

Status: Point in time view as at 01/07/2005.

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SCHEDULES

SCHEDULE 11

INVESTIGATIONS INTO CONDUCT OF POLICE OFFICERS: ACCELERATED PROCEDURE IN SPECIAL CASES

3 After paragraph 20 insert—

“Accelerated procedure in special cases

- 20A (1) If, at any time before the completion of his investigation, a person appointed or designated to investigate a complaint or recordable conduct matter believes that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, he shall proceed in accordance with the following provisions of this paragraph.
- (2) If the person was appointed under paragraph 16, he shall submit to the appropriate authority—
- (a) a statement of his belief and the grounds for it; and
 - (b) a written report on his investigation to that point;
- and if he was appointed following a determination made by the Commission under paragraph 15 he shall send a copy of the statement and the report to the Commission.
- (3) If the person was appointed under paragraph 17 or 18 or designated under paragraph 19, he shall submit to the appropriate authority—
- (a) a statement of his belief and the grounds for it; and
 - (b) a written report on his investigation to that point;
- and shall send a copy of the statement and the report to the Commission.
- (4) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- (5) A statement and report may be submitted under this paragraph whether or not a previous statement and report have been submitted; but a second or subsequent statement and report may be submitted only if the person submitting them has grounds to believe that the appropriate authority will reach a different determination under paragraph 20B(2) or 20E(2).
- (6) After submitting a report under this paragraph, the person appointed or designated to investigate the complaint or recordable conduct matter shall continue his investigation to such extent as he considers appropriate.
- (7) The special conditions are that—
- (a) the person whose conduct is the subject matter of the investigation may have committed an imprisonable offence and that person's conduct is of a serious nature;

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- (b) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct justifying dismissal took place; and
 - (c) it is in the public interest for the person whose conduct is the subject matter of the investigation to cease to be a member of a police force, or to be a special constable, without delay.
- (8) In sub-paragraph (7)—
- (a) in paragraph (a), “imprisonable offence” means an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
 - (b) in paragraph (b), “conduct justifying dismissal” means conduct which is so serious that disciplinary proceedings brought in respect of it would be likely to result in a dismissal.
- (9) In paragraphs 20B to 20H “special report” means a report submitted under this paragraph.

*Investigations managed or carried out by
 Commission: action by appropriate authority*

- 20B (1) This paragraph applies where —
- (a) a statement and special report on an investigation carried out under the management of the Commission, or
 - (b) a statement and special report on an investigation carried out by a person designated by the Commission,
- are submitted to the appropriate authority under paragraph 20A(3).
- (2) The appropriate authority shall determine whether the special conditions are satisfied.
- (3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—
- (a) certify the case as a special case for the purposes of Regulation 11 of the Police (Conduct) Regulations 2004 (S.I. 2004/645); and
 - (b) subject to any request made under paragraph 20G(1), take such steps as are required by that Regulation in relation to a case so certified.
- (4) The reference in sub-paragraph (3) to Regulation 11 includes a reference to any corresponding provision replacing that Regulation.
- (5) If the appropriate authority determines that the special conditions are satisfied then it shall notify the Director of Public Prosecutions of its determination and send him a copy of the special report.
- (6) The appropriate authority shall notify the Commission of a certification under sub-paragraph (3).
- (7) If the appropriate authority determines—
- (a) that the special conditions are not satisfied, or
 - (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

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it shall submit to the Commission a memorandum under this sub-paragraph.

- (8) The memorandum required to be submitted under sub-paragraph (7) is one which—
- (a) notifies the Commission of its determination that those conditions are not satisfied or (as the case may be) that they are so satisfied but the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings; and
 - (b) (in either case) sets out its reasons for so determining.
- (9) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

Investigations managed or carried out by Commission: action by Commission

- 20C (1) On receipt of a notification under paragraph 20B(6), the Commission shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (2) The notification required by sub-paragraph (1) is one setting out—
- (a) the findings of the special report;
 - (b) the appropriate authority's determination under paragraph 20B(2); and
 - (c) the action that the appropriate authority is required to take as a consequence of that determination.
- (3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (1) as they have effect in relation to the duties imposed on the Commission by that section.
- (4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

Investigations managed or carried out by Commission: action by Commission

- 20D(1) On receipt of a memorandum under paragraph 20B(7), the Commission shall—
- (a) consider the memorandum;
 - (b) determine, in the light of that consideration, whether or not to make a recommendation under paragraph 20H; and
 - (c) if it thinks fit to do so, make a recommendation under that paragraph.
- (2) If the Commission determines not to make a recommendation under paragraph 20H, it shall notify the appropriate authority and the person

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appointed under paragraph 18 or designated under paragraph 19 of its determination.

Other investigations: action by appropriate authority

- 20E (1) This paragraph applies where—
- (a) a statement and a special report on an investigation carried out by an appropriate authority on its own behalf, or
 - (b) a statement and a special report on an investigation carried out under the supervision of the Commission,
- are submitted to the appropriate authority under paragraph 20A(2) or (3).
- (2) The appropriate authority shall determine whether the special conditions are satisfied.
 - (3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—
 - (a) certify the case as a special case for the purposes of Regulation 11 of the Police (Conduct) Regulations 2004 (S.I. 2004/645); and
 - (b) subject to any request made under paragraph 20G(1), take such steps as are required by that Regulation in relation to a case so certified.
 - (4) The reference in sub-paragraph (3) to Regulation 11 includes a reference to any corresponding provision replacing that Regulation.
 - (5) If the appropriate authority determines that the special conditions are satisfied then it shall notify the Director of Public Prosecutions of its determination and send him a copy of the special report.
 - (6) Where the statement and report were required under paragraph 20A(2) to be copied to the Commission, the appropriate authority shall notify the Commission of a certification under sub-paragraph (3).
 - (7) If the appropriate authority determines—
 - (a) that the special conditions are not satisfied, or
 - (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,
 it shall notify the person appointed under paragraph 16 or 17 of its determination.
 - (8) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

Other investigations: action by appropriate authority

- 20F (1) If the appropriate authority certifies a case under paragraph 20E(3), it shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and

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- (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (2) The notification required by sub-paragraph (1) is one setting out—
 - (a) the findings of the report;
 - (b) the authority's determination under paragraph 20E(2); and
 - (c) the action that the authority is required to take in consequence of that determination.
- (3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (1) as they have effect in relation to the duties imposed on the appropriate authority by that section.
- (4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

Special cases: Director of Public Prosecutions

- 20G(1) On receiving a copy of a special report under paragraph 20B(5) or 20E(5), the Director of Public Prosecutions may request the appropriate authority not to bring disciplinary proceedings without his prior agreement, if the Director considers that bringing such proceedings might prejudice any future criminal proceedings.
- (2) The Director of Public Prosecutions—
 - (a) shall notify the appropriate authority of any decision of his to take, or not to take, action in respect of the matters dealt with in a special report copied to him under paragraph 20B(5) or 20E(5); and
 - (b) where the special report was copied to him under paragraph 20B(5), shall send a copy of that notification to the Commission.
 - (3) It shall be the duty of the Commission to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a special report copied to him under paragraph 20B(5).
 - (4) It shall be the duty of the appropriate authority to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a special report copied to him under paragraph 20E(5).
 - (5) Those persons are—
 - (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.

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Special cases: recommendation or direction of Commission

- 20H(1) Where the appropriate authority has submitted, or is required to submit, a memorandum to the Commission under paragraph 20B(7), the Commission may make a recommendation to the appropriate authority that it should certify the case under paragraph 20B(3).
- (2) If the Commission determines to make a recommendation under this paragraph, it shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (3) The notification required by sub-paragraph (2) is one setting out—
- (a) the findings of the special report; and
 - (b) the Commission's recommendation under this paragraph.
- (4) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (2) as they have effect in relation to the duties imposed on the Commission by that section.
- (5) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (4), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (2) notification of the findings of the special report by sending that person a copy of the report.
- (6) It shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to certify the case and proceed accordingly.
- (7) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not certify the case under paragraph 20B(3)—
- (a) the Commission may direct the appropriate authority so to certify it; and
 - (b) it shall be the duty of the appropriate authority to comply with the direction and proceed accordingly.
- (8) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.
- (9) The Commission may at any time withdraw a direction given under this paragraph.
- (10) The appropriate authority shall keep the Commission informed of whatever action it takes in response to a recommendation or direction.

Special cases: recommendation or direction of Commission

- 20I (1) Where—

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- (a) the Commission makes a recommendation under paragraph 20H in the case of an investigation of a complaint, and
 - (b) the appropriate authority notifies the Commission that the recommendation has been accepted,
- the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be, taken by the appropriate authority to give effect to it.
- (2) Where in the case of an investigation of a complaint the appropriate authority—
- (a) notifies the Commission that it does not accept the recommendation made by the Commission under paragraph 20H, or
 - (b) fails to certify the case under paragraph 20B(3) and to proceed accordingly,
- it shall be the duty of the Commission to determine what (if any) further steps to take under paragraph 20H.
- (3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—
- (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 20H; and
 - (b) where it determines under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.”

Commencement Information

11 Sch. 11 para. 3 in force at 1.7.2005 by S.I. 2005/1521, art. 3(1)(v)

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