

1988 No. 8

POLICE

**Royal Ulster Constabulary Reserve (Part-time)
(Discipline and Disciplinary Appeals) Regulations 1988**

Made 15th January 1988

Coming into operation 29th February 1988

To be laid before Parliament

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SCHEDULE 1: Discipline Code

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The Secretary of State, in pursuance of section 26 of the Police Act (Northern Ireland) 1970(a) and Article 14(3), (4), (5) and (6) of the Police (Northern Ireland) Order 1987(b), and after consulting the Police Authority and the Police Association in accordance with section 34(2) of that Act, hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Royal Ulster Constabulary Reserve (Part-time) (Discipline and Disciplinary Appeals) Regulations 1988 and shall come into operation on 29th February 1988.

Interpretation and application

2. The following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Act of 1970” means the Police Act (Northern Ireland) 1970;

“chief constable” shall be construed as including a reference to a person discharging the functions of the chief constable;

“Commission” means the Independent Commission for Police Complaints for Northern Ireland established by Article 3 of the Order of 1987;

“complaint” means a complaint to which the Order of 1987 applies;

“complaints matter” means, in a case where the report of an investigation into a complaint is sent to the Commission under Article 9(7) or 10(9) of the Order of 1987, the matter or matters dealt with in the report;

“conclusion of hearing” does not include the termination of a hearing on a case being remitted under regulation 12;

“disciplinary board” means a board consisting of two members of a rank not lower than that of assistant chief constable appointed by the chief constable to hear disciplinary cases;

“discipline code” means the code of offences contained in Schedule 1;

(a) 1970 c. 9 (N.I.) as amended by S.I. 1977/53 (N.I. 2) and S.I. 1987/938 (N.I. 10) and modified by S.I. 1973/2163

(b) S.I. 1987/938 (N.I. 10)

- “discipline form” means such a form as is mentioned in regulation 6(3);
- “force” means the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;
- “home police force” has the same meaning as in the Police Act 1969(a);
- “internal appeal” means such an appeal as is mentioned in regulation 22;
- “investigating officer” means an officer appointed under Article 5(3) of the Order of 1987 or under regulation 4 to investigate a complaint or other matter relating to the conduct of a part-time member;
- “member” means a member of the Royal Ulster Constabulary or 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;
- “part-time member” means a member of the Royal Ulster Constabulary Reserve appointed on a part-time basis in accordance with regulations made under section 26 of the Act of 1970;
- “member subject to investigation” has the meaning assigned thereto by regulation 4(1);
- “offence or disciplinary offence” means an offence set out in the discipline code;
- “officer conducting the hearing” has the meaning assigned thereto by regulation 11;
- “Order of 1987” means the Police (Northern Ireland) Order 1987;
- “Police Regulations” means the regulations from time to time in operation under section 26 of the Act of 1970 other than these regulations;
- “referred matter” means a matter referred to the Commission under Article 8 of the Order of 1987 and supervised by the Commission under Article 9 of that Order;
- “representative” means in relation to a part-time member the member of a police force conducting his case or appeal in pursuance of regulation 15(7) or 22(8).

Disciplinary offences

3. A part-time member commits an offence against discipline if he commits an offence set out in the discipline code.

PART II

DISCIPLINE AND INTERNAL APPEALS

Investigation procedure

4.—(1) Where a report, allegation or complaint is received from which it appears that an offence may have been committed by a part-time member (hereinafter referred to as “member subject to investigation”), the following provisions of this regulation shall have effect for the purpose of investigating the matter.

(a) 1969 c. 63

- (2) The provisions of paragraphs (3) and (4) shall have effect—
- (a) in relation to a case arising otherwise than from a complaint to which Part II of the Order of 1987 applies; and
 - (b) in relation to cases arising from such complaints where the requirements of the said Order are dispensed with by or under regulations made thereunder.

(3) Unless the chief constable decides that no disciplinary proceedings need be taken, the matter shall be referred to an investigating officer who shall cause it to be investigated.

(4) The investigating officer shall be—

- (a) a member, or if the chief officer of a home police force is requested and agrees to provide an investigating officer he shall be a member of that other force;
- (b) of at least the rank of inspector.

(5) Neither—

- (a) the chief constable;
- (b) the deputy chief constable; nor
- (c) any member serving in the same sub-division or branch as the member subject to investigation,

shall be appointed as the investigating officer for the purpose of paragraph (3) or Article 5 of the Order of 1987 (formal investigation of a complaint).

(6) The provisions of this regulation are without prejudice to the powers of the Commission with regard to the approval of the investigating officer under Article 9(5)(a) and (b) of the Order of 1987 (which provides for approval by the Commission of officers appointed to conduct an investigation) where the investigation is to be supervised by the Commission.

Personal explanation

5. The investigating officer shall, as soon as is practicable (without prejudicing his or any other investigation of the matter), in writing inform the member subject to investigation of the report, allegation or complaint and give him a written notice—

- (a) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires make a written or oral statement concerning the matter to the investigating officer or to the chief constable; and
- (b) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

Formulation of charges

6.—(1) The decision whether or not the member subject to investigation should be charged with an offence shall (subject, as respects a complaints matter or referred matter, to Articles 9(12), 10(6) and 13(1) and (3) of the Order of 1987) be taken by the chief constable after considering the report of the investigating officer and any statement made under regulation 5.

(2) Where the chief constable decides (or as respects a complaints matter or referred matter, the Commission directs under Article 13(3) of the Order of

1987) that a charge be preferred, the chief constable shall, as soon as possible, cause—

- (a) to be entered on a discipline form the offence in question together with such particulars as will leave the member subject to investigation in no doubt as to the precise offence alleged, and
- (b) the member subject to investigation to be charged by being served with a copy of the discipline form.
- (3) A discipline form shall be in the form set out in Schedule 2.

Withdrawal of charges

7.—(1) At any time before the beginning of the hearing of a charge, the chief constable may (subject, as respects a complaints matter or a referred matter, to the leave of the Commission under Article 13(6) of the Order of 1987) direct that the charge be withdrawn.

(2) Where the chief constable so directs he shall, as soon as possible, cause—

- (a) his direction to be noted in the discipline form, and
- (b) the member subject to investigation to be served with written notice of his direction.

Documents to be supplied to accused

8.—(1) Subject to paragraphs (2) and (3), where a part-time member is charged with an offence, he shall not less than 21 days before the date of the hearing, be supplied with copies—

- (a) of any statement he may have made under regulation 5;
- (b) of the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report of the investigating officer) notwithstanding that they may be confidential;
- (c) of any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address;
- (d) of any statement relating to the charge made by any person, other than a witness to be called in support of the charge, to the investigating officer or to anybody on his behalf, together with the person's name and address; and
- (e) of any statement made by a witness to be called by the presenting officer, in pursuance of regulation 21(6), for the purpose of assisting the person conducting the hearing or the chief constable in determining, in the event of a finding of guilt, the punishment to be imposed or recommended.

(2) In a case to which this paragraph applies the hearing of a charge against a part-time member may, if the chief constable considers it appropriate in the circumstances, take place before the expiry of the period of 21 days referred to in paragraph (1).

(3) Paragraph (2) applies where a part-time member charged with an offence, is at the time he is so charged, detained in pursuance of the sentence

of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953(a) applies, or has received a suspended sentence of imprisonment.

(4) The officer conducting the hearing may, with the consent of the accused, allow any document to be adduced in evidence during the hearing notwithstanding that a copy thereof has not been supplied to the accused in accordance with the foregoing provisions of this regulation.

(5) Where the charge is founded on a report, allegation or complaint and a statement arising therefrom made by the same person, the reference in paragraph (1)(b) to the report, allegation or complaint shall, without prejudice to paragraph (1)(c) or (d), be construed as including a reference to that statement.

(6) In this regulation any reference to a copy of a statement, report, allegation or complaint shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

Representation at disciplinary proceedings

9. On the hearing of a disciplinary charge against a part-time member, he may be represented by a member or a member of a home police force.

Questions in the discipline form to be answered by accused

10.—(1) The accused shall be invited to state in writing on the discipline form, within 14 days from the date on which it was served on him (or 14 days from the date on which the last of the documents required by regulation 8(1) to be supplied to him is so supplied, if later),—

- (a) whether he admits or denies the charge; and
- (b) whether he proposes to call any witnesses to relevant facts at the hearing and the names and addresses of any such witnesses whose attendance he wishes the chief constable to take steps to secure.

(2) Any witness whose attendance he wishes the chief constable to take steps to secure who is a member shall be ordered to attend at the hearing of the case, and the chief constable, where so requested, shall cause any other such witnesses to be given due notice that their attendance is desired and of the time and place of the hearing.

(3) Nothing in this regulation shall require a hearing to be adjourned where a document is adduced in evidence with the consent of the accused under regulation 8(4).

Hearing

11.—(1) Subject to paragraph (2), a charge against a part-time member shall be heard by the chief constable, or—

- (a) an officer not below the rank of chief superintendent; or
- (b) a disciplinary board,

appointed for the purpose by or on behalf of the chief constable, except that where a case has been remitted under regulation 12, the charge shall be heard

(a) 1953 c. 18 as modified by S.I. 1973/2163

by the officer or disciplinary board to whom it has been so remitted; and any reference in these regulations to the officer conducting the hearing shall be construed as a reference to that officer or disciplinary board.

(2) Paragraph (1) shall not apply where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing, and in such case, any reference to the officer conducting the hearing shall be construed as a reference to the tribunal mentioned in that Article.

Remission of cases

12.—(1) Where the case of a part-time member charged with an offence falls to be heard by the chief constable or where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing of such a case—

- (a) it shall, in the circumstances mentioned in paragraph (2); or
- (b) may, in the circumstances mentioned in paragraph (3),

be remitted by the chief constable to such a chief officer of a home police force who has agreed to act in the matter at the request of the chief constable.

(2) A case shall be so remitted if—

- (a) the chief constable is interested in the case otherwise than in his capacity as such; or
- (b) he is a material witness.

(3) A case not falling within paragraph (2) may be remitted by the chief constable to another chief officer if, either before or during the hearing, the chief constable considers remission appropriate and directs that the function of determining whether the accused has committed an offence against discipline should be determined by another chief officer.

(4) An officer, other than the chief constable, by whom a case falls to be heard in pursuance of regulation 11—

- (a) shall, in the circumstances mentioned in paragraph (5); or
- (b) may, in the circumstances mentioned in paragraph (6);

remit the case to an officer of the force not below the rank of chief superintendent or a disciplinary board.

(5) A case shall be so remitted if the officer by whom the case falls to be heard under regulation 11 is—

- (a) interested in the case otherwise than in his capacity as such; or
- (b) a material witness.

(6) A case may be so remitted if, either before or during the hearing, the officer by whom the case falls to be heard under regulation 11 considers remission appropriate.

(7) An officer remitting a case under paragraph (5) or (6) shall not give the officer or disciplinary board to whom it has been remitted any indication of his assessment of the case or of the punishment which might be imposed in the event of the charge being found proved.

Delegation of functions by chief constable

13.—(1) Subject to paragraph (3) the chief constable may delegate to such member as is mentioned in paragraph (2) the duty of deciding under

regulation 6 whether a part-time member should be charged with an offence, and where he does so delegate that duty any reference in regulation 4(3), 5, 6, or 7 to the chief constable shall be taken as a reference to the officer to whom that duty is delegated.

(2) The said duty may be delegated to an officer of the force not below the rank of assistant chief constable.

(3) A member who has acted as investigating officer in a case, or a member appointed to deal with a case by way of informal resolution under Article 5(4) of the Order of 1987, shall not, as respects that case, exercise any duty or function in pursuance of a delegation under paragraph (1).

Disciplinary tribunal cases

14.—(1) This regulation shall apply where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing of a case.

(2) Where this regulation applies and the chief constable remits the case to another chief officer under regulation 12 he shall inform the Commission that he has done so, and that the other chief officer will, in pursuance of Article 14 of the Order of 1987, be the chairman of the tribunal.

(3) Where this regulation applies and the Commission, in pursuance of Article 14 of the Order of 1987, nominates two members of the Commission to be members of the tribunal, it shall inform the chief constable of its nominations and, if the chief constable will not be the chairman of the tribunal, shall similarly inform the officer who will be the chairman.

Procedure at hearing

15.—(1) The accused shall be ordered to attend at the hearing of the case.

(2) The hearing shall be in private:

Provided that it shall be within the discretion of the officer conducting the hearing to allow any member of the Commission or any such member, members, part-time member or part-time members, as he considers desirable to attend the whole or such part of the hearing as he may think fit, subject to the accused or his representatives not objecting to the attendance of the person or persons in question.

(3) The case against the accused shall be presented by a member not being the chief constable nor the officer on whom, by virtue of regulation 13, fell the duty of deciding whether the member in question should be charged with an offence.

(4) The person presenting the case and the representative of the accused may be assisted at the hearing by a serving member, or a serving member of a home police force.

(5) If the accused does not admit the charge the hearing shall proceed as though he denied the charge.

(6) Before the case against the accused is presented, the accused may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the officer conducting the hearing, if he upholds that submission, shall dismiss the charge to which the submission relates.

(7) The accused may conduct his case in person, or by a member or by a member of a home police force selected by him:

Provided that if the accused is represented by a member or by a member of a home police force, the accused, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(8) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the officer conducting the hearing.

(9) Where any decision falls to be taken under these regulations or otherwise for the purpose of the hearing by such a tribunal as is mentioned in Article 14 of the Order of 1987, the decision may be a majority decision but it shall not be indicated whether it was taken unanimously or by a majority.

(10) Where a decision as to whether a charge is found proved falls to be taken by a disciplinary board the charge shall be dismissed unless the board is unanimous in finding that the charge is proved.

(11) A verbatim record of the proceedings at the hearing of the case shall be taken, and if the charge is found proved and the accused contemplates an internal appeal, then at his request made within the period during which notice of appeal may be given, a transcription of the record shall be made and a copy thereof supplied to him.

Statements in lieu of oral evidence

16.—(1) Subject to the provisions of this regulation, the officer conducting the hearing may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible hereunder if it would not have been admissible had it been given orally.

(2) For the purposes hereof, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(3) Subject to paragraph (4), if either the accused or the presenting officer (in this regulation referred to as "the parties") proposes to adduce written evidence, in pursuance of this regulation, at a hearing, he shall give the other party a copy of the statement at least 21 days before the date of that hearing and invite that party to agree or object, in writing, to the admission of the statement in evidence without the maker thereof being called as a witness and being available for cross-examination and, if that party within 14 days from the receipt by him of the copy of the statement has so objected, the statement shall only be admitted in evidence if the maker thereof is called and is available as aforesaid:

Provided that if the parties in writing so agree in the case of a particular statement, this paragraph shall have effect in relation to that statement as though—

(a) the reference to a period of 21 days were a reference to such shorter period as they may agree;

(b) the reference to a period of 14 days were a reference to such shorter period, expiring before the date of the hearing, as they may agree.

(4) Notwithstanding paragraph (3), if at the hearing either of the parties wishes to adduce in evidence a written statement without the maker thereof

being called and available as aforesaid, without a copy of the statement having been made available to the other party in accordance with that paragraph, the officer conducting the hearing may, with the agreement of the other party, allow the statement to be so adduced.

(5) Where, notwithstanding that a written statement has been admitted in evidence under the foregoing provisions of this regulation without the maker thereof being called and being available as aforesaid, the officer conducting the hearing is of the opinion that oral evidence should be given, he may request that the maker be called as a witness and, in such case, unless the maker gives oral evidence, the officer conducting the hearing shall be entitled to disregard the written evidence.

(6) Nothing in this regulation shall prejudice the admission of written evidence which would be admissible apart from the provisions thereof.

Adjournment of hearing

17. The officer conducting the hearing of a case, may from time to time adjourn the hearing if it appears to him necessary or expedient so to do for the due hearing of the case.

Procedure in absence of accused

18.—(1) If the accused does not attend the hearing of the case, the hearing may be proceeded with and concluded in his absence:

Provided that—

- (a) if the accused is detained in pursuance of the sentence of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953 applies and desires to make representations in person at the hearing, the hearing shall not be concluded until the accused has been enabled to make such representations;
- (b) if good reason is given to the officer conducting the hearing by, or on behalf of, the accused why the accused is unable to attend the hearing, other than that the accused is detained as aforesaid, the hearing shall be postponed or adjourned, as the case may be.

(2) Where, owing to the absence of the accused, it is impossible to comply with any of the procedure described in regulations 5, 6, 8, 10 and 15(1), that procedure shall be dispensed with.

Attendance of complainant at hearing

19.—(1) This regulation shall apply in relation to the hearing of a charge against a part-time member where the charge is in respect of a complaints matter.

(2) Notwithstanding anything in regulation 15(2) but subject to paragraph (4), the officer conducting the hearing shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if he considers it appropriate so to do on account of the age of the complainant or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing:

Provided that—

- (a) where the complainant is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and
 - (b) where it appears to the officer conducting the hearing that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, he shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.
- (3) Where the accused gives evidence, then, after the presenting officer has had an opportunity of cross-examining him, the officer conducting the hearing shall put to him any questions which the complainant requests should be so put and might have been properly so put by the presenting officer or, at his discretion, may allow the complainant himself to put such questions to the accused.
- (4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the hearing; and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the officer conducting the hearing may exclude him from the remainder of the hearing.
- (5) In this regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was transmitted to the chief constable by some other person or by the Commission or by some other body.

Finding

- 20.—(1) The officer conducting the hearing of a charge shall, at its conclusion, dismiss the charge or find it proved.
- (2) A charge shall not be found proved unless it is—
- (a) admitted by the accused; or
 - (b) proved by the officer presenting the case to the officer conducting the hearing beyond reasonable doubt.
- (3) The said decision shall, as soon as possible, be recorded on the discipline form and notified in writing to the accused.

Punishment

- 21.—(1) Where a charge is found to be proved one of the following punishments shall be imposed, namely:—
- (a) services dispensed with;
 - (b) requirement to resign from the force as an alternative to services dispensed with;
 - (c) reduction in rank;
 - (d) reprimand;
 - (e) caution;
- and separate punishments shall be imposed for separate offences.
- (2) Subject to paragraphs (3) and (4), the punishment shall be imposed by the officer conducting the hearing.

(3) Paragraph (2) shall not apply where—

- (a) the case has been remitted by the chief constable under regulation 12; and
- (b) the chief constable is neither interested in the case otherwise than in his capacity as such nor is a material witness.

but, subject to paragraph (4), the officer conducting the hearing shall recommend to the chief constable the punishment which, in his opinion, should be imposed.

(4) Paragraphs (2) and (3) shall not apply where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing and, in pursuance thereof, it falls to the chief constable as chairman of the tribunal, after consulting the other members thereof, to impose the punishment or, in the circumstances mentioned in paragraph (3) it falls to the chairman, after so consulting, to recommend punishment.

(5) Where a chief officer to whom a case has been remitted under regulation 12 or the chairman of a tribunal not being the chief constable, recommends a punishment in pursuance of paragraph (3), or of Article 14 of the Order of 1987, he shall send a report to the chief constable and a copy thereof to the accused, which report shall in addition to the recommendation include—

- (a) a statement as to the charge found proved;
- (b) a statement of the facts admitted or found to be proved, so far as they appear to him material to the question of punishment, and
- (c) any other matter arising out of the hearing which appears to him so material;

and, after considering the report, the chief constable shall impose a punishment.

(6) Where the question of the punishment to be imposed or recommended is being considered by the officer conducting a hearing or by the chief constable or the chairman of the disciplinary tribunal—

- (a) he shall have regard to the accused's record of police service as shown on his personal record and may receive evidence from any witness whose evidence would, in his opinion, assist him in determining the question, and
- (b) the accused, or his representative, shall be afforded an opportunity to make oral or, if he thinks fit, written representations as respects the question or to adduce evidence relevant thereto.

(7) Any proceedings at which such evidence as is referred to in paragraph (6)(a) or (b) or such oral representations as are referred to in paragraph (6)(b) is given or are made shall be treated for the purposes of regulation 15(11) as proceedings at the hearing.

(8) As soon as possible after a decision to impose a punishment has been taken that decision shall be recorded on the discipline form and notified in writing to the accused.

(9) Where an officer, other than the chief constable, conducting a hearing in pursuance of regulation 11 imposes a punishment, then without prejudice to the accused giving notice of appeal under regulation 22, that punishment

shall not take effect unless and until the period for giving such notice under regulation 22(3) has expired or, where such notice is given, the appeal has been determined.

Internal appeals

22.—(1) Where, in the case of a hearing conducted by an officer other than the chief constable in pursuance of regulation 11 a charge has been found proved and a punishment imposed, the accused may appeal in accordance with this regulation against—

- (a) both the finding and the punishment, or
- (b) the punishment only.

(2) The appeal shall be instituted by the appellant giving written notice of appeal to the chief constable specifying whether he is appealing as mentioned in sub-paragraph (1)(a) or (1)(b).

(3) The notice of the appeal shall be given within the 14 days following the day on which the accused was notified of the punishment in accordance with regulation 21(8) and, within the 21 days following the day on which—

- (a) he receives the transcription of the record of the proceedings at the hearing at which the charge was found proved (“the original hearing”), where he has requested under regulation 15(11) to be supplied with such a transcription, or
- (b) he gave the notice of appeal, where he has not so requested,

he shall furnish the chief constable with a statement setting out the grounds of his appeal:

Provided that, where the chief constable is satisfied that by reason of the special circumstances of the case it is just and right so to do, he may extend either or both of the periods mentioned in this paragraph and, in such case, this paragraph shall have effect as if for the period in question there were substituted such extended period as he may specify.

(4) The appeal shall be considered by the chief constable or if he so directs by an officer not below the rank of senior assistant chief constable appointed for the purpose by him:

Provided that the officer so appointed shall not have been—

- (a) the officer who conducted, or, as the case may be,
- (b) a member of the disciplinary board which conducted,

the hearing out of which the appeal rose.

(5) The appellant shall be given reasonable notice of the time and place for the consideration of the appeal (“the appellate proceedings”).

(6) An officer who in relation to a case—

- (a) has acted as investigating officer;
- (b) has performed any duty or function in pursuance of a delegation under regulation 13; or

(c) was appointed to deal with it by way of informal resolution under Article 5(4) of the Order of 1987

shall not, as respects that case conduct appellate proceedings.

(7) An appellant may only be represented at the appellate proceedings by a member or a member of a home police force.

(8) The appellant may attend the appellate proceedings and conduct his appeal either in person, or by a member or a member of a home police force selected by him; but the provisions of regulation 18(1) relating to a hearing in the absence of the accused shall have effect, subject to any necessary modifications, in relation to appellate proceedings in the absence of the appellant.

(9) The appellant or his representative may make oral or written representations in support of the appeal but may only adduce evidence which could not have been adduced, or which was not adduced for reasons which satisfy the person considering the appeal at the hearing at which the charge was found proved; and where evidence is adduced in support of the appeal the officer who was the presenting officer at the original hearing or an officer acting in his place ("the presenting officer") may adduce evidence in rebuttal.

(10) Notwithstanding anything in paragraph (9), where the person considering the appeal is considering the question of punishment, he may receive evidence from any witness whose evidence would, in his opinion, assist him in determining the question.

(11) A witness giving oral evidence may be cross-examined by the presenting officer or, as the case may be, by the representative of the appellant:

Provided that if the appellant is represented by a member or a member of a home police force, the appellant, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(12) The person considering the appeal may, in his discretion, admit written evidence which would not be admissible but for this paragraph, but which would have been admissible if given orally.

(13) As soon as possible after the conclusion of the appellate proceedings the decision shall be recorded on the discipline form and notified in writing to the appellant; and a decision to allow an appeal against the finding at the original hearing or vary the punishment imposed shall have effect from the date of the decision appealed against except that, where the punishment as varied is such as is specified in regulation 21(1)(b) or (c), that punishment shall have effect from a date not earlier than, or from the date of, the decision in the appellate proceedings.

(14) A verbatim record of the appellate proceedings shall be taken.

(15) On an internal appeal, the officer conducting the appeal shall not have power to award a punishment greater than the punishment awarded at the original hearing.

Suspension

23.—(1) Where a report, allegation or complaint is received from which it appears that a part-time member may have committed a disciplinary or criminal offence, the chief constable may suspend that part-time member from duty, whether or not the matter has been investigated.

(2) The chief constable may exercise the power to suspend a part-time member under this regulation at any time from the time of receipt of the report, allegation or complaint.

(3) The chief constable may delegate his powers under this regulation to any officer to whom under regulation 13, he has delegated or could delegate the duty there mentioned, and where he does so, any reference in the foregoing provisions of this regulation to the chief constable shall be taken as a reference to the officer to whom the powers are delegated.

Effect of successful appeal against criminal conviction

24.—(1) This regulation applies where a part-time member who has been found guilty by a court of law of a criminal offence (“his criminal conviction”)—

(a) is charged with and found guilty of the offence of criminal conduct under paragraph 17 of Schedule 1 in respect thereof (“his disciplinary conviction”); and

(b) subsequently successfully appeals against his criminal conviction.

(2) Where this regulation applies (and whether or not the part-time member has actually appealed against his disciplinary conviction)—

(a) the decision allowing his appeal against his criminal conviction shall, in relation to his disciplinary conviction have effect as if it were an order or a decision under these regulations allowing an appeal by him against his disciplinary conviction; but

(b) subject to Article 22 of the Order of 1987 (which relates to double jeopardy) nothing in sub-paragraph (a) shall prevent the chief constable from instituting disciplinary proceedings against him in respect of some other disciplinary offence.

(3) For the purpose of this regulation a part-time member found guilty of a criminal offence and subsequently pardoned shall be treated as if he had successfully appealed against his criminal conviction.

Discipline book

25. The chief constable shall cause a discipline book to be kept in which shall be entered every charge made against a part-time member, together with the decision thereon and a record of the decision in any further disciplinary proceedings in connection therewith.

Tom King

Northern Ireland Office
15th January 1988

One of Her Majesty's Principal
Secretaries of State

DISCIPLINE CODE

1. *Discreditable conduct*, which offence is committed where a part-time member acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the force or of the police service.

2. *Misconduct towards a member*, which offence is committed where—

- (a) the conduct of a part-time member towards another member or part-time member is oppressive or abusive; or
- (b) a part-time member assaults another member or part-time member.

3. *Disobedience to orders*, which offence is committed where a part-time member, without good and sufficient cause—

- (a) disobeys or neglects to carry out any lawful order, written or otherwise; or
- (b) contravenes any provision of the Police Regulations containing restrictions on the private lives of part-time members.

4. *Neglect of duty*, which offence is committed where a part-time member without good and sufficient cause—

- (a) neglects or omits to attend to or carry out with due promptitude and diligence anything which it is his duty as a part-time member to attend to or carry out; or
- (b) fails to work his beat in accordance with orders, or leaves the place of duty to which he has been ordered, or having left his place of duty for an authorised purpose fails to return thereto without undue delay; or
- (c) is absent without leave from, or is late for, any duty; or
- (d) fails properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.

5. *Wilful or careless falsehood*, which offence is committed where a part-time member—

- (a) knowingly or through neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for police purposes; or
- (b) either wilfully and without proper authority or through lack of due care destroys or mutilates any record or document made, kept or required for police purposes; or
- (c) without good and sufficient cause alters or erases or adds to any entry in such a record or document; or
- (d) has knowingly or through neglect made any false, misleading or inaccurate statement in connection with his appointment to the force.

6. *Improper disclosure of information*, which offence is committed where a part-time member—

- (a) without proper authority communicates to any person, any information which he has in his possession as a part-time member; or
- (b) makes any anonymous communication to the Police Authority, or any member or part-time member of the force; or
- (c) without proper authority, makes representations to the Police Authority with regard to any matters concerning the force; or
- (d) canvasses any member of that Authority with regard to any such matter.

7. *Corrupt practice*, which offence is committed where a part-time member—

- (a) in his capacity as a part-time member and without the consent of the chief constable or the Police Authority, directly or indirectly solicits or accepts any gratuity, present or subscription; or
- (b) places himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a part-time member; or
- (c) improperly uses, or attempts so to use, his position as a part-time member for his private advantage.

8. *Improper practice*, which offence is committed where a part-time member in his capacity as such and without the consent of the chief constable, writes, signs or gives a testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind.

9. *Abuse of authority*, which offence is committed where a part-time member treats any person with whom he may be brought into contact in the execution of his duty in an oppressive manner and, without prejudice to the foregoing, in particular where he—

- (a) without good and sufficient cause conducts a search, or requires a person to submit to any test or procedure, or makes an arrest; or
- (b) uses any unnecessary violence towards any prisoner or any other person with whom he may be brought into contact in the execution of his duty, or improperly threatens any such person with violence; or
- (c) is abusive or uncivil to any member of the public.

10. *Discriminatory behaviour*, which offence is committed without prejudice to the commission of any other offence where a part-time member—

- (a) while on duty, on the grounds of another person's colour, race, nationality or religious belief, acts towards that other person in any such way as is mentioned in paragraph 9 (abuse of authority); or
- (b) in any other way, on any of those grounds, treats improperly a person with whom he may be brought into contact while on duty.

11. *Neglect of health*, which offence is committed where a part-time member, without good and sufficient cause, neglects to carry out any instructions of a medical officer appointed by the Police Authority or, while absent from duty on account of sickness, commits any act or adopts any conduct calculated to retard his return to duty.

12. *Improper dress or untidiness*, which offence is committed where without good and sufficient cause a part-time member while on duty, or while off duty but wearing uniform in a public place, is improperly dressed or is untidy in his appearance.

13. *Damage to police property*, which offence is committed where a part-time member—

- (a) wilfully or through lack of due care causes any waste, loss or damage to police property; or
- (b) fails to report as soon as is reasonably practicable any loss of or damage to any such property issued to, or used by him, or entrusted to his care.

14. *Drunkness or drug taking*, which offence is committed where a part-time member renders himself unfit through drink or drugs or a combination thereof for duties which he is or will be required to perform or which he may reasonably foresee having to perform.

15. *Drinking on duty or soliciting drink*, which offence is committed where a part-time member, while on duty—

- (a) without proper authority, drinks, or receives from any other person, any intoxicating liquor; or
- (b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor.

16. *Entering licensed premises*, which offence is committed where a part-time member—

- (a) while on duty; or
- (b) while off duty but wearing uniform,

without good and sufficient cause, enters any premises in respect of which a licence or permit has been granted in pursuance of the law relating to liquor licensing or betting and gaming or regulating places of entertainment.

17. *Criminal conduct*, which offence is committed where a part-time member has been found guilty by a court of law of a criminal offence.

18. *Being an accessory to a disciplinary offence*, which offence is committed where a part-time member incites, connives at or is knowingly an accessory to any offence against discipline.

SCHEDULE 2

Regulation 6(3).

DISCIPLINE FORM: PART-TIME MEMBERS OF RUC RESERVE

CHARGE[S] AGAINST Name

No. Rank Rate of Pay

Particulars of Service

Charge[s]

<i>Offence(s) of which part-time member is accused</i>	<i>Particulars of alleged offence(s) including time, date and place</i>	<i>Names and addresses of witnesses in support of charge(s) and whose statements are attached</i>
(1)	(1)	(1) (a) (b)
(2)	(2)	(2) (a) (b)
(3)	(3)	(3) (a) (b)

[Where applicable. The charge[s] numbered has/have been brought on the direction of the Independent Commission for Police Complaints for Northern Ireland in accordance with Article 13(3) of the Police (Northern Ireland) Order 1987.]

PART I

QUESTIONS WHICH THE ACCUSED IS INVITED TO ANSWER

- 1. Do you admit or deny the charge[s]? (1)
- (give a separate answer as respects each charge.) (2)
- (3)

- 2. Do you wish—
- (a) to select a member of the RUC or a member of a home police force to assist you in presenting your case? If so, give his name, rank and police force or indicate that this information will be given later.

Yes/No.

(particulars of friend)

.....

- (b) the chief constable to take steps with a view to securing the attendance of any witnesses for you at the hearing of the case? If so, give their names and addresses or indicate that the information will be given later. If not, write "No".

.....

.....

.....

Date Signature of accused

- 3. Do you intend to make your own arrangements for other witnesses (not being members of a police force) to attend?

Yes/No.

- 4. If the answer to question 3 is "Yes", it would assist in the preparation of the hearing if you would indicate the number of other witnesses you intend to call.

[.....] (indicate number)

Date Signature of the accused

[You are reminded that the information requested in questions 1 to 4 above must be provided within 14 days from the service of this form.]

DATE OF DISCIPLINARY HEARING

- 5. You will be notified as soon as possible of the date of the hearing and be told at that time whether it will be conducted by the chief constable, a senior officer, or disciplinary board, or by a tribunal or by the chief officer of another force. This notification which will be in writing will be given to you at least 21 days before the date set for the hearing of your case.

PART II

HEARING

Date Time Place

and by adjournment on

Date Time Place

Hearing to be conducted by

.....
.....

Above information notified to accused on (date)

..... Initials (date)

[Where applicable. Particulars of any subsequent hearing solely on punishment.

Date Time Place

Subsequent hearing notified to accused.

..... Initials

..... Date]

DECISIONS ON FINDING AND PUNISHMENT

Finding

The finding(s) as respects the disciplinary offence(s) specified below, with which the accused has been charged, is/are as specified opposite thereto.

Signature

Date

Punishment

I have referred to and taken note of the personal record of the accused. The punishment(s) imposed as respects the disciplinary offence(s) specified below, with which the accused has been charged and of which he had been found guilty, is/are as specified opposite thereto.

Signature

Date

Decisions referred to above

<i>Offence(s) charged</i>	<i>Finding</i>	<i>Punishment imposed where accused has been found guilty</i>
(1)	Guilty/Not guilty
(2)	Guilty/Not guilty
(3)	Guilty/Not guilty

Decisions on finding and punishment notified to accused.
I have been notified of the decisions above.

Signature of accused

Date

PART III

INTERNAL APPEAL (WHERE APPROPRIATE)

Particulars of date and outcome of internal appeal hearing.

Decisions on appeal notified to accused.

I have been notified of the decisions above.

Signature of accused

Date

PART IV

FOR OFFICE USE ONLY

- Copy of discipline form served on accused.

Initials

Date form served

- Accused officer notified of the nature of the hearing with full explanation of what this entails.

Initials

Date so notified

3. Date on which accused provided with copies of documents listed in regulation 8(1) of the Royal Ulster Constabulary Reserve (Part-time) (Discipline and Disciplinary Appeals) Regulations 1988:

..... (insert date)

Initials

Date

4. Case entered in Complaints Register (if applicable): (insert date)

Initials

Date

5. Case entered in discipline book

Initials

Date

EXPLANATORY NOTE

(This note is not part of the regulations.)

These regulations make separate provisions for the part-time Royal Ulster Constabulary Reserve in relation to discipline and disciplinary appeals.

They take account both of the new provisions made by the Police (Northern Ireland) Order 1987 for complaints by members of the public against police officers, including members of the part-time reserve, and of the creation by Article 3 of the Order of 1987 of the Independent Commission for Police Complaints for Northern Ireland (the Commission).

The definition of "referred matter" in regulation 2 takes account of the fact that it is not only a complaint (made under the Order of 1987) which may be referred to the Commission but also, under Article 8 of that Order, certain other matters which appear to indicate that an offence against discipline may have been committed.

Under regulation 8, the accused shall be supplied with all relevant documents at least 21 days before the hearing.

Under regulation 9 the accused may be represented at a disciplinary hearing by a police officer, other than a member of the part-time RUC Reserve.

By virtue of regulation 11(1) a charge against a part-time member shall be heard by the chief constable or an officer not below the rank of chief superintendent, or by a disciplinary board but regulation 11(2) provides an

exception namely cases which fall to be dealt with by a disciplinary tribunal under Article 14 of the Order of 1987.

By regulation 15 the officer conducting the hearing may admit members of the Commission and police officers to the hearing.

By regulation 20 the charge, unless it is admitted by the accused, must be proved beyond reasonable doubt.

The punishments which can be imposed are as detailed in regulation 21.

A part-time member may appeal against a finding of guilt or punishment to an officer not below the rank of senior assistant chief constable, except where the chief constable or a disciplinary tribunal has conducted the original hearing (regulation 22).

By virtue of regulation 24, a successful appeal against a criminal conviction automatically quashes a disciplinary conviction for criminal conduct based upon it, but without prejudice to the bringing of any other disciplinary charges.

The Discipline Code is detailed in Schedule 1. The Code includes an offence of discriminatory behaviour on the grounds of religious belief or racial origin.

The Discipline Form is as laid out in Schedule 2.