



# Police Act 1996

## 1996 CHAPTER 16

### PART IV

#### COMPLAINTS, DISCIPLINARY PROCEEDINGS ETC.

F1 ...

#### Textual Amendments

- F1** Pt. 4 Ch. 1 repealed (1.4.2004) by [Police Reform Act 2002 \(c. 30\)](#), s. 108(2), [Sch. 8](#) (with s. 26(9)(10)(28)); [S.I. 2004/913](#), art. 2(f)(iv) (with savings in [S.I. 2004/671](#), arts. 1(1), 2(3)(4))

#### Modifications etc. (not altering text)

- C1** Pt. 4 Ch. 1 restricted by [S.I. 1985/520](#), reg. 11(1) (as amended (15.11.2003) by [The Police \(Complaints\) \(General\) \(Amendment\) Regulations 2003 \(S.I. 2003/2602\)](#), regs. 1(1), [8\(2\)](#))
- C2** Pt. IV Ch. I continued (1.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) Order 2004 \(S.I. 2004/671\)](#), arts. 1(1), [2\(3\)\(4\)](#)

F1

.....

#### Modifications etc. (not altering text)

- C3** S. 65 applied (1.4.1999) by [S.I. 1999/731](#), [reg. 11\(5\)](#)

F1

.....

**Status:** Point in time view as at 01/04/2007.

**Changes to legislation:** Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Extent Information

**E1** This section extends E.W. but also extends S. so far as it relates to Sch. 5, para.8

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

**F1**

.....

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C4** S. 81 modified (1.6.1999) by [S.I. 1999/1273](#), [reg. 28](#)

F1

.....

F1

.....

## CHAPTER II

### DISCIPLINARY AND OTHER PROCEEDINGS

#### **84 Representation at disciplinary and other proceedings.**

- (1) A member of a police force of the rank of [<sup>F2</sup>chief] 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 50(3)(a) 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 a member of a police force makes an election to which subsection (1) refers, he may be represented at the hearing, at his option, either by counsel or by a solicitor.
- (3) Except in a case where a member of a police force of the rank of [<sup>F2</sup>chief] 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 50 shall specify—
  - (a) a procedure for notifying a member of a police force 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 a member of a police force—
  - (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 a member of a police force 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.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F2** Words in s. 84(1)(3) inserted (1.1.2002) by 2001 c. 16, s. 125(3)(4)(c); S.I. 2001/3736, art. 3(a)

### 85 Appeals against dismissal etc.

- (1) A member of a police force who is dismissed, required to resign or reduced in rank by a decision taken in proceedings under regulations made in accordance with section 50(3) may appeal to a police appeals tribunal against the decision except where he has a right of appeal to some other person; and in that case he may appeal to a police appeals tribunal from any decision of that other person as a result of which he is dismissed, required to resign or reduced in rank.
- (2) Where a police appeals tribunal allows an appeal it may, if it considers that it is appropriate to do so, make an order dealing with the appellant in a way—
  - (a) which appears to the tribunal to be less severe than the way in which he was dealt with by the decision appealed against, and
  - (b) in which he could have been dealt with by the person who made that decision.
- (3) The Secretary of State may make rules as to the procedure on appeals to police appeals tribunals under this section.
- (4) Rules made under this section may make provision for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents, and may, in particular, apply subsections (2) and (3) of section 250 of the <sup>M1</sup>Local Government Act 1972 with such modifications as may be set out in the rules.
- (5) A statutory instrument containing rules made under this section shall be laid before Parliament after being made.
- (6) Schedule 6 shall have effect in relation to appeals under this section.

#### Modifications etc. (not altering text)

- C5** S. 85 excluded (31.3.1999) by S.I. 1999/533, art. 3(2)  
 S. 85 applied (1.4.1999) by S.I. 1999/731, reg. 15(6)
- C6** S. 85(2)-(5) applied (31.10.1997) by 1997 c. 50, s. 82(2); S.I. 1997/2390, art. 2(2)(r)

#### Marginal Citations

**M1** 1972 c. 70.

### <sup>F3</sup>86 Admissibility of statements in subsequent proceedings.

.....

#### Textual Amendments

**F3** S. 86 repealed (1.4.2004) by Police Reform Act 2002 (c. 30), s. 108(2), Sch. 8; S.I. 2004/913, art. 2(f)(iv)

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 87 Guidance concerning disciplinary proceedings etc.

(1) The Secretary of State may issue guidance to police authorities, chief officers of police and other members of police forces concerning the discharge of their functions under regulations made under section 50 in relation to the matters mentioned in subsection (2)(e) of that section, and they shall have regard to any such guidance in the discharge of their functions.

[<sup>F4</sup>(1A) The Secretary of State may also issue guidance to the Independent Police Complaints Commission concerning the discharge of its functions under any regulations under section 50 in relation to disciplinary proceedings.

(2) Nothing in this section shall authorise the issuing of any guidance about a particular case.

(3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in discharging the functions to which the guidance relates.

(4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

(5) In this section “disciplinary proceedings” means any proceedings under any regulations under section 50 that are identified as disciplinary proceedings by those regulations.]

### Textual Amendments

**F4** S. 87(1A)-(5) substituted for s. 87(2) (1.4.2004) by [Police Reform Act 2002 \(c. 30\)](#), s. 108(2), [Sch. 7 para. 18](#); [S.I. 2004/913](#), art. 2(e)

## 88 Liability for wrongful acts of constables.

(1) The chief officer of police for a police area shall be liable in respect of [<sup>F5</sup>any unlawful conduct of] constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and accordingly shall [<sup>F6</sup>, in the case of a tort,] be treated for all purposes as a joint tortfeasor.

(2) There shall be paid out of the police fund—

(a) any damages or costs awarded against the chief officer of police in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and

(b) any sum required in connection with the settlement of any claim made against the chief officer of police by virtue of this section, if the settlement is approved by the police authority.

(3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the chief officer of police; and references in subsections (1) and (2) to the chief officer of police shall be construed accordingly.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
- (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for [<sup>F7</sup>any unlawful conduct of] that person,
  - (b) any costs incurred and not recovered by such a person in such proceedings, and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (5) Subsection (4) applies to a person who is—
- (a) a member of the police force maintained by the police authority,
  - (b) a constable for the time being required to serve with that force by virtue of section 24 or 98 [<sup>F8</sup>of this Act <sup>F9</sup>...], or
  - (c) a special constable appointed for the authority's police area.
- [<sup>F10</sup>(5A) This section shall have effect where, by virtue of section 23 or 24 of the Serious Organised Crime and Police Act 2005, a member of the staff of the Serious Organised Crime Agency who is neither a constable nor an employee of the police authority is provided to a police force as if—
- (a) any unlawful conduct of his in the performance or purported performance of his functions were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and
  - (b) subsection (4) applied to him in the case of the police authority maintaining that force.]
- [<sup>F11</sup>(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a constable who is a member of a police force as if—
- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor an employee of the police authority were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and
  - (b) subsection (4) applied, in the case of the police authority maintaining that force, to every member of that team to whom it would not apply apart from this subsection.
- (7) In this section “international joint investigation team” means any investigation team formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
  - (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
  - (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.
- (8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Status:** Point in time view as at 01/04/2007.

**Changes to legislation:** Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

- F5** Words in s. 88(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 102(1)(a)(2)(a)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xi)**
- F6** Words in s. 88(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 102(1)(b)(2)(a)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xi)**
- F7** Words in s. 88(4)(a) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 102(4)(5)(a)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xi)**
- F8** Words in s. 88(5)(b) inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para. 85**; [S.I. 1998/354](#), **art. 2(2)(ay)**
- F9** Words in s. 88(5)(b) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 4 para. 80(2)**, **Sch. 17 Pt. 2**; [S.I. 2006/378](#), art. 4(1), Sch. paras. 10, 13(y)
- F10** S. 88(5A) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 4 para. 80(3)**; [S.I. 2006/378](#), art. 4(1), Sch. para. 10
- F11** S. 88(6)-(8) inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 103(1)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xii)**

### Modifications etc. (not altering text)

- C7** S. 88 applied (with modifications) (1.1.2000) by [S.I. 1999/3272](#), **art. 3**
- C8** S. 88(1)-(5) modified (1.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **s. 25(5)**; [S.I. 2004/1572](#), **art. 3(h)**
- C9** S. 88(1) excluded by 1974 c. 37, s. 51A(2D)(2E)(b) (as inserted (7.4.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 158(1)**, [178\(1\)\(a\)](#) (with s. 158(5)-(7)))

**Status:**

Point in time view as at 01/04/2007.

**Changes to legislation:**

Police Act 1996, Part IV is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.