (4) of the said section 37 (which precludes a member of the metropolitan police force from appealing to the Secretary of State until he has exercised any right of appeal to the Commissioner) shall apply also in relation to any right of appeal to an Assistant Commissioner and accordingly after the word “Commissioner”, in both places where it occurs in that subsection, there shall be inserted the words “or an Assistant Commissioner”.

(3) For paragraph 2 of Schedule 5 to that Act (respondent in disciplinary appeals) there shall be substituted—

“ 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.”.

(4) For paragraph 3(1) of that Schedule (inquiries) there shall be substituted—

“ 3.—(1) The Secretary of State may in any case appoint one or more persons (one at least of whom shall be a person engaged or experienced in police administration) to hold an inquiry and report to him and shall do so where it appears to him that the case cannot be properly determined without taking evidence.

(1A) The Secretary of State may require any person or persons appointed under this paragraph to deal in the report with any particular matter specified by him.”.

(5) In paragraph 3(4) of that Schedule (reference for further consideration by the disciplinary authority) for the words “ the disciplinary authority ” there shall be substituted the words “ the person or persons whose decision is the subject of the appeal ”.

(6) In sub-paragraph (1) of paragraph 5 of that Schedule (rules) after paragraph (b) there shall be inserted—

“ (c) providing for the person or persons holding an inquiry to receive evidence or representations in writing instead of holding a hearing ” ;

and in sub-paragraph (2) of that paragraph for the words “ provide for giving to the appellant the right to appear at an inquiry ” there shall be substituted the words “ where there is a hearing in the course of an inquiry, provide for giving to the appellant the right to appear ”.

PART III

SUPPLEMENTARY

13.—(1) This Act shall come into force on such day as the Commence-Secretary of State may by order appoint, and different days may be appointed for different provisions and for different purposes.

PART III

(2) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation.

(3) The power to make orders under this section shall be exercisable by statutory instrument ; and any such order appointing a day for the coming into force of any provisions may be varied or revoked before that day.

Short title
and extent.

14.—(1) This Act may be cited as the Police Act 1976.

(2) Paragraphs 6, 8(1) and 9 of the Schedule to this Act have the same extent as the enactments to which they refer but, save as aforesaid, this Act extends to England and Wales only.

SCHEDULE

THE POLICE COMPLAINTS BOARD

Section 1(5).

Incorporation and status

1. The Police Complaints Board shall be a body corporate.
2. The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown; and the Board's property shall not be regarded as property of or property held on behalf of the Crown.

Members

- 3.—(1) Subject to the following provisions of this Schedule, a person shall hold office as a member or as chairman or deputy chairman of the Board in accordance with the terms of his appointment.
 - (2) A person shall not be appointed as a member of the Board for more than three years at a time.
 - (3) A person may at any time resign his office as a member or as chairman or deputy chairman.
 - (4) The Prime Minister may at any time remove a person from office as a member if satisfied that—
 - (a) he has without reasonable excuse failed to carry out his duties for a continuous period of three months beginning not earlier than six months before that time; or
 - (b) he has been convicted of a criminal offence; or
 - (c) he has become bankrupt or made an arrangement with his creditors; or
 - (d) he is incapacitated by physical or mental illness; or
 - (e) he is otherwise unable or unfit to perform his duties.
 - (5) If a person who is chairman or deputy chairman ceases to be a member of the Board he shall also cease to be chairman or deputy chairman.

4. The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of members of the Board or any of them as, with the consent of the Minister for the Civil Service, he may determine.

5. Where a person ceases to be a member of the Board otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of the Minister for the Civil Service direct the Board to make to that person a payment of such amount

as, with the consent of that Minister, the Secretary of State may determine.

1975 c. 24.

1975 c. 25.

6. In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified under those Acts) there shall be inserted at the appropriate place in alphabetical order—

“The Police Complaints Board”.

Staff

7. The Board may, after consultation with the Secretary of State, appoint such officers and servants as they think fit, subject to the approval of the Minister for the Civil Service as to numbers and as to remuneration and other terms and conditions of service.

1972 c. 11.

8.—(1) Employment by the Board shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act, at the end of the list of “Other Bodies” there shall be inserted—

“Police Complaints Board”.

(2) Where a person who is employed by the Board and is by reference to that employment a participant in a scheme under section 1 of the said Act of 1972 becomes a member of the Board, the Minister for the Civil Service may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Board; and his rights under the scheme shall not be affected by paragraph 4 above.

1969 c. 57.

9. The Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Board.

Proceedings

10.—(1) Subject to the provisions of this Act, the arrangements for the proceedings of the Board (including the quorum for meetings) shall be such as the Board may determine.

(2) The arrangements may, with the approval of the Secretary of State, provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee or by one or more of the members, officers or servants of the Board.

11. The validity of any proceedings of the Board shall not be affected by any defect in the appointment of a member or by any vacancy among the members or in the office of chairman or deputy chairman.

Finance

12. The Secretary of State shall pay to the Board expenses incurred or to be incurred by the Board under paragraphs 5 and 7 above and, with the consent of the Minister for the Civil Service and the Treasury, shall pay to the Board such sums as the Secretary of State thinks fit for enabling the Board to meet other expenses.

13.—(1) It shall be the duty of the Board—

- (a) to keep proper accounts and proper records in relation to the accounts ;
- (b) to prepare in respect of each financial year of the Board a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury ; and
- (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of November next following the financial year to which the statement relates.

(2) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before Parliament.

(3) The financial year of the Board shall be the twelve months ending on 31st March.

14. Any sums required by the Secretary of State for making payments under this Schedule shall be defrayed out of moneys provided by Parliament.

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