



# Ministry of Defence Police Act 1987

## 1987 CHAPTER 4

### [<sup>F1</sup>3A Regulations relating to disciplinary matters

[<sup>F2</sup>(1) The Secretary of State may make regulations with respect to—

- (a) the conduct[<sup>F3</sup>, efficiency and effectiveness] of members of the Ministry of Defence Police and the maintenance of discipline;
- (b) the suspension from duty of members of the Ministry of Defence Police.

(1A) Without prejudice to the powers conferred by subsection (1), regulations under this section shall—

- (a) establish, or
- (b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct[<sup>F4</sup>, efficiency and effectiveness] of members of the Ministry of Defence Police, including procedures for cases in which such persons may be dealt with by dismissal.]

[ Regulations under this section may provide for the procedures that are established  
<sup>F5</sup>(1B) by or under regulations made by virtue of subsection (1A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the chief constable of the Ministry of Defence Police, the Ministry of Defence Police Committee, the [<sup>F6</sup>Director General of the Independent Office for Police Conduct], the Police Investigations and Review Commissioner or the Police Ombudsman for Northern Ireland,
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of the Ministry of Defence Police, and
- (c) condition A, B or C is satisfied in relation to the person.

(1C) Condition A is that the person ceases to be a member of the Ministry of Defence Police after the allegation first comes to the attention of a person mentioned in subsection (1B)(a).

(1D) Condition B is that the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in

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subsection (1B)(a) but the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) does not exceed the period specified in regulations under this section.

(1E) Condition C is that—

- (a) the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a),
- (b) the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) exceeds the period specified for the purposes of condition B, and
- (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of the Ministry of Defence Police.

(1F) Regulations made by virtue of subsection (1B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the [<sup>F7</sup>Director General of the Independent Office for Police Conduct] determines that taking such proceedings would be reasonable and proportionate having regard to—

- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
- (b) the impact of the allegation on public confidence in the police, and
- (c) the public interest.

(1G) Regulations made by virtue of subsection (1B) may make provision about matters to be taken into account by the [<sup>F8</sup>Director General of the Independent Office for Police Conduct] for the purposes of subsection (1F)(a) to (c).

(1H) Regulations made by virtue of subsection (1B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or by virtue of section 26 of the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a member of the Ministry of Defence Police.]

[<sup>F9</sup>(2) [<sup>F10</sup>Regulations under this section] may provide for decisions which would otherwise fall to be taken by the Secretary of State or the chief constable of the Ministry of Defence Police to be taken instead by—

- (a) a person appointed in accordance with the regulations; or
- (b) the Ministry of Defence Police Committee.]

(3) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, the Ministry of Defence Police Committee, the chief constable of the Ministry of Defence Police or other persons; or

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- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.
- (4) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F1** S. 3A inserted (9.3.2004) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 79(1)**, 108(2); S.I. 2004/636, art. 2
- F2** S. 3A(1)(1A) substituted for s. 3A(1) (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 22 para. 14(2)**; S.I. 2009/3074, art. 2(r)
- F3** Words in s. 3A(1)(a) inserted (8.3.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 6**, 32(3); S.I. 2012/669, art. 3(a)
- F4** Words in s. 3A(1A) inserted (8.3.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 6**, 32(3); S.I. 2012/669, art. 3(a)
- F5** Ss. 3A(1B)-(1H) inserted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 7 para. 2(2)**; S.I. 2017/1139, reg. 2(b) (as amended by S.I. 2017/1162, reg. 2)
- F6** Words in s. 3A(1B)(a) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 9 para. 63(2)**; S.I. 2017/1249, reg. 2 (with reg. 3)
- F7** Words in s. 3A(1F) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 9 para. 63(2)**; S.I. 2017/1249, reg. 2 (with reg. 3)
- F8** Words in s. 3A(1G) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 9 para. 63(2)**; S.I. 2017/1249, reg. 2 (with reg. 3)
- F9** S. 3A(2) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 22 para. 14(3)**; S.I. 2009/3074, art. 2(r)
- F10** Words in s. 3A(2) substituted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 7 para. 2(3)**; S.I. 2017/1139, reg. 2(b) (as amended by S.I. 2017/1162, reg. 2)

**Changes to legislation:**

There are currently no known outstanding effects for the Ministry of Defence Police Act 1987, Section 3A.