



Police (Northern Ireland) Act 1998

1998 CHAPTER 32

PART III **N.I.**

THE POLICE FORCE

18 General functions of the police force. **N.I.**

- (1) It shall be the general duty of members of the police force—
 - (a) to protect life and property;
 - (b) to preserve order;
 - (c) to prevent the commission of offences;
 - (d) where an offence has been committed, to take measures to bring the offender to justice.
- (2) A member of the police force shall have all the powers and privileges of a constable throughout Northern Ireland and the adjacent United Kingdom waters.
- (3) In subsection (2)—
 - (a) the reference to the powers and privileges of a constable is a reference to all the powers and privileges for the time being exercisable by a constable whether at common law or under any statutory provision;
 - (b) “United Kingdom waters” means the sea and other waters within the seaward limits of the territorial sea;and that subsection, so far as it relates to the powers under any statutory provision, makes them exercisable throughout the adjacent United Kingdom waters whether or not the statutory provision applies to those waters apart from that subsection.
- (4) Section 19 of the ^{MI}Northern Ireland Constitution Act 1973 (discrimination by public authorities) shall apply to members of the police force in the discharge of their functions as such.

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police (Northern Ireland) Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M1 1973 c. 36

19 General functions of Chief Constable. **N.I.**

- (1) The police force shall be under the direction and control of the Chief Constable.
- (2) In discharging his functions, the Chief Constable shall have regard to—
 - (a) the annual policing plan issued under section 17; and
 - (b) the statement of principles issued under section 37.

Commencement Information

II S. 19 wholly in force at 1.4.1999; s. 19 not in force at Royal Assent see s. 75(1); s. 19(2)(a) in force at 8.10.1998 by S.R. 1998/346, art. 3: s. 19(2) in force at 9.2.1999 insofar as not already in force by S.R. 1999/48, art. 3 (with s. 4); s. 19 in force at 1.4.1999 insofar as not already in force by S.R. 1999/176, art. 3 (with art. 4)

20 Exercise of functions of Chief Constable in cases of absence, incapacity, etc. **N.I.**

- (1) The Chief Constable shall, after consulting the Police Authority, designate a senior officer to exercise all the functions of the Chief Constable—
 - (a) during any absence, incapacity or suspension from duty of the Chief Constable; or
 - (b) during any vacancy in the office of Chief Constable.
- (2) No more than one senior officer shall be authorised to act by virtue of a designation under subsection (1) at any one time; and an officer so authorised shall not have power to act by virtue of that subsection for a continuous period exceeding 3 months except with the consent of the Secretary of State.
- (3) Subsection (1) is in addition to, and not in substitution for, any other statutory provision which makes provision for the exercise by any other person of functions of the Chief Constable.

21 Appointment and removal of senior officers of RUC. **N.I.**

- (1) The Police Authority shall, subject to the approval of the Secretary of State, appoint the Chief Constable.
- (2) The Police Authority shall, subject to the approval of the Secretary of State and after consultation with the Chief Constable, appoint the other senior officers of the Royal Ulster Constabulary.
- (3) The Police Authority—
 - (a) may, with the approval of the Secretary of State, call upon any senior officer of the Royal Ulster Constabulary to retire in the interests of efficiency or effectiveness; and

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- (b) without prejudice to the generality of paragraph (a), shall, if required by the Secretary of State, call upon the Chief Constable so to retire.
 - (4) Before granting his approval under subsection (3)(a) or making any requirement under subsection (3)(b) in relation to a senior officer, the Secretary of State shall—
 - (a) give the officer an opportunity to make, either personally or otherwise, representations to him; and
 - (b) where any such representations are made—
 - (i) appoint a person or persons to hold an inquiry and to report to him; and
 - (ii) consider any report so made.
 - (5) A copy of any report made under subsection (4) shall be made available to the senior officer concerned.
 - (6) The person appointed under subsection (4)(b) (or where two or more persons are so appointed, at least one of those persons) shall be a person who is not a member of the police force or a person employed in the civil service.
 - (7) The costs incurred in respect of an inquiry under this section shall be defrayed by the Secretary of State.
 - (8) A senior officer who is called upon to retire under this section shall retire—
 - (a) in the case of the Chief Constable, on such date as the Secretary of State may specify; and
 - (b) in the case of any other senior officer, on such date as the Police Authority may specify,or (in either case) on such earlier date as may be agreed between the officer and the Police Authority.
 - (9) This section has effect subject to any regulations made under section 25.
- 22 Appointment and promotion of other members of RUC. N.I.**
- Appointments and promotions to any rank in the Royal Ulster Constabulary other than that of a senior officer shall be made, in accordance with regulations under section 25, by the Chief Constable.
- 23 Reserve constables. N.I.**
- The Chief Constable may, in accordance with regulations under section 26, appoint reserve constables and such reserve constables shall be known as the Royal Ulster Constabulary Reserve.
- 24 Attestation of constables. N.I.**
- Every member of the police force shall, on appointment, be attested as a constable by making before a justice of the peace a declaration in the form set out in Schedule 2.

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25 Regulations for RUC. **N.I.**

- (1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government, administration and conditions of service of members of the Royal Ulster Constabulary.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
 - (a) the ranks to be held by members of the Royal Ulster Constabulary;
 - (b) the qualifications for appointment and promotion of members of the Constabulary;
 - (c) periods of service on probation;
 - (d) voluntary retirement of members of the Constabulary;
 - (e) the conduct, efficiency and effectiveness of members of the Constabulary and the maintenance of discipline;
 - (f) the suspension or dismissal of members of the Constabulary from membership of that Constabulary and from the office of constable;
 - (g) the maintenance of personal records of members of the Constabulary;
 - (h) the duties which are or are not to be performed by members of the Constabulary;
 - (i) the treatment as occasions of police duty of attendance at meetings of the Police Association and of any body recognised by the Secretary of State for the purposes of section 35;
 - (j) the hours of duty, leave, pay and allowances of members of the Constabulary;
 - (k) the pensions and gratuities in respect of service as a member of the Constabulary (including provision for the recognition for the purposes of such pensions and gratuities of service otherwise than as a member of the police force and for the payment and receipt of transfer values or of other lump sums made for the purpose of creating or restoring rights to such pensions and gratuities); and
 - (l) the issue, use and return of equipment.
- (3) Without prejudice to the powers conferred by this section, regulations under this section shall—
 - (a) establish, or make provision for the establishment of, procedures for cases in which a member of the Royal Ulster Constabulary may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution; and
 - (b) make provision for securing that any case in which a senior officer may be dismissed or dealt with in any of the other ways mentioned in paragraph (a) is decided by the Police Authority.
- (4) Without prejudice to the powers conferred by this section, regulations under this section shall provide for appeals to an appeals tribunal by members of the Royal Ulster Constabulary who are dismissed, required to resign or reduced in rank—
 - (a) in a case where there is no right of appeal to any other person, by a decision taken in proceedings under regulations made in accordance with subsection (3); and
 - (b) in a case where there is a right of appeal to another person, by a decision of that person.

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- (5) In relation to any matter as to which provision may be made by regulations under this section, the regulations may, subject to subsection (3)(b)—
- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, the Police Authority, the Chief Constable or other persons; or
 - (b) authorise or require the delegation by any person of functions conferred on him by or under the regulations.
- (6) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.
- (7) Where regulations made in accordance with subsection (2)(a) vary the ranks held by members of the Royal Ulster Constabulary, the regulations may make such amendments as appear to the Secretary of State to be necessary or expedient to any statutory provision (including this Act) containing a reference to any rank held by a member of that Constabulary.
- (8) The Secretary of State shall consult both the Police Authority and the Police Association before making any regulations under this section, other than regulations made by virtue of subsection (2)(j), (k) or (l).

Modifications etc. (not altering text)

- C1** S. 25 restricted (4.11.2001) by S.I. 1976/1042 (N.I. 15), **art. 84(2)** (as inserted (4.11.2001) by 2000 c. 32, s. 74, **Sch. 5 para. 1(4)**); S.R. 2001/396, art. 2, **Sch.**)

Commencement Information

- I2** S. 25 partly in force; s. 25 not in force at Royal Assent see s. 75(1); s. 25(1)-(3)(5)-(8) in force at 9.2.1999 by S.R. 1999/48, **art. 3** (with art. 4)

26 Regulations for RUC Reserve. N.I.

- (1) The Secretary of State may make regulations as to the government, administration and conditions of service of reserve constables.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
- (a) the ranks to be held by reserve constables;
 - (b) the appointment and promotion of reserve constables;
 - (c) the retirement of reserve constables;
 - (d) the conduct, efficiency and effectiveness of reserve constables and the maintenance of discipline;
 - (e) the suspension or dismissal of reserve constables from their office;
 - (f) the remuneration and allowances of reserve constables; and
 - (g) the application to reserve constables, subject to such modifications as may be prescribed by the regulations, of any provision made under section 25 or any other statutory provision with respect to pensions payable to or in respect of members of the Royal Ulster Constabulary.

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- (3) Without prejudice to the powers conferred by this section, regulations under this section shall establish, or make provision for the establishment of, procedures for cases in which a reserve constable may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.
- (4) Without prejudice to the powers conferred by this section, regulations under this section shall provide for appeals to an appeals tribunal by reserve constables who are dismissed, required to resign or reduced in rank—
 - (a) in a case where there is no right of appeal to any other person, by a decision taken in proceedings under regulations made in accordance with subsection (3); and
 - (b) in a case where there is a right of appeal to another person, by a decision of that person.
- (5) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—
 - (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, the Police Authority, the Chief Constable or other persons; or
 - (b) authorise or require the delegation by any person of functions conferred on him by or under the regulations.
- (6) The Secretary of State shall consult both the Police Authority and the Police Association before making any regulations under this section.

Commencement Information

I3 S. 26 partly in force; s. 26 not in force at Royal Assent see s. 75(1), s. 26(1)-(3)(5)(6) in force at 9.2.1999 by S.R. 1999/48, art. 3 (with art. 4)

27 Members of RUC engaged on other police service. **N.I.**

- (1) For the purposes of this section “relevant service” means—
 - (a) service in a police force in Great Britain, on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable and the Secretary of State;
 - (b) temporary service with the National Criminal Intelligence Service on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable;
 - (c) temporary service with the Police Information Technology Organisation on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable;
 - (d) temporary service on which a member of the Royal Ulster Constabulary is engaged in accordance with arrangements under section 8 of this Act;
 - (e) temporary service as an inspector of constabulary under section 56 of the ^{M2}Police Act 1996 on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable;
 - (f) temporary service under the Crown in connection with the provision by the Secretary of State of such organisations and services as are described in

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- section 57 of the ^{M3}Police Act 1996, on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable;
- (g) service the expenses of which are payable under section 1(1) of the ^{M4}Police (Overseas Service) Act 1945, on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable; or
- (h) service pursuant to an appointment under section 10 of the ^{M5}Overseas Development and Co-operation Act 1980, on which a member of the Royal Ulster Constabulary is engaged with the consent of the Chief Constable.
- (2) In this section “member of the Royal Ulster Constabulary” does not include the Chief Constable.
- (3) Subject to subsections (4) to (7), a member of the Royal Ulster Constabulary engaged on relevant service shall be treated as if he were not a member of that Constabulary during that service; but, except where a pension, allowance or gratuity becomes payable to him by virtue of regulations under section 25—
- (a) he shall be entitled at the end of the period of relevant service to revert to that Constabulary in the rank in which he was serving immediately before that period began; and
- (b) he shall be treated as if he had been serving in that Constabulary during the period of relevant service for the purpose of any scale prescribed by or under regulations made under section 25 fixing his rate of pay by reference to his length of service.
- (4) A member of the Royal Ulster Constabulary may, when engaged on relevant service, be promoted in that Constabulary, as if he were serving in it; and in any such case—
- (a) the reference in paragraph (a) of subsection (3) to the rank in which he was serving immediately before the period of relevant service began shall be construed as a reference to the rank to which he is promoted; and
- (b) for the purposes mentioned in paragraph (b) of that subsection he shall be treated as having served in that rank from the time of his promotion.
- (5) A member of the Royal Ulster Constabulary who—
- (a) while engaged on relevant service within subsection (1)(a), is dismissed from that service or is required to resign as an alternative to dismissal; or
- (b) has completed a period of relevant service within subsection (1)(b), (c), (d), (e), (f) or (h); or
- (c) while engaged on relevant service within subsection (1)(g), is dismissed from that service by the disciplinary authority established by regulations made under section 1 of the ^{M6}Police (Overseas Service) Act 1945 or is required to resign as an alternative to dismissal,
- may be dealt with under regulations made in accordance with section 25(3) for anything done or omitted while he was engaged on that service as if that service had been service in the Royal Ulster Constabulary.
- (6) For the purposes of subsection (5)(a), a certificate certifying that a person has been dismissed, or required to resign as an alternative to dismissal, shall be evidence of the fact so certified if it is given by or on behalf of the chief officer of the police force in which that person was engaged in relevant service.
- (7) A member of the Royal Ulster Constabulary engaged on relevant service within subsection (1)(b) or (c)—
- (a) shall continue to be a constable; and

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- (b) shall be treated for the purposes of sections 18, 32, 33, 35 and 67 of this Act as if he were a member of that Constabulary.
- (8) The Secretary of State shall be liable in respect of torts committed by a member of the Royal Ulster Constabulary engaged on relevant service within subsection (1)(e) or (f) in the performance or purported performance of his functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and shall in respect of any such tort be treated for all purposes as a joint tortfeasor.

Marginal Citations

- M2** 1996 c. 16.
M3 1996 c. 16.
M4 1945 c. 17.
M5 1980 c. 63.
M6 1945 c. 17.

28 The RUC Fund. **N.I.**

- (1) The Secretary of State may by regulations provide—
- (a) for the establishment, maintenance and operation of the Royal Ulster Constabulary Fund; and
 - (b) for the payment into that fund of—
 - (i) fines imposed on members of the police force in disciplinary proceedings; and
 - (ii) such other moneys as may be specified in the regulations.
- (2) The Secretary of State shall consult both the Police Authority and the Police Association before making any regulations under this section.

29 Liability for wrongful acts of constables. **N.I.**

- (1) The Chief Constable shall be liable in respect of torts committed by members of the police force 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 in respect of any such tort be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid out of funds put at the disposal of the Chief Constable under section 10(5)—
- (a) any damages or costs awarded against the Chief Constable 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 those proceedings; and
 - (b) any sum required in connection with the settlement of any claim made against the Chief Constable by virtue of this section, if the settlement is approved by the Police Authority.
- (3) The Chief Constable may, in such cases and to such extent as appear to him to be appropriate, pay—
- (a) any damages or costs awarded against a member of the police force in proceedings for a tort committed by that member;

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- (b) any costs incurred and not recovered by a member of the police force 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, if the settlement is approved by the Police Authority.
- (4) The Chief Constable may make arrangements for the legal representation of any member of the police force in any proceedings mentioned in subsection (3).
- (5) This section applies to persons serving with the Royal Ulster Constabulary by virtue of section 98 of the ^{M7}Police Act 1996 or section 23 of the ^{M8}Police Act 1997 as it applies to members of the police force.

Modifications etc. (not altering text)

C2 S. 29 applied (30.3.2001) by 2000 c. 32, s. 41(1)(a)(i); S.R. 2001/132, art. 2, Sch.

Marginal Citations

M7 1996 c. 16.

M8 1997 c. 50.

30 Protection of members of the police force in executing warrants. N.I.

- (1) No action shall be brought against a member of the police force in respect of any act done in execution of a warrant by reason of—
- (a) any irregularity in the issuing of the warrant; or
 - (b) any lack of jurisdiction in the person who issued it.
- (2) Where any such action is commenced, the judge may, on an application by the defendant supported by an affidavit of facts, order that the proceedings in such action be set aside with or without costs.

31 Property coming into the possession of the police. N.I.

- (1) Where any property has come into the possession of the police in connection with their investigation of a suspected offence, a court of summary jurisdiction, on an application under this subsection, may—
- (a) make an order for the delivery of the property to the person appearing to the court to be the owner of the property; or
 - (b) where the owner cannot be ascertained, make such order with respect to the property as the court thinks fit.
- (2) An application under subsection (1) in relation to any property may be made—
- (a) by a member of the police force; or
 - (b) by a person claiming an interest in the property.
- (3) An order under subsection (1) does not affect the right of any person to take, within 6 months from the date of the order, legal proceedings against any person in possession of property delivered by virtue of the order for the recovery of the property; but, on the expiration of that period, the right shall cease.

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- (4) The Secretary of State may make regulations for the disposal of property which has come into the possession of the police (whether as mentioned in subsection (1) or otherwise), in cases where—
- (a) the owner of the property has not been ascertained; and
 - (b) no order of a competent court has been made with respect to the property.
- (5) Regulations under subsection (4) may—
- (a) authorise the sale of property;
 - (b) authorise the application of any money which has come into the possession of the police as mentioned in that subsection and the proceeds of any such sale as is mentioned in paragraph (a)—
 - (i) to defray expenses incurred under the regulations;
 - (ii) to pay reasonable compensation to persons by whom property has been delivered to the police; and
 - (iii) for such other purposes as may be specified in or determined under the regulations;
 - (c) provide that where, in the case of property other than money—
 - (i) the property has remained in the possession of the police for at least a year;
 - (ii) the police would under the regulations have power to sell the property;
 - (iii) in the opinion of the Police Authority, the property can be used for police purposes; and
 - (iv) the Police Authority determines, in such manner as may be prescribed by the regulations, that the property is to be retained by the Authority, the Police Authority is to become the owner of the property on the making of the determination or at such later time as the regulations may specify;
 - (d) in relation to property which is in the possession of the police by virtue of Article 11 of the ^{M9}Criminal Justice (Northern Ireland) Order 1994, make (subject to subsection (6)) provision for disposal (including disposal by vesting in the Police Authority) in cases where no application under subsection (1) by a claimant of the property has been made within 6 months from the date on which the order was made or no such application has succeeded;
 - (e) provide for the publication of determinations under paragraph (c)(iv).
- (6) Regulations under subsection (4) may not provide for the vesting in the Police Authority of property in relation to which an order has been made under Article 12 of the ^{M10}Criminal Justice (Northern Ireland) Order 1994.
- (7) Except as provided by subsection (8), property shall not be sold unless it has remained in the possession of the police for at least a year.
- (8) Property may be sold at any time if—
- (a) the property is perishable; or
 - (b) custody of the property would involve unreasonable expense or inconvenience,
- but the proceeds of sale shall not be disposed of unless they have remained in the possession of the police for at least a year.
- (9) Where property is in the possession of the police by virtue of Article 11 of the ^{M11}Criminal Justice (Northern Ireland) Order 1994—

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- (a) no application shall be made under subsection (1) by any claimant after the expiration of 6 months from the date on which the order in respect of the property was made under that Article;
- (b) no such application shall succeed unless the claimant satisfies the court either—
 - (i) that he had not consented to the offender having possession of the property; or
 - (ii) where an order is made under paragraph (1)(a) of that Article, that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that sub-paragraph.

Marginal Citations

M9 1994 NI 15.

M10 1994 NI 15.

M11 1994 NI 15.

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