

*Status: Point in time view as at 01/04/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Magistrates' Courts Act 1994, Cross Heading: Police and Criminal Evidence Act 1984. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

#### POLICE: MINOR AND CONSEQUENTIAL AMENDMENTS

##### Extent Information

- E1** The provisions of Sch. 5 have the same extent as the enactments they amend, see s. 96(1)-(3)

##### Commencement Information

- II** Sch. 5 partly in force; Sch. 5 not in force at Royal Assent, see s. 94(1); Sch. 5 Pt. I paras. 5, 15 in force for certain purposes (8.8.1994) by S.I. 1994/2025, art. 4(1)(2)(g)(3)-(6); Sch. 5 Pt. I para. 10(1)(3) in force (1.10.1994) by S.I. 1994/2025, art. 5(1)(2)(j); Sch. 5 paras. 1, 8 in force (31.12.1994) by S.I. 1994/3262, art. 3(1)(a) (with transitional provisions in art. 3(2)) (as amended (14.3.1995) by S.I. 1995/246, art. 2(3)); Sch. 5 Pt. I paras. 11 (only so far as extending to Scotland), 39 (the opening words and 39(b)), 40(1)(3) in force (1.8.1996) by S.I. 1996/1646, art. 2, Sch. (with savings in art. 3)

### PART II

#### AMENDMENT OF OTHER ENACTMENTS

##### *Police and Criminal Evidence Act 1984*

- 24 In section 84 of the <sup>M1</sup>Police and Criminal Evidence Act 1984 (general provision relating to police complaints and discipline), in subsection (4)—

- (a) in the definition of “senior officer” for the words “chief superintendent” there shall be substituted the word “superintendent”, and  
(b) at the end there shall be added—

““disciplinary proceedings” means proceedings identified as such by regulations under section 33 of the <sup>M2</sup>Police Act 1964.”

##### Commencement Information

- II** Sch. 5 Pt. II para. 24 partly in force; Sch. 5 Pt. II para. 24 not in force at Royal Assent, see s. 94(1); Sch. 5 Pt. II para. 24(a) in force (1.4.1995) by S.I. 1994/3262, art. 4, Sch. (as amended (14.3.1995) by S.I. 1995/246, art. 2(3))

##### Marginal Citations

- M1** 1984 c. 60.  
**M2** 1964 c. 48.

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- 25 In section 85 of that Act (investigation of complaints: standard procedure)—
- (a) subsection (8) shall be omitted, and
  - (b) in subsection (10) for the words “a criminal or disciplinary charge” there shall be substituted the words “criminal or disciplinary proceedings”.
- 26 In section 86 of that Act (investigation of complaints against senior officers), in subsection (2) for the words “a criminal or disciplinary charge” there shall be substituted the words “criminal or disciplinary proceedings”.
- 27 In section 89 of that Act (supervision of investigations by Complaints Authority), in subsection (12) for the word “charge” there shall be substituted the word “proceedings”.
- 28 Section 91 of that Act (steps to be taken where accused has admitted charges) shall cease to have effect.
- 29 In section 95 of that Act (manner of dealing with complaints etc.)—
- (a) for the words “adequate and efficient” there shall be substituted the words “efficient and effective”, and
  - (b) after the word “efficiency” there shall be inserted the words “and effectiveness”.
- 30 In section 96 of that Act (constabularies maintained by authorities other than police authorities), in subsection (1) after the word “corresponding” there shall be inserted the words “or similar”.
- 31 In section 99 of that Act (regulations), in subsection (2) after paragraph (e) there shall be inserted—
- “(ea) for enabling the Authority to relinquish the supervision of the investigation of any complaint or other matter;”.
- 32 In section 100 of that Act, in subsection (6) (regulations to which affirmative parliamentary procedure applies)—
- (a) after paragraph (a) there shall be inserted—
    - “(aa) of section 90(5) or (7) above;”, and
  - (b) in paragraph (b) for the words “section 99(2)(b) or (e)” there shall be substituted the words “section 99(2)(b), (e) or (ea)”.
- 33 For section 102 of that Act (representation at disciplinary proceedings) there shall be substituted—

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### “102 Representation at disciplinary and other proceedings.

- (1) A police officer of the rank of superintendent or below may not be dismissed, required to resign or reduced in rank by a decision taken in proceedings under regulations made in accordance with section 33(3)(a) of the <sup>M3</sup>Police Act 1964 unless he has been given an opportunity to elect to be legally represented at any hearing held in the course of those proceedings.
- (2) Where an officer makes an election to which subsection (1) above refers, he may be represented at the hearing, at his option, either by counsel or by a solicitor.
- (3) Except in a case where an officer of the rank of superintendent or below has been given an opportunity to elect to be legally represented and has so elected, he may be represented at the hearing only by another member of a police force.
- (4) Regulations under section 33 of the <sup>M4</sup>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 notified of the effect of those subsections, and
  - (c) when he is to give notice whether 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,he may be dismissed, required to resign or reduced in rank without his being legally represented.
- (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.  
**M4** 1964 c. 48.

- 34 (1) Section 105 of that Act (guidelines) shall be amended as follows.
- (2) In subsection (1)—
- (a) after the words “issue guidance” there shall be inserted the words “ to police authorities, ”
  - (b) for paragraph (b) there shall be substituted—
    - “(b) under regulations made under section 33 of the Police Act 1964 in relation to the matters mentioned in subsection (2) (e) of that section;”, and

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(c) after the word “and”, in the third place where it occurs, there shall be inserted the words “ police authorities and ”.

(3) For subsection (3) there shall be substituted—

“(3) A failure on the part of a police authority or a police officer to have regard to any guidance issued under subsection (1) above shall be admissible in evidence on any appeal from a decision taken in proceedings under regulations made in accordance with subsection (3) of section 33 of the <sup>M5</sup>Police Act 1964.”

(4) In subsection (4)—

(a) the words from “affecting” to “charges”, and

(b) the words “and are not governed by section 104 above”, shall be omitted.

#### **Marginal Citations**

**M5** 1964 c. 48.

35 (1) Section 107 of that Act (police officers performing duties of higher rank) shall be amended as follows.

(2) In subsection (1) for the words “he has been” onwards there shall be substituted—

“(a) he has been authorised by an officer holding a rank above the rank of superintendent to exercise the power or, as the case may be, to give his authority for its exercise, or

(b) he is acting during the absence of an officer holding the rank of superintendent who has authorised him, for the duration of that absence, to exercise the power or, as the case may be, to give his authority for its exercise.”

(3) In subsection (2) for the words “chief superintendent” there shall be substituted the word “superintendent”.

36 (1) Schedule 4 to that Act (Police Complaints Authority) shall be amended as follows.

(2) For paragraph 1(6) (appointment of two deputy chairmen) there shall be substituted—

“(6) The Secretary of State may appoint not more than two of the members of the Authority to be deputy chairmen.”

(3) In paragraph 3(4) (grounds on which members can be removed) after paragraph (d) there shall be inserted—

“(da) he has acted improperly in relation to his duties, or”.

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