

Changes to legislation: Criminal Justice and Immigration Act 2008, SCHEDULE 23 is up to date with all changes known to be in force on or before 16 April 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

SCHEDULES

SCHEDULE 23

Section 127

INVESTIGATION OF COMPLAINTS OF POLICE MISCONDUCT ETC.

1 The Police Reform Act 2002 (c. 30) has effect subject to the following amendments.

Commencement Information

I1 Sch. 23 para. 1 in force at 3.11.2008 by [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 17\(a\)](#)

2 In section 23(2) (regulations) after paragraph (q) insert—
“(r) for enabling representations on behalf of a person to whose conduct an investigation relates to be made to the Commission by a person who is not that person's legal representative but is of a description specified in the regulations.”

Commencement Information

I2 Sch. 23 para. 2 in force at 3.11.2008 by [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 17\(a\)](#)

3 Schedule 3 (handling of complaints and conduct matters etc.) is amended as follows.

Commencement Information

I3 Sch. 23 para. 3 in force at 3.11.2008 by [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 17\(a\)](#)

4 In paragraph 6(4) (handling of complaints by appropriate authority: use of local resolution procedures) in each of paragraphs (a)(ii) and (b)(ii), for the words from “, a requirement to resign” to the end substitute “ or the giving of a final written warning. ”

Commencement Information

I4 Sch. 23 para. 4 in force at 1.12.2008 by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)\(i\)](#) (with art. 3)

F15

Textual Amendments

F1 Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); [S.I. 2020/5](#), reg. 2(n) (with art. 3(1)(2)(4))

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F16

Textual Amendments
F1 Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F17

Textual Amendments
F1 Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F18

Textual Amendments
F1 Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F19

Textual Amendments
F1 Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F110

Textual Amendments
F1 Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

- 11 (1) Paragraph 21A (procedure where conduct matter is revealed in course of investigation of DSI matter) is amended as follows.
- (2) In sub-paragraph (5) (DSI matter is to be recorded as conduct matter) omit the words from “(and the other provisions” to the end.
- (3) After sub-paragraph (5) insert—
“(6) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (5)—

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- (a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) continue the investigation as if appointed or designated to investigate the conduct matter, and
- (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.”

Commencement Information

I5 Sch. 23 para. 11 in force at 1.12.2008 by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)\(i\)](#)

- 12 (1) Paragraph 22 (final reports on investigations) is amended as follows.
- (2) In sub-paragraph (1) (cases where paragraph 22 applies)—
 - (a) after paragraph (a) insert “ or ”;
 - (b) omit paragraph (c).
 - (3) In sub-paragraph (4) (meaning of appropriate authority in the case of a conduct matter which was formerly a DSI matter) for the words from “a DSI matter” to “or (4)” substitute “ a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of paragraph 21A(5) ”.
 - (4) At the end insert—
 - “(7) The Secretary of State may by regulations make provision requiring a report on an investigation within paragraph 19C(1)(a) or (b)—
 - (a) to include such matters as are specified in the regulations;
 - (b) to be accompanied by such documents or other items as are so specified.
 - (8) A person who has submitted a report under this paragraph on an investigation within paragraph 19C(1)(a) or (b) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.
 - (9) The appropriate authority may only make a request under sub-paragraph (8) in respect of a copy of a document or other item if the authority—
 - (a) considers that the document or item is of relevance to the investigation, and
 - (b) requires a copy of the document or the item for either or both of the purposes mentioned in sub-paragraph (10).
 - (10) Those purposes are—
 - (a) complying with any obligation under regulations under section 50(3) or 51(2A) of the 1996 Act which the authority has in relation to any person to whose conduct the investigation related;
 - (b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of his.”

Commencement Information

I6 Sch. 23 para. 12(1) in force at 3.11.2008 by [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 17\(a\)](#)

I7 Sch. 23 para. 12(1)-(3) in force at 1.12.2008 by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))

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- I8** Sch. 23 para. 12(4) in force at 3.11.2008 for specified purposes by [S.I. 2008/2712, art. 2, Sch. para. 17\(b\)](#) (with [art. 4](#))
- I9** Sch. 23 para. 12(4) in force at 1.12.2008 in so far as not already in force by [S.I. 2008/2993, art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))

13 (1) Paragraph 23 (action by Commission in response to investigation report) is amended as follows.

(2) In sub-paragraph (2) (action to be taken on receipt of report)—

(a) for paragraph (b) substitute—

“(b) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;”;

(b) in paragraph (c), for “the report does so indicate” substitute “ those conditions are so satisfied ”;

(c) in paragraph (d), after “appropriate authority” insert “ and the persons mentioned in sub-paragraph (5) ”.

(3) After sub-paragraph (2) insert—

“(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(2B) The second condition is that—

(a) the circumstances are such that, in the opinion of the Commission, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or

(b) any matters dealt with in the report fall within any prescribed category of matters.”

(4) In sub-paragraph (5) (persons to be notified) for “Those” substitute “ The ”.

^{F2}(5)

^{F2}(6)

Textual Amendments

- F2** Sch. 23 para. 13(5)(6) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 5 para. 50; S.I. 2020/5, reg. 2\(n\)](#) (with [art. 3\(1\)\(2\)\(4\)](#))

Commencement Information

- I10** Sch. 23 para. 13 in force at 1.12.2008 by [S.I. 2008/2993, art. 2\(1\)\(i\)\(i\)](#) (with [art. 3](#))

14 (1) Paragraph 24 (action by the appropriate authority in response to investigation report) is amended as follows.

(2) In sub-paragraph (2) (action to be taken on receipt of report)—

(a) for paragraph (a) substitute—

“(a) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;”;

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- (b) in paragraph (b), for “the report does so indicate” substitute “ those conditions are so satisfied ”;
- (c) after paragraph (b) insert “and
 - (c) shall notify the persons mentioned in sub-paragraph (5) of its determination under paragraph (a) and of any action taken by it under paragraph (b).”

(3) After sub-paragraph (2) insert—

“(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(2B) The second condition is that—

- (a) the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
- (b) any matters dealt with in the report fall within any prescribed category of matters.”

(4) In sub-paragraph (5) (persons to be notified) for “Those” substitute “ The ”.

^{F3}(5)

(6) For sub-paragraph (6) substitute—

“(6) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—

- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—
 - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
 - (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
- (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.”

^{F4}(7)

^{F4}(8)

Textual Amendments

- F3** Sch. 23 para. 14(5) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))
- F4** Sch. 23 para. 14(7)(8) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 15\(11\)\(a\)](#), 183(1)(5)(e); S.I. 2020/5, reg. 2(c) (with art. 3(1)(2)(4))

Commencement Information

- I11** Sch. 23 para. 14 in force at 1.12.2008 by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)\(i\)](#) (with art. 3)

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15 In paragraph 24A(2) (final reports on investigations into other DSI matters: obligation to submit report) for the words from “A person appointed” to “paragraph 19” substitute “ The person investigating ”.

Commencement Information
I12 Sch. 23 para. 15 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i) (with art. 3)

16 (1) Paragraph 24B (action in response to a report on a DSI matter) is amended as follows.
(2) In sub-paragraph (2) (circumstances in which appropriate authority must record matter as a conduct matter) omit the words from “(and the other provisions” to the end.
(3) After sub-paragraph (2) insert—
“(3) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (2)—
(a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) investigate the conduct matter as if appointed or designated to do so, and
(b) the other provisions of this Schedule shall apply in relation to that matter accordingly.”

Commencement Information
I13 Sch. 23 para. 16 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i)

F5 17

Textual Amendments
F5 Sch. 23 para. 17 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

18 (1) Paragraph 27 (duties with respect to disciplinary proceedings) is amended as follows.
(2) In sub-paragraph (1) (application of paragraph) in each of paragraphs (a) and (b), for “proposing to” substitute “ required to or will, in its discretion, ”.

F6 (3)

Textual Amendments
F6 Sch. 23 para. 18(3) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

Commencement Information
I14 Sch. 23 para. 18 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i) (with art. 3)

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19 After paragraph 28 insert—

“Minor definitions

29 In this Part of this Schedule—

“gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;

“misconduct” means a breach of the Standards of Professional Behaviour;

“the person investigating”, in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Standards of Professional Behaviour” means the standards so described in, and established by, regulations made by the Secretary of State.”

Commencement Information

I15 Sch. 23 para. 19 in force at 3.11.2008 for specified purposes by [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 17\(b\)](#) (with [art. 4](#))

I16 Sch. 23 para. 19 in force at 1.12.2008 in so far as not already in force by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)](#) **(ii)** (with [art. 3](#))

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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):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)