



Police (Northern Ireland) Act 1998

1998 CHAPTER 32

PART V

FUNCTIONS OF SECRETARY OF STATE ^[F1]AND DEPARTMENT OF JUSTICE]

[F1]41A Powers of Secretary of State in relation to reports and other duties of inspectors of constabulary

- (1) For the purposes of subsections (2) to (8) information is “protected information” if the inclusion of the information in a report of the inspectors under section 41 would be against the interests of national security.
- (2) If it appears to the Secretary of State that—
 - (a) the inspectors are required to prepare a report under section 41 (other than a report on an inspection required by the Secretary of State under section 41(3A)), and
 - (b) the report might contain (or once completed might contain) protected information,

the Secretary of State may require the inspectors to refer the report to the Secretary of State (or, if the report is not completed when the requirement is imposed, to refer the report once it is completed).

- (3) The Secretary of State must, within—
 - (a) the period of 30 days after the date on which the inspectors refer the report to the Secretary of State, or
 - (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the inspectors whether, in the opinion of the Secretary of State, the report contains any protected information.

- (4) If—
 - (a) it appears to the inspectors that a report under section 41 (other than a report on an inspection required by the Secretary of State under section 41(3A)) might contain protected information, and

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- (b) the inspectors have not been required to refer the report to the Secretary of State under subsection (2),
the inspectors must refer the report to the Secretary of State.
- (5) The Secretary of State must, within—
- (a) the period of 30 days after the date on which the inspectors refer the report to the Secretary of State, or
 - (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,
- notify the inspectors whether, in the opinion of the Secretary of State, the report contains any protected information.
- (6) Where the Secretary of State has required that a report be referred to the Secretary of State under subsection (2), or the inspectors are required under subsection (4) to refer a report to the Secretary of State, the inspectors must not disclose the report to anyone apart from the Secretary of State, except—
- (a) in accordance with subsection (7),
 - (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any protected information, or
 - (c) after the period mentioned in subsection (3) or (5) has expired without any notification being given by the Secretary of State.
- (7) Where the Secretary of State notifies the inspectors under subsection (3) or (5) that, in the opinion of the Secretary of State, a report contains protected information—
- (a) the Secretary of State may direct the inspectors to exclude from the report any information that, in the opinion of the Secretary of State, is protected information,
 - (b) the inspectors must exclude that information from the report,
 - (c) the Secretary of State must inform the Department of Justice that the Secretary of State has given a direction under paragraph (a), and
 - (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).
- (8) When the inspectors provide to anyone a report from which information has been excluded under subsection (7), they must at the same time provide the report to the Secretary of State.
- (9) For the purposes of subsections (10) to (14) information is “protected information” if it is information that, in the interests of national security, ought not to be disclosed by the inspectors.
- (10) If it appears to the Secretary of State that any requirement imposed on the inspectors by the Department of Justice under section 41 may require them to disclose, otherwise than in a report, information that is or includes protected information, the Secretary of State may require the inspectors to refer the matter to the Secretary of State.
- (11) If it appears to the inspectors that any requirement imposed on them by the Department of Justice under section 41 may require them to disclose, otherwise than in a report, information that is or includes protected information, they must refer the matter to the Secretary of State.
- (12) The Secretary of State must, within—

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- (a) the period of 30 days after the date on which the inspectors refer a matter to the Secretary of State under subsection (10) or (11), or
 - (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,
- notify the inspectors whether, in the opinion of the Secretary of State, the information in question is or includes protected information.
- (13) Where the inspectors are required under subsection (10) or (11) to refer a matter to the Secretary of State, they must not disclose the information in question to anyone apart from the Secretary of State, except—
- (a) in accordance with subsection (14),
 - (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the information in question is not or does not include protected information, or
 - (c) after the period mentioned in subsection (12) has expired without any notification being given by the Secretary of State.
- (14) Where the Secretary of State notifies the inspectors under subsection (12) that, in the opinion of the Secretary of State, the information in question is or includes protected information—
- (a) the Secretary of State may set aside or modify the requirement imposed by the Department of Justice as the Secretary of State thinks appropriate so that the inspectors are not required to disclose any information that, in the opinion of the Secretary of State, is protected information;
 - (b) the inspectors must proceed accordingly;
 - (c) the Secretary of State must inform the Department of Justice that the Secretary of State has taken action under paragraph (a); and
 - (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has taken action under paragraph (a).]

Textual Amendments

- F1** S. 41A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 3 para. 22](#) (with arts. 28-31)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 50A inserted by [2023 c. 41 s. 45\(1\)](#)
- s. 60ZD inserted by [2023 c. 41 Sch. 13 para. 3](#)
- s. 66(3A) modified by 2003 c. 6 s. 30(11) (as added) by [S.I. 2007/912 \(N.I.\) Sch. 4 para. 4](#)