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**Changes to legislation:** Policing and Crime Act 2017, Cross Heading: Ministry of Defence Police Act 1987 (c. 4) is up to date with all changes known to be in force on or before 13 June 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) View outstanding changes

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## SCHEDULES

### SCHEDULE 7 **U.K.**

#### DISCIPLINARY PROCEEDINGS: FORMER MEMBERS OF MOD POLICE, BRITISH TRANSPORT POLICE AND CIVIL NUCLEAR CONSTABULARY

##### *Ministry of Defence Police Act 1987 (c. 4)*

1 The Ministry of Defence Police Act 1987 is amended as follows.

#### **Commencement Information**

- I1** [Sch. 7 para. 1](#) in force for certain purposes at Royal Assent, see [s. 183](#)
- I2** [Sch. 7 para. 1](#) in force at 15.12.2017 in so far as not already in force by [S.I. 2017/1139, reg. 2\(b\)](#) (as amended by [S.I 2017/1162, reg. 2](#))

2 (1) Section 3A (regulations relating to disciplinary matters) is amended as follows.

(2) After subsection (1A) insert—

“(1B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (1A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the chief constable of the Ministry of Defence Police, the Ministry of Defence Police Committee, the Independent Police Complaints Commission, the Police Investigations and Review Commissioner or the Police Ombudsman for Northern Ireland,
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of the Ministry of Defence Police, and
- (c) condition A, B or C is satisfied in relation to the person.

(1C) Condition A is that the person ceases to be a member of the Ministry of Defence Police after the allegation first comes to the attention of a person mentioned in subsection (1B)(a).

(1D) Condition B is that the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a) but the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) does not exceed the period specified in regulations under this section.

(1E) Condition C is that—

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- (a) the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a),
  - (b) the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) exceeds the period specified for the purposes of condition B, and
  - (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of the Ministry of Defence Police.
- (1F) Regulations made by virtue of subsection (1B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—
- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
  - (b) the impact of the allegation on public confidence in the police, and
  - (c) the public interest.
- (1G) Regulations made by virtue of subsection (1B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (1F)(a) to (c).
- (1H) Regulations made by virtue of subsection (1B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or by virtue of section 26 of the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a member of the Ministry of Defence Police.”

- (3) In subsection (2), for “The regulations” substitute “ Regulations under this section ”.

#### **Commencement Information**

- I3** [Sch. 7 para. 2](#) in force for certain purposes at Royal Assent, see [s. 183](#)
- I4** [Sch. 7 para. 2](#) in force at 15.12.2017 in so far as not already in force by [S.I. 2017/1139, reg. 2\(b\)](#) (as amended by [S.I 2017/1162, reg. 2](#))

- 3 In section 4 (representation etc at disciplinary proceedings), in subsection (4)—
- (a) in the definition of “the officer concerned”, after “member” insert “ or, as the case may be, the former member ”;
  - (b) in the definition of “relevant authority”—
    - (i) after paragraph (a) insert—
      - “(aa) where the officer concerned is a former member of the Ministry of Defence Police who immediately before

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ceasing to be such a member was not a senior officer, the chief constable for the Ministry of Defence Police;”;

(ii) after paragraph (b) insert—

“(c) where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was a senior officer, the Ministry of Defence Police Committee;”.

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**Commencement Information**

**I5** [Sch. 7 para. 3](#) in force for certain purposes at Royal Assent, see [s. 183](#)

**I6** [Sch. 7 para. 3](#) in force at 15.12.2017 in so far as not already in force by [S.I. 2017/1139](#), [reg. 2\(b\)](#) (as amended by [S.I. 2017/1162](#), reg. 2)

4 In section 4A (appeals against dismissal etc), in subsection (1)(a), after “member” insert “, or former member, ”.

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**Commencement Information**

**I7** [Sch. 7 para. 4](#) in force for certain purposes at Royal Assent, see [s. 183](#)

**I8** [Sch. 7 para. 4](#) in force at 15.12.2017 in so far as not already in force by [S.I. 2017/1139](#), [reg. 2\(b\)](#) (as amended by [S.I. 2017/1162](#), reg. 2)

5 Regulations made in pursuance of section 3A(1B) of the Ministry of Defence Police Act 1987 (as inserted by paragraph 2)—

- (a) may not make provision in relation to a person who ceases to be a member of the Ministry of Defence Police before the coming into force of paragraph 2 of this Schedule;
- (b) may make provision in relation to a person who ceases to be a member of the Ministry of Defence Police after the coming into force of paragraph 2 of this Schedule even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of that paragraph, but only if the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of the Ministry of Defence Police.

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**Commencement Information**

**I9** [Sch. 7 para. 5](#) in force for certain purposes at Royal Assent, see [s. 183](#)

**I10** [Sch. 7 para. 5](#) in force at 15.12.2017 in so far as not already in force by [S.I. 2017/1139](#), [reg. 2\(b\)](#) (as amended by [S.I. 2017/1162](#), reg. 2)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)