

## 1977 No. 235

## POLICE

**Royal Ulster Constabulary (Complaints) Regulations 1977**

*Made* . . . . . 29th July 1977

*Coming into operation* . . . . . 1st September 1977

*To be laid before Parliament*

The Secretary of State, in pursuance of Article 9 of the Police (Northern Ireland) Order 1977(a) and after consulting, in accordance with paragraph (3) of the said Article, the Police Authority and the Police Association for Northern Ireland, hereby makes the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Royal Ulster Constabulary (Complaints) Regulations 1977 and shall come into operation on 1st September 1977.

*Interpretation*

2.—(1) Without prejudice to section 33 of the Interpretation Act (Northern Ireland) 1954(b), in these regulations, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say:—

“the Order of 1977” means the Police (Northern Ireland) Order 1977;

“chief constable” means the chief constable of the Royal Ulster Constabulary and shall be construed as including a reference to a deputy chief constable acting as chief constable;

“complaint” has the same meaning as in the Order of 1977, being a complaint made against a member in respect of his conduct on or after 1st September 1977; and “copy of complaint”, in the case of a complaint made orally, shall include a copy of the record of the complaint;

“complainant” means the originator of a complaint notwithstanding that it was transmitted to the chief constable by some other person or by the Board or some other body;

“the Board” has the same meaning as in the Order of 1977;

“member” means a member of the Royal Ulster Constabulary, or of the Royal Ulster Constabulary Reserve appointed on a full-time basis in accordance with regulations made under section 26 of the Act of 1970(c);

“member concerned”, in relation to a complaint, means the member against whom the complaint is made.

(a) S.I. 1977 No. 53 (N.I. 2)

(b) 1954, c. 33 (N.I.)

(c) 1970 c. 9 (N.I.)

(2) Any reference in these regulations to any provision of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1977(d) is, in relation to a member of the Royal Ulster Constabulary Reserve appointed on a full-time basis in accordance with regulations made under section 26 of the Act of 1970, to be construed as including a reference to that provision as applied to such a member by or under regulations made under the said section 26.

*Regulations not to apply to complaint against a senior officer*

3. These regulations shall not apply in respect of a complaint to which paragraph (1) of Article 4 of the Order of 1977 does not apply by reason of paragraph 2(b) thereof and, accordingly, shall not apply in respect of a complaint against the chief constable or other senior officer within the meaning of the Act of 1970.

*Board to forward complaints*

4. Where the Board have received a complaint against a member, they shall transmit it to the chief constable unless they are satisfied that to do so would be contrary to the complainant's wishes or, in all the circumstances, unnecessary.

*Board to be informed of complaints not dealt with within four months*

5.—(1) Subject to paragraph (2), this regulation shall apply where the chief constable has received a complaint against a member and four or more months have elapsed since he received the complaint but he still has not sent to the Board the documents referred to in Article 5(1) of the Order of 1977 (whether because the investigation has not been completed or for any other reason).

(2) This regulation shall apply only if and so long as the case is one to which Article 5(1) of the Order of 1977 applies or could apply and, accordingly shall not apply—

- (a) in pursuance of Article 5(2)(a) of the said Order, where disciplinary charges have been preferred in respect of the matter or matters complained of and the accused has admitted the charges and not withdrawn his admission, or
- (b) in pursuance of Article 5(2)(b) of the said Order, where, as mentioned in regulation 10(2), the complaint has been withdrawn or the complainant has indicated that he does not wish any further steps to be taken, or
- (c) where, in pursuance of regulation 11 (complaints which are anonymous, repetitious or incapable of investigation), the Board have dispensed with the requirements there mentioned, in particular, those of the said Article 5(1).

(3) Where this regulation applies, the chief constable shall, as soon as possible after the expiration of the period of four months mentioned in paragraph (1), in pursuance of Article 5(4) of the Order of 1977, send to the Board—

- (a) a copy of the complaint, together with
- (b) information as to the stage reached in dealing with the complaint.

(4) Where, in pursuance of the said Article 5(4) (read with either paragraph (3) or with this paragraph), the Board have been sent information as to the stage reached in dealing with a complaint but desire to be informed at a subsequent date as to the stage then reached, they may in writing request the chief constable to inform them and specify a period ("the specified period") of not less than four months for the purposes hereof; and where the chief constable is so requested, he shall (unless he has by then sent to the Board the documents referred to in Article 5(1) of the Order of 1977 or this regulation has otherwise ceased to apply), as soon as possible after the expiration of the specified period reckoned—

(a) from such stage in dealing with the complaint or from such event, if any, as the Board may have specified in their request, or

(b) if the Board have not so specified a stage or event, from the date on which they were sent the information first referred to in this paragraph,

in pursuance of the said Article 5(4) send to the Board information as to the stage then reached in dealing with the complaint.

#### *Functions of the Board as to disciplinary charges*

6.—(1) Where the report of an investigation into a complaint is sent to the Board in pursuance of Article 5(1) of the Order of 1977, the Board shall deal with the case under Article 6 of that Order without undue delay and shall take such decisions as appear to them appropriate for the purposes thereof as soon as is practicable.

(2) Where the chief constable has not preferred disciplinary charges and the Board accept his decision they shall—

(a) so inform the chief constable forthwith, and

(b) subject to paragraph (4), notify the complainant of the decision and of their acceptance

and may furnish the complainant with such relevant information in explanation thereof, if any, as appears to them appropriate.

(3) Where the chief constable withdraws a disciplinary charge with the leave of the Board given in pursuance of Article 6(4) of the Order of 1977, the Board shall, subject to paragraph (4), notify the complainant that the charge has been withdrawn with their leave and furnish him with such relevant information in explanation of the withdrawal, if any, as appears to them appropriate.

(4) The Board shall be relieved of the duty of notifying the complainant as mentioned in paragraph (2)(b) or (3) if compliance therewith appears to them to be not reasonably practicable.

(5) Where the chief constable has, under regulation 10 of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1977 delegated the duty of deciding under regulation 8 of those regulations whether a member should be charged with a disciplinary offence, the references in paragraphs (2) and (3) to the chief constable shall be taken as references to the officer to whom the duty is delegated.

#### *Complaints register*

7. The chief constable shall cause a register of complaints against members to be kept in which there shall be recorded the steps taken in dealing with a complaint and their outcome.

*Delegation of functions by chief constable*

8.—(1) Subject to paragraph (3), the chief constable may delegate all or any of his functions—

- (a) under section 13 of the Act of 1970;
- (b) under Article 4, 5, 6, 7(4) or 8(2) and (3) of the Order of 1977, or
- (c) under the foregoing regulations,

to such an officer as is mentioned in paragraph (2) and, where he does so delegate a function under a regulation contained in these regulations, any reference in that regulation to the chief constable shall be taken, unless the context otherwise requires, as a reference to the officer to whom the function is delegated.

(2) The said functions may be delegated to a deputy chief constable or to an assistant chief constable acting in the place of a deputy chief constable who is himself either acting in the place of the chief constable under section 23 of the Constabulary (Ireland) Act 1839(e) or section 18(3) of the Interpretation Act (Northern Ireland) 1954 or for any reason absent.

(3) A member who has acted as investigating officer in a case shall not, as respects that case, exercise any function in pursuance of a delegation under paragraph (1).

*Copy of complaint to be supplied to member concerned*

9.—(1) Without prejudice to regulation 11(1)(b) of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1977, where a complaint has been received against a member and it has been decided not to prefer disciplinary charges in respect of the matter or matters complained of, the member concerned may in writing request the chief constable to supply him with a copy of the complaint.

(2) On receipt of a request under paragraph (1) above, the chief constable shall cause the member concerned to be supplied with a copy of the complaint (or of so much thereof as relates to him) except that, by notice in writing given to the member, the chief constable may refuse to comply with the request if—

- (a) he is of the opinion that to do so might prejudice any criminal investigation or proceedings then pending, or
- (b) he is of the opinion that it would otherwise be contrary to the public interest to comply with the request and the Secretary of State agrees that it should not be complied with;

and, where such notice is given, the member concerned shall not repeat his request under paragraph (1) above within the period of six months beginning with the date of the notice, without prejudice, however, to his doing so subsequently.

*Withdrawn complaints*

10.—(1) The requirements of section 13 of the Act of 1970 (investigation of complaints) are hereby dispensed with as respects a complaint if the chief constable receives from the complainant notification in writing (signed by him or his solicitor or other authorised agent on his behalf) to the effect either—

- (a) that he withdraws the complaint, or
- (b) that he does not wish any further steps to be taken in consequence thereof.

(2) Paragraph 2(b) of Article 5 of the Order of 1977 (which disappplies the provisions of paragraph (1) of the said Article relating to the reference to the Board of reports where, in accordance with regulations, the complaint has been withdrawn or the complainant has indicated that he does not wish any further steps to be taken) shall have effect if and only if, the complainant gives to the chief constable such notification as is mentioned in paragraph (1).

(3) Where a complainant gives such notification as is mentioned in paragraph (1) and it relates to a complaint—

(a) which was transmitted to the chief constable by the Board, or

(b) a copy of which has been sent to the Board in pursuance of Article 4(1) of the Order of 1977,

the chief constable shall cause a copy of the notification to be sent to the Board.

*Complaints which are anonymous, repetitious or incapable of investigation*

11.—(1) Where the chief constable is of the opinion—

(a) that a complaint is an anonymous or repetitious one within the meaning of paragraph 2 or 3 of the Schedule, or that it is not reasonably practicable to complete the investigation of a complaint, within the meaning of paragraph 4 thereof, and

(b) that, in all the circumstances, the requirements of section 13 of the Act of 1970 and of Article 5(1) and (4) of the Order of 1977 (to the extent that they have not already been satisfied) should be dispensed with,

he may in accordance with this regulation, request the Board to dispense with the said requirements as respects the complaint.

(2) The request, which shall be made in writing, shall be accompanied by—

(a) a copy of the complaint,

(b) a memorandum signed by the chief constable explaining why he is of the opinion mentioned in paragraph (1), and

(c) where he is of the opinion that the complaint is a repetitious complaint and, as respects the previous complaint, the person then the complainant gave such notification as is mentioned in regulation 10(1), a copy of that notification unless it has previously been sent to the Board in pursuance of regulation 10(3).

(3) If, after considering a request under this regulation, the Board share the opinion of the chief constable, they may dispense with the requirements mentioned in paragraph (1) but they shall not reject his request except after consultation with him.

(4) The Board shall, as soon as may be, notify the chief constable, in writing, of their decision on his request and, where they dispense with the requirements mentioned in paragraph (1), shall inform the complainant of their action unless the complaint is an anonymous one or it otherwise appears to them to be not reasonably practicable so to inform him within a period which is reasonable in all the circumstances of the case.

*Delegation by chief constable of powers under regulation 11*

12.—(1) Subject to paragraph (3), the chief constable may delegate to such an officer as is mentioned in paragraph (2) his power under regulation 11(1) to make a request to the Board to dispense with the requirements there mentioned and, where he does so delegate that power, any reference in regulation 11 or the Schedule to the chief constable shall be taken as a reference to the officer to whom that power is delegated.

(2) The said power may be delegated to a deputy chief constable or to an assistant chief constable acting in the place of a deputy chief constable who is himself either acting in the place of the chief constable under section 23 of the Constabulary (Ireland) Act 1839 or section 18(3) of the Interpretation Act (Northern Ireland) 1954 or for any reason absent.

(3) The power under regulation 11(1) to request the Board to dispense with the requirements there mentioned as respects a complaint shall not, in pursuance of a delegation under paragraph (1), be exercisable by the officer who acted as investigating officer in respect of the complaint in question.

*Roy Mason*

Northern Ireland Office  
29th July 1977

One of Her Majesty's Principal  
Secretaries of State

## SCHEDULE

## Regulation 11

**Complaints which are anonymous, repetitious or incapable of investigation**

1.—(1) In this Schedule any reference to an injured person other than the complainant shall have effect only in the case of a complaint against a member in respect of his conduct towards a person other than the complainant; and, in such a case, any such reference is a reference to that other person.

(2) In this Schedule any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.

2. For the purposes of regulation 11 a complaint is an anonymous one if, and only if, the complainant discloses (or purports to disclose) neither the name and address of the complainant nor that of any other injured person and it is not reasonably practicable to ascertain such a name and address.

3.—(1) For the purposes of regulation 11 a complaint is a repetitious one if, and only if—

- (a) it is substantially the same as a previous complaint (whether made by the same or a different complainant) and contains no fresh allegations which significantly affect the account of the conduct complained of, and
- (b) such action as is referred to in sub-paragraph (2) has been taken as respects the previous complaint.

(2) The condition in sub-paragraph (1)(b) shall be satisfied if, as respects the previous complaint, either—

- (a) the requirements of Article 5(1) of the 1977 Order were complied with;
- (b) the complainant gave such a notification as is mentioned in regulation 10(1), or
- (c) the Board, under regulation 11, dispensed with the requirements mentioned in paragraph (1) of that regulation.

4. For the purposes of regulation 11 it shall not be reasonably practicable to complete the investigation of a complaint if, and only if, in the opinion of the chief constable or, as the case may be, of the Board, either—

- (a) it is not reasonably practicable to communicate with the complainant or any other injured person, notwithstanding that the complaint is not an anonymous one within the meaning of paragraph 2, or
- (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of—
  - (i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation, or
  - (ii) a refusal or failure, on the part of an injured person other than the complainant, to support the complaint, evidenced either by a statement in writing (signed by him or by his solicitor or other authorised agent on his behalf) to the effect that he does not support it or by a refusal or failure, on his part, such as is mentioned in head (i) above.

## EXPLANATORY NOTE

*(This note is not part of the regulations, but is intended to indicate their general purport.)*

These regulations relate to complaints by members of the public against the police, being complaints in respect of a policeman's conduct on or after 1st September 1977 (definition of "complaint" in regulation 2(1)). They do not apply in respect of a complaint against the chief constable or certain other senior officers (regulation 3) nor members of the Royal Ulster Constabulary Reserve other than those appointed on a full-time basis (regulation 2(1)).

Regulation 4 requires the Police Complaints Board for Northern Ireland to transmit any complaint they receive to the chief constable unless satisfied that this is not the wish of the complainant or that, in all the circumstances, this is unnecessary.

Regulation 5 (read with Article 5(4) of the Police (Northern Ireland) Order 1977) provides that, where a report of the investigation of a complaint falls to be sent to the Complaints Board under Article 5(1) of the Order but it has not been sent within four months of the complaint being made, the Board shall be sent a copy of the complaint and information as to the stage reached in dealing with it. Provision is also made for the Board, on request, to be furnished subsequently, but at intervals of not less than four months, with further information as to the stage then reached.

Regulation 6 requires the Complaints Board to exercise their powers as to disciplinary charges without undue delay (paragraph (1)). Where they accept that no charge should be brought in consequence of a complaint they must inform the complainant (paragraph (2)). Similarly, they must inform him if they agree to the withdrawal of a charge which has been preferred (paragraph (3)).

Regulation 7 provides for the keeping of a complaints register.

Regulation 8 enables the chief constable to delegate specified statutory functions relating to complaints to an appropriate senior officer.

Regulation 9 provides that a policeman against whom a complaint is made may obtain a copy of the complaint, subject to safeguards where this might prejudice any criminal investigation or proceedings or otherwise be contrary to the public interest.

By virtue of regulation 10, the requirements of section 13 of the Police Act (Northern Ireland) 1970 (investigation of complaints) are dispensed with and Article 5(1) of the Order of 1977 (reference to the Complaints Board of reports) is disapplied where the complainant notifies the chief constable, in writing, that he withdraws his complaint or does not wish any further steps to be taken in consequence thereof.

Regulation 11 is concerned with complaints which are anonymous or repetitious (within the meaning of paragraph 2 or 3 of the Schedule) or in relation to which an investigation is not reasonably practicable (within the meaning of paragraph 4 of the Schedule). Where both the chief constable and the Complaints Board are of the opinion that a complaint falls into one of these categories and that, in all the circumstances, the requirements of section 13 of the Act of 1970 and of Article 5(1) and (4) of the Order of 1977 should be dispensed with, the Board are empowered, if so requested by the chief constable, to dispense with those requirements. Regulation 12 permits the chief constable to delegate his powers and functions under regulation 11 to an appropriate senior officer of the force.