

STATUTORY INSTRUMENTS

1987 No. 938 (N.I. 10)

Police (Northern Ireland) Order 1987^{F1}

- - - - - 18th May 1987

Annotations:

F1 whole order rep.(prosp.) 1998 c. 32

PART I
INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Police (Northern Ireland) Order 1987.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint^{F2}.

Annotations:

F2 fully exercised SR 1988/7

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

^{F3}“the appropriate authority” means—

(a) in relation to a senior officer, the Police Authority;

(b) in relation to any other member of the police force, the Chief Constable;

“the Commission” means the Independent Commission for Police Complaints for Northern Ireland established by Article 3;

“complaint” means any complaint about the conduct of a member of the police force which is submitted by, or on behalf of, a member of the public;

“complainant” means the person by or on behalf of whom a complaint is submitted;

“the principal Act” means the Police Act (Northern Ireland) 1970.

(3) Any word or expression given a meaning for the purposes of the principal Act has the same meaning in this Order as in that Act.

Annotations:

F3 prosp. rep. 1995 NI 17

PART II

POLICE COMPLAINTS

The Independent Commission for Police Complaints for Northern Ireland

Establishment of Commission

3.—(1) There shall be established a body to be known as the Independent Commission for Police Complaints for Northern Ireland.

(2) Schedule 1 shall have effect in relation to the Commission.

(3) The Police Complaints Board for Northern Ireland is hereby abolished.

Handling of complaints, etc.

^{F4}Preliminary handling of complaints by Chief Constable

4.—(1) Where a complaint is submitted to the Chief Constable, it shall be his duty to take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.

(2) After performing the duties imposed on him by paragraph (1), the Chief Constable shall determine whether he is the appropriate authority in relation to the member of the police force against whom the complaint was made.

(3) If he determines that he is not the appropriate authority, it shall be his duty—

- (a) to send the complaint or, if it was made orally, particulars of it, to the Police Authority; and
- (b) to give notice that he has done so to the complainant.

(4) Nothing in this part has effect in relation to a complaint in so far as it relates to the direction or control of the police force by the Chief Constable.

(5) If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal or disciplinary proceedings, none of the provisions of this part which relate to the recording and investigation of complaints have effect in relation to the complaint in so far as it relates to that conduct.

Annotations:

F4 prosp. rep. 1995 NI 17

^{F5}Investigation of complaints against officers, other than senior officers

5.—(1) If the Chief Constable determines that he is the appropriate authority in relation to a member of the police force about whose conduct a complaint has been made and who is not a senior officer, he shall record it.

(2) After doing so he shall consider whether the complaint is suitable for informal resolution and may appoint a member of the police force to assist him.

(3) If it appears to the Chief Constable that the complaint is not suitable for informal resolution, he shall appoint a member of the police force or a member of another United Kingdom police force to investigate it formally.

(4) If it appears to him that it is suitable for informal resolution, he shall seek to resolve it informally and may appoint a member of the police force to do so on his behalf.

(5) If it appears to the Chief Constable, after attempts have been made to resolve a complaint informally—

- (a) that informal resolution of the complaint is impossible; or
- (b) that the complaint is for any other reason not suitable for informal resolution,

he shall appoint a member of the police force or a member of another United Kingdom police force to investigate it formally.

(6) A member of the police force may not be appointed to investigate a complaint formally if he has previously been appointed to act in relation to it under paragraph (4).

(7) No member of the police force may be appointed under this Article unless—

- (a) where the member of the police force against whom the complaint is made is of the rank of superintendent or chief superintendent, he is of at least one rank above the rank of that member; and
- (b) where the member of the police force against whom the complaint is made is of the rank of chief inspector or below, he is of at least two ranks above the rank of that member.

(8) Unless an investigation under this Article is supervised by the Commission under Article 9, the person appointed under paragraph (3) or (5) shall submit his report on the investigation to the Chief Constable.

(9) A complaint is not suitable for informal resolution unless—

- (a) the complainant gives his consent; and
- (b) the Chief Constable is satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

Annotations:

F5 prosp. rep. 1995 NI 17

F6 Investigation of complaints against senior officers

6.—(1) Where a complaint about the conduct of a senior officer—

- (a) is submitted to the Police Authority; or
- (b) is sent to the Police Authority under Article 4(3),

it shall be the Authority's duty to record it and, subject to paragraph (2), to investigate it.

(2) The Police Authority may deal with the complaint according to the Authority's discretion, if satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

(3) In any other case the Police Authority shall appoint a member of the police force or a member of another United Kingdom police force to investigate the complaint.

(4) The Chief Constable shall provide a member of the police force to be appointed, if a request is made to him for one to be appointed under paragraph (3).

(5) No member of the police force may be appointed under paragraph (3) unless he is of at least the rank of the member against whom the complaint is made.

(6) Unless an investigation under this Article is supervised by the Commission under Article 9, the person appointed under paragraph (3) shall submit his report on the investigation to the Police Authority.

Annotations:

F6 prosp. rep. 1995 NI 17

^{F7}Reference of complaints to Commission

7.—(1) Where the appropriate authority decides under Article 5(3) or (5) or Article 6(3) to appoint a member of the police force or a member of another United Kingdom police force to investigate a complaint, the appropriate authority shall refer that complaint to the Commission.

(2) Where a complaint falls to be referred to the Commission under paragraph (1), it shall be the appropriate authority's duty to refer it to the Commission not later than the end of a period specified in regulations made by the Secretary of State.

Annotations:

F7 prosp. rep. 1995 NI 17

^{F8}Reference of other matters to Commission

8.—(1) The appropriate authority may refer to the Commission any matter which—

- (a) appears to the appropriate authority to indicate that a member of the police force may have committed a criminal offence or an offence against discipline; and
- (b) is not the subject of a complaint,

if it appears to the appropriate authority that it ought to be referred by reason—

- (i) of its gravity; or
- (ii) of exceptional circumstances.

(2) The Secretary of State or the Police Authority may refer to the Commission any matter which

- (a) appears to the Secretary of State or the Authority to indicate that a member of the police force may have committed a criminal offence or an offence against discipline; and
- (b) is not the subject of a complaint,

if it appears to the Secretary of State or the Authority that it is desirable in the public interest that the Commission should supervise the investigation of the matter.

Annotations:

F8 prosp. rep. 1995 NI 17

^{F9}Supervision of investigations by Commission

9.—(1) The Commission shall supervise the investigation—

- (a) of any complaint alleging that the conduct of a member of the police force resulted in the death of or serious injury to some other person; and
- (b) of any other description of complaint specified for the purposes of this Article in regulations made by the Secretary of State;

and in sub-paragraph (a) “serious injury” means a fracture, damage to an internal organ, impairment of bodily function, a deep cut or a deep laceration.

(2) The Commission shall supervise the investigation of any matter referred to it under Article 8(2) if required to do so by the Secretary of State or the Police Authority.

(3) The Commission may supervise the investigation—

- (a) of any complaint the investigation of which it is not required to supervise under paragraph (1); and
- (b) of any matter referred to it under Article 8(1),

if the Commission considers that it is desirable in the public interest that it should supervise that investigation.

(4) Where the Commission decides to supervise an investigation under paragraph (3), it shall be the duty of the Commission to notify the appropriate authority to that effect.

(5) Where an investigation is to be supervised by the Commission it may require—

- (a) that no appointment of a person to conduct the investigation shall be made unless the Commission has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint; or
- (b) if such an appointment has already been made and the Commission is not satisfied with the person appointed, that—
 - (i) the appropriate authority shall, as soon as is reasonably practicable, select another member of the police force or member of another United Kingdom police force and notify the Commission that it proposes to appoint him; and
 - (ii) the appointment shall not be made unless the Commission gives notice to the appropriate authority that it approves that person.

(6) It shall be the duty of the Secretary of State by regulations to provide that the Commission shall have power, subject to any restrictions or conditions specified in the regulations, to impose requirements as to a particular investigation additional to any requirements imposed by virtue of paragraph (5); and it shall be the duty of a member of the police force or a member of another United Kingdom police force to comply with any requirement imposed on him by virtue of the regulations.

(7) At the end of an investigation which the Commission has supervised the person appointed to conduct the investigation—

- (a) shall submit a report on the investigation to the Commission; and
- (b) shall send a copy to the appropriate authority.

(8) After considering a report submitted to it under paragraph (7), the Commission shall submit to the appropriate authority a statement—

- (a) whether the investigation was or was not conducted to the Commission's satisfaction;
- (b) specifying any respect in which it was not so conducted; and
- (c) dealing with any such other matters as the Secretary of State may by regulations provide.

(9) If it is practicable to do so, the Commission, when submitting the statement under paragraph (8), shall send a copy to the member of the police force whose conduct has been investigated.

(10) If—

- (a) the investigation related to a complaint; and
- (b) it is practicable to do so,

the Commission shall also send a copy of the statement under paragraph (8) to the complainant.

(11) The power to issue a statement under paragraph (8) includes power to issue separate statements in respect of the disciplinary and criminal aspects of an investigation.

(12) No disciplinary charge shall be brought before the statement under paragraph (8) is submitted to the appropriate authority.

(13) Subject to paragraph (14), neither the appropriate authority nor the Director of Public Prosecutions for Northern Ireland shall bring criminal proceedings before the statement under paragraph (8) is submitted to the appropriate authority.

(14) The restriction imposed by paragraph (13) does not apply if it appears to the Director that there are exceptional circumstances which make it undesirable to wait for the submission of the statement under paragraph (8).

Annotations:

F9 prosp. rep. 1995 NI 17

F10 Steps to be taken after investigation

10.—(1) It shall be the duty of the Police Authority, on receiving—

- (a) a report concerning the conduct of a senior officer which is submitted to it under Article 6(6); or
- (b) a copy of a report concerning the conduct of a senior officer which is sent to it under Article 9(7),

to send a copy of the report to the Director of Public Prosecutions for Northern Ireland unless the report satisfies the Authority that no criminal offence has been committed.

(2) Nothing in the following provisions of this Article or in Articles 11 to 14 has effect in relation to senior officers.

(3) On receiving—

- (a) a report concerning the conduct of an officer who is not a senior officer which is submitted to him under Article 5(8); or
- (b) a copy of a report concerning the conduct of such an officer which is sent to him under Article 9(7),

it shall be the duty of the Chief Constable—

- (i) to determine whether the report indicates that a criminal offence may have been committed by a member of the police force; and
- (ii) if he determines that it does, to consider whether the offence indicated is such that the member of the police force ought to be charged with it.

(4) If the Chief Constable—

- (a) determines that the report does indicate that a criminal offence may have been committed by a member of the police force; and
- (b) considers that the offence indicated is such that the officer ought to be charged with it,

he shall send a copy of the report to the Director of Public Prosecutions for Northern Ireland.

(5) Subject to Article 11(1), after the Director has dealt with the question of criminal proceedings, the Chief Constable shall send the Commission a memorandum, signed by him and stating whether he has preferred disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.

(6) If the Chief Constable—

(a) determines that the report does indicate that a criminal offence may have been committed by a member of the police force; and

(b) considers that the offence indicated is not such that the officer ought to be charged with it, he shall send the Commission a memorandum to that effect, signed by him and stating whether he proposes to prefer disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not proposing to do so.

(7) Subject to Article 11(1), if the Chief Constable considers that the report does not indicate that a criminal offence may have been committed by a member of the police force, he shall send the Commission a memorandum to that effect, signed by him and stating whether he has preferred disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.

(8) A memorandum under this Article—

(a) shall give particulars—

- (i) of any disciplinary charges which the Chief Constable has preferred or proposes to prefer in respect of the conduct which was the subject of the investigation; and
- (ii) of any exceptional circumstances affecting the case by reason of which he considers that Article 14 should apply to the hearing; and

(b) shall state his opinion of the complaint or other matter to which it relates.

(9) Where the investigation—

- (a) related to conduct which was the subject of a complaint; and
- (b) was not supervised by the Commission,

the Chief Constable shall send the Commission a copy of the report of the investigation at the same time as he sends it the memorandum.

(10) Subject to Article 13(6)—

- (a) if the Chief Constable's memorandum states that he proposes to prefer disciplinary charges, it shall be his duty to prefer and proceed with them; and
- (b) if such a memorandum states that he has preferred such charges, it shall be his duty to proceed with them.

Annotations:

F10 prosp. rep. 1995 NI 17

^{F11}Steps to be taken where accused has admitted charges

11.—(1) No memorandum need be sent to the Commission under Article 10 if disciplinary charges have been preferred in respect of the conduct which was the subject of the investigation and the accused has admitted the charges and has not withdrawn his admission.

(2) In any such case the Chief Constable shall send to the Commission, after the conclusion of the disciplinary proceedings (including any appeal to the Secretary of State), particulars of the disciplinary charges preferred and of any punishment imposed.

(3) If—

- (a) the charges related to conduct which was the subject of a complaint; and
- (b) the investigation of the complaint was not supervised by the Commission,

the Chief Constable shall also send the Commission a copy of the report of the investigation.

Annotations:

F11 prosp. rep. 1995 NI 17

F12 Powers of Commission to direct reference of reports, etc. to Director of Public Prosecutions

12.—(1) When the Chief Constable has performed all duties imposed on him by Articles 10 and 11 in relation to the report of an investigation concerning the conduct of a member of the police force who is not a senior officer, it shall be the duty of the Commission—

- (a) to determine whether the report indicates that a criminal offence may have been committed by that member; and
- (b) if so, to consider whether the offence is such that the member ought to be charged with it.

(2) If the Commission considers that the member of the police force ought to be charged, it shall be its duty to direct the Chief Constable to send the Director of Public Prosecutions for Northern Ireland a copy of the report.

(3) When the Commission gives a direction under paragraph (2) it may also direct the Chief Constable to send the Director the information contained in the memorandum under Article 10.

(4) If the investigation was an investigation of a complaint, the Commission shall direct the Chief Constable to send the Director a copy of the complaint or of the record of the complaint.

(5) It shall be the duty of the Chief Constable to comply with any direction under this Article.

(6) Articles 10 and 11 shall apply where a copy of a report is sent to the Director under this Article as they apply where a copy is sent to him under Article 10(4).

Annotations:

F12 prosp. rep. 1995 NI 17

F13 Powers of Commission as to disciplinary charges

13.—(1) Where a memorandum under Article 10 states that the Chief Constable has not preferred disciplinary charges or does not propose to do so, the Commission may recommend him to prefer such disciplinary charges as it may specify.

(2) Subject to paragraph (6), the Chief Constable may not withdraw charges which he has preferred in accordance with a recommendation under paragraph (1).

(3) If after the Commission has made a recommendation under this Article and consulted the Chief Constable he is still unwilling to prefer such charges as the Commission considers appropriate, it may direct him to prefer such charges as it may specify.

(4) Where the Commission gives the Chief Constable a direction under this Article, it shall furnish him with a written statement of its reasons for doing so.

(5) Subject to paragraph (6), it shall be the duty of the Chief Constable to prefer and proceed with charges specified in such a direction.

(6) The Commission may give the Chief Constable leave—

- (a) not to prefer charges which Article 10(10) or paragraph (5) would otherwise oblige him to prefer; or
- (b) not to proceed with charges with which Article 10(10) or paragraph (2) or (5) would otherwise oblige him to proceed.

(7) The Commission may request the Chief Constable to furnish it with such information as it may reasonably require for the purpose of discharging its functions under this Article.

(8) It shall be the duty of the Chief Constable to comply with any such request.

Annotations:

F13 prosp. rep. 1995 NI 17

^{F14}Disciplinary tribunals

14.—(1) Where the Chief Constable prefers a disciplinary charge in respect of a matter to which a memorandum under Article 10 relates, this Article applies—

- (a) to the hearing of any charge in pursuance of a direction under Article 13; and
- (b) to the hearing of any other charge to which the Commission directs that it shall apply.

(2) The Commission may direct that this Article shall apply to the hearing of a charge if it considers that to be desirable by reason of any exceptional circumstances affecting the case.

(3) Where this Article applies to the hearing of a disciplinary charge—

- (a) the function of determining whether the accused is guilty of the charge shall be discharged by a tribunal consisting of—
 - (i) a chairman who, subject to paragraphs (4) and (5), shall be the Chief Constable or such other person as may be prescribed by regulations made by the Secretary of State; and
 - (ii) two members of the Commission nominated by the Commission being members who have not been concerned with the case; and
- (b) the function of determining any punishment to be imposed shall, subject to paragraph (8), be discharged by the chairman after consulting the other members of the tribunal.

(4) In any case in which the Chief Constable is interested otherwise than in his capacity as such, or in which he is a material witness, the chairman shall be such other person as may be prescribed by regulations made by the Secretary of State.

(5) Without prejudice to paragraph (4), regulations made by the Secretary of State may provide for enabling the Chief Constable, where he considers it appropriate to do so, to direct that the chairman shall be the Chief Constable of another United Kingdom police force.

(6) The Secretary of State may by regulations provide for the procedure to be followed by tribunals constituted under this Article.

(7) The decision of the tribunal as to whether the accused is guilty of the charge may be a majority decision.

(8) Where—

- (a) the chairman of the tribunal is not the Chief Constable; and
- (b) the Chief Constable is neither interested in the case otherwise than in his capacity as such nor a material witness,

the function of determining any punishment to be imposed shall be discharged by the Chief Constable after considering any recommendation as to punishment made by the chairman.

(9) Before making any recommendation the chairman shall consult the other members of the tribunal.

(10) Where—

- (a) this Article applies to the hearing of a disciplinary charge; and

(b) there is another disciplinary charge against the accused which, in the opinion of the Chief Constable, can conveniently and fairly be determined at the same time, the Chief Constable may direct that this Article shall apply also to the hearing of the other charge.

Annotations:

F14 prosp. rep. 1995 NI 17

^{F15}Information as to manner of dealing with complaints, etc.

15. The Police Authority in carrying out its duty with respect to the maintenance of an adequate and efficient police force shall keep itself informed as to the working of Articles 4 to 13.

Annotations:

F15 prosp. rep. 1995 NI 17

^{F16}Constabularies not maintained by Police Authority

16.—(1) An agreement for the establishment in relation to any body of constables maintained by an authority other than the Police Authority of procedures corresponding to any of those established by or by virtue of this part may, with the approval of the Secretary of State, be made between the Commission and the authority maintaining the body of constables.

(2) Where no such procedures are in force in relation to any body of constables, the Secretary of State may by order establish such procedures.

(3) An agreement under this Article may at any time be varied or terminated with the approval of the Secretary of State.

(4) Before making an order under this Article the Secretary of State shall consult—

(a) the Commission; and

(b) the authority maintaining the body of constables to whom the order would relate.

(5) Orders made under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(6) Nothing in any other statutory provision shall prevent an authority which maintains a body of constables from carrying into effect procedures established by virtue of this Article.

(7) No such procedures shall have effect in relation to anything done by a constable outside Northern Ireland.

Annotations:

F16 prosp. rep. 1995 NI 17

^{F17}Reports

17.—(1) The Commission shall, at the request of the Secretary of State, report to him on such matters relating generally to its functions as the Secretary of State may specify, and the Commission may for that purpose carry out research into any such matters.

(2) The Commission may make a report to the Secretary of State on any matters coming to its notice under this part to which it considers that his attention should be drawn by reason of their gravity or of other exceptional circumstances; and the Commission shall send a copy of any such

report to the Police Authority and to the Chief Constable or, if the report concerns any such body of constables as is mentioned in Article 16, to the authority maintaining it and the officer having the direction and the control of it.

(3) As soon as practicable after the end of each calendar year the Commission shall make to the Secretary of State a report on the discharge of its functions during that year.

(4) The Commission shall keep under review the working of Articles 4 to 16 and shall make to the Secretary of State a report on it at least once in every three years after the coming into force of this Article.

(5) The Secretary of State shall lay before Parliament a copy of every report received by him under this Article and shall cause every such report to be published.

(6) The Commission shall send to the Police Authority—

- (a) a copy of every report made by the Commission under paragraph (3); and
- (b) any statistical or other general information which relates to the year dealt with by the report and which the Commission considers should be brought to the Police Authority's attention in connection with its functions under Article 15.

Annotations:

F17 prosp. rep. 1995 NI 17

^{F18}Restriction on disclosure of information

18.—(1) No information received by the Commission in connection with any of its functions under Articles 4 to 17 or regulations made by virtue of Article 19 shall be disclosed by any person who is or has been a member, officer or servant of the Commission except—

- (a) to the Secretary of State or to a member, officer or servant of the Commission or, so far as may be necessary for the proper discharge of the functions of the Commission, to other persons;
- (b) for the purposes of any criminal, civil or disciplinary proceedings; or
- (c) in the form of a summary or other general statement made by the Commission which does not identify the person from whom the information was received or any person to whom it relates.

(2) Any person who discloses information in contravention of this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Annotations:

F18 prosp. rep. 1995 NI 17

^{F19}Regulations

19.—(1) The Secretary of State may make regulations as to the procedure to be followed under this part.

(2) It shall be the duty of the Secretary of State to provide by regulations—

- (a) that, subject to such exceptions as may be specified by the regulations, the appropriate authority shall furnish, in accordance with such procedure as may be so specified, a copy of, or of the record of, a complaint against a member of the police force—
 - (i) to the complainant; and
 - (ii) to the member of the police force against whom the complaint was made;

- (b) procedures for the informal resolution of complaints of such descriptions as may be specified in the regulations, and for giving the complainant a record of the outcome of any such procedure if he applies for one within such period as the regulations may provide;
 - (c) procedures for giving a member of the police force against whom a complaint is made which falls to be resolved informally an opportunity to comment orally or in writing on the complaint;
 - (d) for cases in which any provision of this part is not to apply where a complaint, other than a complaint which falls to be resolved by an informal procedure, is withdrawn or the complainant indicates that he does not wish any further steps to be taken;
 - (e) for enabling the Commission to dispense with any requirement of this part;
 - (f) procedures for the reference or submission of complaints or other matters to the Commission;
 - (g) for the time within which the Commission is to give a notification under Article 9(4);
 - (h) that the Commission shall be supplied with such information or documents of such description as may be specified in the regulations at such time or in such circumstances as may be so specified;
 - (i) that any action or decision of the Commission which it takes in consequence of the receipt of a memorandum under Article 10 shall be notified if it is an action or decision of a description specified in the regulations, to the person concerned and that, in connection with such a notification, the Commission shall have power to furnish him with any relevant information;
 - (j) that the Chief Constable shall have power to delegate any functions conferred on him by or by virtue of the foregoing provisions of this part, other than his functions under Article 14(3), (5) or (8).
- (3) Regulations under this part may authorise the Secretary of State to make provision for any purposes specified in the regulations.
- (4) Before making any regulations under this part, the Secretary of State shall consult both the Police Authority and the Police Association for Northern Ireland.
- (5) Regulations made under this part shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Annotations:

F19 prosp. rep. 1995 NI 17

PART III

DISCIPLINE

^{F20}**Discipline regulations for reserve constables**

20.—(1) In section 26(2) of the principal Act (regulations for reserve constables) after paragraph (c) there shall be inserted the following paragraph—

“(cc) the maintenance of discipline of reserve constables;”.

(2) In that section after subsection (2) there shall be inserted the following subsections—

“(2A) Regulations under subsection (2)(cc) shall provide for the determination by the appropriate disciplinary authority of questions whether offences against discipline have been committed, for the punishment by that authority, by way of dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution, of any reserve constable who is found in the manner so provided to have committed any such offence and for appeals against any such determination or punishment; and for the purposes of this subsection the appropriate disciplinary authority shall, subject to Article 14 of the Police (Northern Ireland) Order 1987 and subsections (2B) and (2C), be the Chief Constable or such other person as may be prescribed by regulations under subsection (2)(cc).

(2B) In any case in which the Chief Constable is interested otherwise than in his capacity as such, or in which he is a material witness, the appropriate disciplinary authority under subsection (2A) shall be such other person or authority as may be prescribed by regulations made by the Secretary of State.

(2C) Without prejudice to subsection (2B) the regulations may provide—

- (a) for enabling the Chief Constable, where he considers it appropriate to do so, to direct that his function under subsection (2A) of determining questions as to whether offences against discipline have been committed shall be discharged by the Chief Constable of another police force; and
- (b) where such a direction is given, for the function mentioned in subsection (2A) relating to punishment to be discharged by the Chief Constable after considering any recommendation as to punishment made by the other Chief Constable.”.

Annotations:

F20 prosp. rep. 1995 NI 17

Representation at disciplinary proceedings

21. In section 17 of the principal Act (the Police Association)—

- (a) in subsection (1) for the words from “promotion” to the end there shall be substituted the words “ discipline affecting individuals, except as provided by subsection (1A), and promotion affecting individuals ”;

^{F21}(b) the following subsections shall be inserted after that subsection—

“(1A) The Police Association may represent a member of the police force at any disciplinary proceedings or on an appeal from any such proceedings.

(1B) Except on an appeal to the Secretary of State or as provided by regulations under section 25(2)(e) or 26(2)(cc), a member of the police force may only be represented under subsection (1A) by another member of the police force.”.

Annotations:

F21 prosp. rep. 1995 NI 17

PART IV

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

F22 Restrictions on subsequent proceedings

22.—(1) Where a member of the police force has been convicted or acquitted of a criminal offence he shall not be liable to be charged with any offence against discipline which is in substance the same as the offence of which he has been convicted or acquitted.

(2) Paragraph (1) shall not be construed as applying to a charge in respect of an offence against discipline which consists in having been found guilty of a criminal offence.

(3) Subject to paragraph (4), no statement made by any person for the purpose of the informal resolution of a complaint shall be admissible in any subsequent criminal, civil or disciplinary proceedings.

(4) A statement is not rendered inadmissible by paragraph (3) if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.

Annotations:

F22 prosp. rep. 1995 NI 17

F23 Guidelines concerning discipline, complaints, etc.

23.—(1) The Secretary of State may issue guidance to the Chief Constable and to other members of the police force concerning the discharge of their functions—

- (a) under part II; and
- (b) otherwise in connection with discipline;

and members of the police force shall have regard to any such guidance in the discharge of their functions.

(2) Guidance may not be issued under paragraph (1) in relation to the handling of a particular case.

(3) A failure on the part of a member of the police force to have regard to any guidance issued under paragraph (1) when determining—

- (a) whether a member of the police force has committed an offence against discipline; or
- (b) the punishment to be awarded for such an offence,

shall be admissible in evidence on any appeal from the determination.

(4) In discharging its functions under Article 13 the Commission shall have regard to any guidance given to it by the Secretary of State with respect to such matters affecting the preferring and withdrawing of disciplinary charges as are for the time being the subject of guidance under paragraph (1) and shall have regard in particular, but without prejudice to the generality of this paragraph, to any such guidance as to the principles to be applied in cases that involve any question of criminal proceedings and are not governed by Article 22.

(5) The report of the Commission under Article 17(3) shall contain a statement of any guidance given to the Commission under paragraph (4) during the year to which the report relates.

(6) This Article applies to members of another United Kingdom police force exercising functions under the principal Act or this Order as it applies to members of the police force.

Annotations:

F23 prosp. rep. 1995 NI 17

Constitution and proceedings of Police Association

24. In section 17(4) of the principal Act for the words from the beginning to “proceedings of the Police Association” there shall be substituted the words “ The Secretary of State, after consultation with the Police Association, may by regulations prescribe the constitution and proceedings of the Police Association and of the sections thereof or authorise any such section to make rules concerning such matters relating to its constitution and proceedings as may be specified in the regulations ”.

Complaints against traffic wardens

25. In section 23 of the principal Act (appointment of traffic wardens by Police Authority) at the end there shall be added the following subsections—

“(4) Where a complaint is made by a member of the public against a traffic warden, the complaint shall be referred to the Chief Constable who shall (unless the complaint alleges an offence with which the traffic warden has then been charged) forthwith record the complaint and cause it to be investigated.

(5) It shall be the duty of the Police Authority to keep themselves informed as to the manner in which complaints from members of the public against traffic wardens are dealt with by the Chief Constable.”.

Supplementary

F24 Amendment

26. In section 25(3) of the principal Act (discipline regulations for members of the Royal Ulster Constabulary) for the words “Article 7 of the Police (Northern Ireland) Order 1977” there shall be substituted the words “ Article 14 of the Police (Northern Ireland) Order 1986 ”.

Annotations:

F24 prosp. rep. 1995 NI 17

Article 27—Repeals

SCHEDULES

SCHEDULE 1

Article 3(2).

THE INDEPENDENT COMMISSION FOR POLICE COMPLAINTS FOR NORTHERN IRELAND

PART I

GENERAL

Constitution of the Commission

1.—(1) The Commission shall consist of a chairman, two deputy chairmen and at least 4 other members, all appointed by the Secretary of State.

(2) Persons may be appointed as whole-time or part-time members of the Commission.

(3) The members of the Commission shall not include any person who is or has been a member of a police force in any part of the British Islands.

Incorporation and status of the Commission

2.—(1) The Commission shall be a body corporate to which section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply, subject to the provisions of this Schedule.

(2) The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown; and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

Members

3.—(1) Subject to the following provisions of this Schedule, a person shall hold an office to which he is appointed under paragraph 1 in accordance with the terms of his appointment.

(2) A person shall not be appointed to such an office for more than 3 years at a time.

(3) A person may at any time resign such an office.

(4) The Secretary of State may at any time remove a person from such an office if satisfied that—

(a) he has without reasonable excuse failed to carry out his duties for a continuous period of 3 months beginning not earlier than 6 months before that time; or

(b) he has been convicted of a criminal offence; or

(c) he has become bankrupt or made an arrangement with his creditors; or

(d) he is incapacitated by physical or mental illness; or

(e) he is otherwise unable or unfit to perform his duties.

(5) A person who has resigned such an office or whose term of office has expired shall be eligible for re-appointment.

4. The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of persons appointed to office under paragraph 1 or any of them as, with the consent of the Treasury, he may determine.

5. Where a person ceases to hold such an office otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may, with the consent of the Treasury, direct the Commission to make to that person a payment of such amount as, with the consent of the Treasury, the Secretary of State may determine.

6. In part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—

“ The Independent Commission for Police Complaints for Northern Ireland ”.

Staff

7.—(1) The Commission may, after consultation with the Secretary of State, appoint such officers and servants as the Commission thinks fit, subject to the approval of the Treasury as to numbers and as to remuneration and other terms and conditions of service.

(2) The Commission may make arrangements for administrative, secretarial or other assistance to be provided for the Commission by officers of the civil service of Northern Ireland or of the United Kingdom.

8.—(1) Employment by the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act, at the end of the list of “Other Bodies” there shall be added—
“ The Independent Commission for Police Complaints for Northern Ireland ”.

(2) Where a person who is employed by the Commission and is by reference to that employment a participant in a scheme under section 1 of the said Act of 1972 is appointed to an office under paragraph 1, the Treasury may determine that his service in that office shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by paragraph 4.

9. The Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 shall not require insurance to be effected by the Commission.

Proceedings

10.—(1) Subject to the provisions of this Order, the arrangements for the proceedings of the Commission (including the quorum for meetings) shall be such as the Commission may determine.

(2) The arrangements may, with the approval of the Secretary of State, provide for the discharge, under the general direction of the Commission, of any of the Commission's functions by a committee or by one or more of the members, officers or servants of the Commission.

11. The validity of any proceedings of the Commission shall not be affected—

(a) by any defect in the appointment of the chairman, a deputy chairman or any other member;
or

(b) by any vacancy in the office of chairman or deputy chairman or among the other members.

Finance

12. The Secretary of State shall pay to the Commission expenses incurred or to be incurred by the Commission under paragraphs 5 and 7 and, with the consent of the Treasury, shall pay to the Commission such sums as the Secretary of State thinks fit for enabling the Commission to meet other expenses.

13.—(1) It shall be the duty of the Commission—

- (a) to keep proper accounts and proper records in relation to the accounts;
- (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
- (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.

(2) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.

(3) In this paragraph “Comptroller and Auditor General” has the meaning assigned to it by Schedule 1 to the Interpretation Act 1978.

PART II

TRANSITIONAL

Interpretation

14. In this part—

“the appointed day” means the day appointed by order under Article 1(2) for the coming into operation of Article 3;

“the Board” means the Police Complaints Board for Northern Ireland;

“terms and conditions of employment” includes terms and conditions relating to superannuation benefit.

Information received by Police Complaints Board for Northern Ireland

15.—(1) No information received by the Board in connection with any complaint shall be disclosed by any person who has been a member, officer or servant of the Board except—

- (a) to the Secretary of State or to a member, officer or servant of the Commission or, so far as may be necessary for the proper discharge of the functions of the Commission, to other persons; or
- (b) for the purposes of any criminal, civil or disciplinary proceedings.

(2) Any person who discloses information in contravention of this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Transfer of staff

16.—(1) On the appointed day there shall be transferred to the employment of the Commission all officers and servants who immediately before that day were employed by the Board.

(2) A person transferred under sub-paragraph (1) shall, so long as he continues in the employment of the Commission and until he is served with a statement in writing by the Commission setting out his new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the appointed day.

(3) The new terms and conditions referred to in sub-paragraph (2) shall be such that—

- (a) as long as a person transferred under paragraph (1) is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day, the scale of his salary or remuneration; and
- (b) the other terms and conditions of his employment;

are taken as a whole not less favourable than those he enjoyed immediately before the appointed day.

Sub#paras. (4)(5) rep. by 1996 NI 16

(6) Any question arising in relation to a person as to—

- (a) whether he was employed as mentioned in sub-paragraph (1);
- (b) whether he is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day; or
- (c) whether his terms and conditions of employment taken as a whole are less favourable than those he enjoyed immediately before that day,

shall, if not otherwise determined, be referred for determination by an industrial tribunal whose decision shall be final.

(7) The Secretary of State may make regulations providing for the payment by the Commission, on such terms and subject to such conditions as may be specified in the regulations, of compensation to, or in respect of, any person transferred under sub-paragraph (1) who suffers subsequent to his transfer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to any provision of this Order or who on grounds which the Secretary of State considers reasonable is unable or unwilling to accept employment with the Commission.

(8) Regulations under sub-paragraph (7) may include provision—

- (a) as to the manner in which, the time within which and the person to whom any claim for compensation is to be made;
- (b) for the determination by an industrial tribunal of questions arising under the regulations.

(9) Regulations under sub-paragraph (7) have effect from a date earlier than that on which the regulations are made but not so as to place any person in a worse position than he would have been in if the regulations had effect only from the date of the making thereof.

Transfer of property, rights and liabilities

17.—(1) On the appointed day all property, rights and liabilities which immediately before that day were property, rights and liabilities of the Board shall vest in the Commission by virtue of this paragraph and without further assurance.

(2) Stamp duty shall not be chargeable on this Order.

Proceedings

18. Proceedings in any court to which the Board is a party and which are pending immediately before the appointed day may be continued on and after that day by the Commission.

Payments to former members of Police Complaints Board for Northern Ireland

19. Where a person—

- (a) ceases to be a member of the Board by reason of its abolition; and
- (b) does not become a member of the Commission,

the Secretary of State may, with the consent of the Treasury, make to the person a payment of such amount as, with the consent of the Treasury, the Secretary of State may determine.

General

20. An order under Article 1(2) may make such other transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions of part II and this Schedule thereby brought into operation.

Schedule 2—Repeals

Changes to legislation:

There are currently no known outstanding effects for the Police (Northern Ireland) Order 1987.