



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 3

#### POLICE WORKFORCE AND REPRESENTATIVE INSTITUTIONS

### CHAPTER 1

#### POLICE WORKFORCE

##### *Powers of police civilian staff and volunteers*

### **38 Powers of police civilian staff and police volunteers**

- (1) Chapter 1 of Part 4 of the Police Reform Act 2002 (exercise of police powers etc by civilians) is amended as follows.
- (2) In section 38 (police powers for civilian staff), for subsections (1) and (2) substitute—
  - “(1) The chief officer of police of any police force may designate a relevant employee as either or both of the following—
    - (a) a community support officer;
    - (b) a policing support officer.
  - (1A) The chief officer of police of any police force may designate a police volunteer as either or both of the following—
    - (a) a community support volunteer;
    - (b) a policing support volunteer.”
- (3) In that section, omit subsections (5A) to (6A).
- (4) In that section, before subsection (7) insert—
  - “(6B) The powers and duties that may be conferred or imposed on a person designated under this section are—

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- (a) any power or duty of a constable, other than a power or duty specified in Part 1 of Schedule 3B (excluded powers and duties);
  - (b) where the person is designated as a community support officer or a community support volunteer, any power or duty that is described in Schedule 3C as a power or duty of a community support officer or community support volunteer.
- (6C) The Secretary of State may by regulations amend Part 1 of Schedule 3B so as to add to the list of powers and duties specified in it.
- (6D) Part 2 of Schedule 3B makes provision about the application of legislation in relation to powers or duties of a constable that may be exercised or performed by a person designated under this section.
- (6E) Any power or duty of a constable that is conferred or imposed on a person designated under this section by a chief officer of police of a police force may (subject to provision included in the designation under subsection (6F)) be exercised or performed by the person—
- (a) in the area of that police force, and
  - (b) in any cases or circumstances in which it could be exercised or performed by a constable who is a member of that force.
- (6F) A designation under this section may provide that any power or duty of a constable that is conferred or imposed by the designation may be exercised or performed by the person designated—
- (a) in such areas outside the area of the police force in question as are specified in the designation (as well as within the area of the police force);
  - (b) only in such parts of the area of that police force as are specified in the designation;
  - (c) only in cases or circumstances so specified.”
- (5) In that section, after subsection (7) insert—
- “(7A) A police volunteer authorised or required to do anything by virtue of a designation under this section —
- (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than while acting as a police volunteer;
  - (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in the designation.”
- (6) In that section, after subsection (9) insert—
- “(9A) The chief officer of police of a police force must ensure that no person designated by the chief officer under this section is authorised to use a firearm, within the meaning given by section 57(1) of the Firearms Act 1968, in carrying out functions for the purposes of the designation.
- (9B) However, subsection (9A) does not apply to—
- (a) the use of a weapon, designed or adapted for the discharge of either of the following substances, for the purpose of discharging either of those substances—

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- (i) the substance, commonly known as “CS spray”, that is produced by the use of 2-chlorobenzalmalononitrile;
    - (ii) the substance, commonly known as PAVA spray, that is produced by the use of pelargonic acid vanillylamide;
  - (b) the use of a weapon for a purpose specified in regulations made by the Secretary of State;
  - (c) the use of a weapon of a description specified in regulations made by the Secretary of State, whether generally or for a purpose so specified.”
- (7) In that section, after subsection (9B) (as inserted by subsection (6) above) insert—
  - “(9C) A statutory instrument containing regulations under subsection (6C) or (9B) (b) or (c) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (8) In that section, at the end insert—
  - “(12) In this section, “police volunteer” means a person who is under the direction and control of the chief officer making a designation under subsection (1A) otherwise than because the person is a constable, a special constable or a relevant employee.
  - (13) For the purpose of subsection (12), a person is to be treated as a relevant employee only in relation to times when the person is acting in the course of the person’s employment.”
- (9) In the heading to section 38, after “civilian staff” insert “and volunteers”.
- (10) Omit section 38A (standard powers and duties of community support officers).
- (11) After Schedule 3 insert —
  - (a) the new Schedule 3B set out in Schedule 10 to this Act, and
  - (b) (after that new Schedule) the new Schedule 3C set out in Schedule 11 to this Act.

### **39 Application of Firearms Act 1968 to the police: special constables and volunteers**

- (1) The Firearms Act 1968 is amended as follows.
- (2) In section 54 of that Act (Application of Parts 1 and 2 to Crown servants), in subsection (3)—
  - (a) after paragraph (b) insert—
    - “(ba) a community support volunteer or a policing support volunteer designated under section 38 of the Police Reform Act 2002 by the chief constable of a police force in England and Wales,”;
  - (b) after paragraph (f) insert “, or
  - (g) a community support volunteer or a policing support volunteer designated under section 38 of the Police Reform Act 2002 (as it applies by virtue of section 28 of the Railways and Transport Safety Act 2003) by the Chief Constable of the British Transport Police Force.”

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- (3) In section 57 of that Act (interpretation), in subsection (4), after the definition of “imitation firearm” insert—

““member of a police force” means—

- (a) as respects England and Wales, a constable who is a member of a police force or a special constable appointed under section 27 of the Police Act 1996;
- (b) as respects Scotland, a constable within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 (2012 asp 8);

“member of the British Transport Police Force” includes a special constable appointed under section 25 of the Railways and Transport Safety Act 2003;”.

#### **40 Training etc of police volunteers**

- (1) After section 53E of the Police Act 1996 (guidance about civilian staff employed by local policing bodies and chief officers) insert—

##### **“53F Guidance about designated police volunteers**

- (1) The College of Policing may issue guidance to chief officers of police about—
    - (a) the experience or qualifications that it would be appropriate for a person to have before being designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002;
    - (b) the training to be undertaken by a person before being so designated or after being so designated.
  - (2) The College may from time to time revise the whole or any part of any guidance issued under this section.
  - (3) The College must publish any guidance issued under this section and any revision of it.
  - (4) Each chief officer of police must have regard to guidance issued under this section.”
- (2) In section 97 of the Criminal Justice and Police Act 2001 (regulations for police forces about police training etc), in subsection (6)(c)—
- (a) omit the “or” at the end of sub-paragraph (ii);
  - (b) after sub-paragraph (iii) insert “or
    - (iv) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.”

#### **41 Police volunteers: complaints and disciplinary matters**

- (1) In section 12 of the Police Reform Act 2002 (complaints, matters and persons to which Part 2 of the Act applies), in subsection (7) (what it means to be a person serving with the police)—
- (a) omit the “or” at the end of paragraph (b);
  - (b) at the end of paragraph (c) insert “; or

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- (d) he is a person designated as a community support volunteer or a policing support volunteer under section 38.”
- (2) In section 87 of the Police Act 1996 (guidance concerning disciplinary proceedings etc), in subsection (4A)(a) (as inserted by section 32), after sub-paragraph (iii) insert—
  - “(iv) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002;”.
- (3) In section 87A of the Police Act 1996 (guidance concerning conduct etc) (as inserted by section 32), in subsection (1)—
  - (a) omit the “and” at the end of paragraph (b);
  - (b) at the end of paragraph (c) insert “, and
    - (d) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002.”
- (4) In Schedule 6 to the Police Act 1996 (appeals to Police Appeals Tribunals), in paragraph 10(aa) (as inserted by section 31), after paragraph (iii) insert—
  - “(iiia) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002;”.

#### **42 Police volunteers: police barred list and police advisory list**

- (1) Part 4A of the Police Act 1996 (police barred list and police advisory list) (as inserted by Schedule 8) is amended as follows.
- (2) In section 88C (effect of inclusion in police barred list), at the end insert—
  - “(9) Before designating a person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, a chief officer of police must check with the College of Policing whether the person is a barred person.
  - (10) A chief officer of police may not designate a barred person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.”
- (3) In section 88I (duty to report resignations and retirements to College of Policing)—
  - (a) in the heading, after “retirements” insert “etc”;
  - (b) in subsection (1), after paragraph (b) insert—
    - “(c) the person’s designation as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002 is withdrawn and the reason, or one of the reasons, for the withdrawal of the designation relates to conduct, efficiency or effectiveness;
    - (d) the person, having been designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, decides to stop volunteering as a police volunteer (within the meaning of that section) after a relevant allegation about the person comes to the attention of the relevant authority.”;

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- (c) in subsection (4), after paragraph (d) insert—
    - “(e) in relation to a person falling within subsection (1)(c) or (d), the chief officer of police by whom the person was designated.”;
  - (d) in subsection (6)(b), at the end insert “or (as the case may be) the person’s designation as a community support volunteer or a policing support volunteer being withdrawn if the person had not decided to stop volunteering”.
- (4) In section 88K (effect of inclusion in police advisory list), at the end insert—
- “(8) Before designating a person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, a chief officer of police must check with the College of Policing whether the person is included in the police advisory list.”
- (5) In section 88L (removal from police advisory list), in subsection (7)—
- (a) the words from “a person who,” to the end of the subsection become paragraph (a);
  - (b) after that paragraph insert—
    - “(b) a person who was designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.”

#### **43 Police volunteers: inspection**

- (1) In section 54 of the Police Act 1996 (appointment and functions of inspectors of constabulary), in subsection (7) (as inserted by section 37), after paragraph (a) insert—
  - “(aa) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002;”.
- (2) In Schedule 4A to the Police Act 1996 (further provision about Her Majesty’s Inspectors of Constabulary), in paragraph 6D (as inserted by section 36), after subparagraph (2)(c) insert—
  - “(ca) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002;”.

#### **44 Restrictions on designated persons acting as covert human intelligence sources**

In section 29 of the Regulation of Investigatory Powers Act 2000 (authorisation of covert human intelligence sources), after subsection (6) insert—

- “(6A) An authorisation under this section may not have the effect of authorising a covert human intelligence source who is a person designated under section 38 of the Police Reform Act 2002 to establish contact in person with another person.”

#### **45 Further amendments consequential on section 38 etc**

Schedule 12—

- (a) makes further amendments in consequence of the amendments made by section 38 (see Parts 1 and 2 of that Schedule), and
- (b) makes minor correcting amendments of the Police Reform Act 2002 (see Part 3 of that Schedule).

*Removal of powers of police to appoint traffic wardens*

**46 Removal of powers of police in England and Wales to appoint traffic wardens**

- (1) Sections 95 to 97 of the Road Traffic Regulation Act 1984 (traffic wardens), so far as extending to England and Wales, are repealed.
- (2) Those sections, so far as extending to Scotland, are amended as follows.
- (3) In section 95 (appointment of traffic wardens), omit subsection (1).
- (4) In subsection (2) of that section, for “any such functions as are mentioned in subsection (1) above” substitute “, in aid of the police, functions normally undertaken by the police in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including pedestrians) or stationary vehicles”.
- (5) In subsection (3) of that section, omit “under subsection (1) or”.
- (6) In subsection (4) of that section—
  - (a) omit “(whether in England and Wales or in Scotland)”;
  - (b) for “subsection (1)” substitute “subsection (2)”;
  - (c) in paragraph (b)—
    - (i) omit “or (in England and Wales) with the Secretary of State”;
    - (ii) omit “or, as the case may be, by the Secretary of State”.
- (7) Omit subsection (4A) of that section.
- (8) In section 96 (additional powers of traffic wardens), in subsection (2), omit paragraphs (a), (b) and (d).
- (9) In section 97 (supplementary provisions as to traffic wardens), in subsection (3), omit, in both places where it occurs, “the Common Council or”.
- (10) Schedule 13 makes further amendments consequential on the repeal made by subsection (1).

*Police rank structure*

**47 Power to make regulations about police ranks**

After section 50 of the Police Act 1996 insert—

**“50A Regulations for police forces: ranks**

- (1) The Secretary of State may by regulations specify the ranks that may be held by members of police forces, other than chief officers of police.
- (2) The ranks must include the rank of constable.
- (3) The Secretary of State may by regulations make provision that is consequential on, or incidental or supplemental to, regulations under subsection (1).
- (4) The power conferred by subsection (3) includes power to—
  - (a) repeal, revoke or otherwise amend legislation that (in relation to members of police forces in England and Wales) makes provision

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- with respect to ranks that are not specified in regulations under subsection (1);
  - (b) make other amendments of legislation that are consequential on regulations under subsection (1).
- (5) In subsection (4), “legislation” means any provision of—
- (a) an Act (including this Act),
  - (b) subordinate legislation within the meaning of the Interpretation Act 1978,
  - (c) an Act of the Scottish Parliament or an instrument made under such an Act,
  - (d) a Measure or Act of the National Assembly for Wales or an instrument made under a Measure or Act of that Assembly, or
  - (e) Northern Ireland legislation or an instrument made under Northern Ireland legislation.
- (6) Regulations under this section may include transitional, transitory or saving provision.
- (7) Regulations under this section may make different provision for different cases or circumstances.

#### **50B Regulations under section 50A: procedure**

- (1) A statutory instrument containing regulations under section 50A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (2) If the College of Policing submits to the Secretary of State a draft of regulations under section 50A, then (subject to subsection (3)) the Secretary of State must—
- (a) lay before each House of Parliament for approval a draft of a statutory instrument containing regulations in terms of the draft prepared by the College of Policing, and
  - (b) if the draft of the statutory instrument is approved by both Houses of Parliament, make the regulations in those terms.
- (3) The duty under subsection (2) does not apply if the Secretary of State considers—
- (a) that it would be unlawful to make regulations in terms of the draft,
  - (b) that it would impair the efficiency of the police to do so, or
  - (c) that it would for some other reason be wrong to do so.
- (4) The Secretary of State may not lay before each House of Parliament for approval a draft of a statutory instrument containing regulations under section 50A unless—
- (a) the draft is laid in accordance with the duty under subsection (2), or
  - (b) the College of Policing has approved the text of the regulations.”

#### **48 Section 47: consequential amendments**

- (1) The Police Act 1996 is amended as follows.



- (2) Omit—
  - (a) section 9H (other members of the metropolitan police force);
  - (b) section 13 (other members of police forces).
- (3) Section 50 (regulations for police forces) is amended as follows.
- (4) Omit subsection (2)(a).
- (5) In subsection (2ZA), after “under”, in the second place it occurs, insert “section 50A (regulations as to police ranks) or under”.
- (6) In each of subsections (2ZB) and (2ZC), for “subsection (2)(a), (b), (c) or (g)” substitute “subsection (2)(b), (c) or (g)”.

## CHAPTER 2

### REPRESENTATIVE INSTITUTIONS

#### **49 Duties of Police Federation for England and Wales in fulfilling its purpose**

In section 59 of the Police Act 1996 (Police Federations), after subsection (1) insert—

“(1A) In fulfilling that purpose, the Police Federation for England and Wales must—

- (a) protect the public interest,
- (b) maintain high standards of conduct, and
- (c) maintain high standards of transparency.”

#### **50 Freedom of Information Act etc: Police Federation for England and Wales**

The Police Federation for England and Wales is to be treated for the purposes of—

- (a) the Freedom of Information Act 2000,
- (b) the Data Protection Act 1998, and
- (c) section 18 of the Inquiries Act 2005,

as if it were a body listed in Part 5 of Schedule 1 to the 2000 Act (public authorities).

#### **51 Removal of references to ACPO**

Schedule 14 removes references in legislation to the Association of Chief Police Officers and replaces most of them with references to the National Police Chiefs’ Council.