



# Police and Magistrates' Courts Act 1994

## 1994 CHAPTER 29

### PART I

#### POLICE

### CHAPTER I

#### PRINCIPAL AMENDMENTS OF POLICE ACT 1964

#### *General*

### 13 Provision of advice and assistance to international organisations etc

After section 15 of the 1964 Act there shall be inserted—

#### **“15A Provision of advice and assistance to international organisations etc**

- (1) Subject to the provisions of this section, a police authority may provide advice and assistance—
  - (a) to an international organisation or institution, or
  - (b) to any other person or body which is engaged outside the United Kingdom in the carrying on of activities similar to any carried on by the authority or the chief officer of police for its area.
- (2) The power conferred on a police authority by subsection (1) of this section includes a power to make arrangements under which a member of the police force maintained by the authority is engaged for a period of temporary service with a person or body within paragraph (a) or (b) of that subsection.
- (3) The power conferred by subsection (1) of this section shall not be exercised except with the consent of the Secretary of State or in accordance with a general authorisation given by him.

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- (4) A consent or authorisation under subsection (3) of this section may be given subject to such conditions as the Secretary of State thinks fit.
- (5) Nothing in this section authorises a police authority to provide any financial assistance by—
  - (a) making a grant or loan,
  - (b) giving a guarantee or indemnity, or
  - (c) investing by acquiring share or loan capital.
- (6) A police authority may make charges for advice or assistance provided by it under this section.
- (7) In its application in relation to the metropolitan police this section shall apply—
  - (a) as if the power conferred by subsection (1) were conferred on the Commissioner of Police of the Metropolis (and accordingly as if the references in subsections (1)(b) and (2) to a police authority were omitted), and
  - (b) as if in subsection (6) the reference to a police authority were a reference to the Receiver for the Metropolitan Police District.
- (8) The provisions of this section are without prejudice to the Police (Overseas Service) Act 1945 and section 10 of the Overseas Development and Co-operation Act 1980.”

## 14 Alteration of police areas

For section 21 of the 1964 Act there shall be substituted—

### “21 Power to alter police areas by order

- (1) The Secretary of State may by order make alterations in police areas in England and Wales other than the City of London police area.
- (2) The alterations that may be made by an order under subsection (1) of this section include alterations that result in a reduction or an increase in the number of police areas, but not alterations that result in the abolition of the metropolitan police district.
- (3) The Secretary of State shall not exercise his power under subsection (1) of this section to make alterations unless either—
  - (a) he has received a request to make the alterations from the police authority for each of the areas (other than the metropolitan police district) affected by them, or
  - (b) it appears to him to be expedient to make the alterations in the interests of efficiency or effectiveness.
- (4) The Secretary of State shall exercise his power to make orders under this section in such a way as to ensure that none of the following areas—
  - (a) a county in which there are no district councils,
  - (b) a district in any other county,
  - (c) a county borough in Wales, and
  - (d) a London borough,

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is divided between two or more police areas.

- (5) Subsection (4) shall not have effect so as to prevent the maintenance of any part of the boundary of the metropolitan police district as it exists at the commencement of section 1 of the Police and Magistrates' Courts Act 1994.

### **21A Alteration of Welsh police areas on local government reorganisation**

- (1) The Secretary of State shall by order made before 1st April 1996 make such alterations to police areas in Wales as he considers necessary or expedient in connection with the reorganisation of local government in Wales taking place on that date.
- (2) The alterations that may be made by an order under subsection (1) of this section include alterations that result in a reduction or an increase in the number of police areas, but not alterations that result in the division of any county or county borough between two or more police areas.
- (3) The Secretary of State shall make an order under subsection (1) of this section only after he has consulted every body within the following paragraphs which is in existence when the order is made—
- (a) the police authorities established under section 3 of this Act for the police areas altered by the order;
  - (b) the police authorities which are to be superseded by the police authorities mentioned in paragraph (a) of this subsection;
  - (c) the county councils which—
    - (i) are the councils of counties wholly or partly within the police areas altered by the order, and
    - (ii) are to cease to exist on 1st April 1996 by virtue of the Local Government (Wales) Act 1994;
  - (d) the councils of the counties and county boroughs established by virtue of that Act which are wholly or partly within the police areas altered by the order;
- and such other persons as he considers appropriate.

### **21B Objections to alterations proposed by Secretary of State**

- (1) Before making an order under section 21 of this Act by virtue of paragraph (b) of subsection (3) of that section, the Secretary of State shall give notice of his proposal to—
- (a) the police authority for every area (other than the metropolitan police district) that he proposes to alter,
  - (b) the council of every county, district, county borough or London borough wholly or partly within any area (other than the metropolitan police district) that he proposes to alter,
  - (c) the council of every London borough, county or district all or part of which would under the proposal be brought into or left out of the metropolitan police district, and
  - (d) such other persons as he considers appropriate.
- (2) A notice under subsection (1) of this section shall—

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- (a) specify the proposed alterations and describe the general nature of any related provisions proposed to be included in the order,
  - (b) set out the Secretary of State's reasons for proposing the alterations, and
  - (c) specify a date before which any objections to the proposals are to be delivered to the Secretary of State.
- (3) The date specified under subsection (2)(c) of this section shall fall after the end of the period of four months beginning with the date of the notice.
- (4) Where objections have been duly delivered to the Secretary of State by a person notified under subsection (1) of this section, the Secretary of State shall before making the order under section 21 of this Act—
- (a) consider the objections, and
  - (b) give to that person a further notice stating whether he accepts the objections and, if he does not, giving his reasons.
- (5) Where the Secretary of State has given a notice under subsection (1) of this section specifying proposed alterations, the provisions of an order making the alterations may be inconsistent with the notice so far as it describes the general nature of the provisions, and may contain provisions not referred to in the notice.

### **21C Orders altering police areas: supplementary provisions**

- (1) The power to make orders under section 21 or 21A of this Act includes power to make such supplementary and transitional provision as the Secretary of State thinks necessary or expedient, including—
- (a) provision as to the membership of a police authority;
  - (b) provision for the transfer of property, rights and liabilities;
  - (c) provision for the transfer of members of police forces and other persons;
  - (d) provision as to pending legal proceedings.
- (2) Without prejudice to subsection (1) of this section, the power to make orders under section 21 or 21A of this Act includes power—
- (a) to amend Schedule 1A to this Act and section 76 of the London Government Act 1963 (extent of metropolitan police district), and
  - (b) to amend any other enactment, and any instrument made under any enactment, where the amendment is consequential on any provision of the order.
- (3) No order shall be made under section 21 of this Act by virtue of paragraph (b) of subsection (3) of that section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (4) An order to which subsection (3) of this section applies, and which would apart from this subsection be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, shall proceed in that House as if it were not such an instrument.
- (5) A statutory instrument containing an order under section 21 or 21A of this Act, other than an order to which subsection (3) of this section applies, shall

be subject to annulment in pursuance of a resolution of either House of Parliament.”

## **15 Functions of Secretary of State**

After section 28 of the 1964 Act there shall be inserted—

### **“28A Setting of objectives for police authorities**

- (1) The Secretary of State may by order determine objectives for the policing of the areas of all police authorities established under section 3 of this Act.
- (2) Before making an order under this section the Secretary of State shall consult—
  - (a) persons whom he considers to represent the interests of police authorities established under section 3 of this Act, and
  - (b) persons whom he considers to represent the interests of chief constables of forces maintained by those authorities.
- (3) A statutory instrument containing an order under this section shall be laid before Parliament after being made.

### **28B Setting of performance targets**

- (1) Where an objective has been determined under section 28A of this Act, the Secretary of State may direct police authorities to establish levels of performance (“performance targets”) to be aimed at in seeking to achieve the objective.
- (2) A direction under this section may be given to all police authorities established under section 3 of this Act or to one or more particular authorities.
- (3) A direction given under this section may impose conditions with which the performance targets must conform, and different conditions may be imposed for different authorities.
- (4) The Secretary of State shall arrange for any direction given under this section to be published in such manner as he thinks fit.

### **28C Codes of practice**

- (1) The Secretary of State may issue codes of practice relating to the discharge by police authorities established under section 3 of this Act of any of their functions.
- (2) The Secretary of State may from time to time revise the whole or part of any code of practice issued under this section.
- (3) The Secretary of State shall lay before Parliament a copy of any code of practice, and of any revision of a code of practice, issued by him under this section.

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### **28D Power to give directions to police authorities after adverse reports**

- (1) The Secretary of State may at any time require the inspectors of constabulary to carry out, for the purposes of this section, an inspection under section 38 of this Act of any police force maintained under section 2 of this Act.
- (2) Where a report made to the Secretary of State under section 38 of this Act on an inspection carried out for the purposes of this section states—
  - (a) that, in the opinion of the person making the report, the force inspected is not efficient or not effective, or
  - (b) that in his opinion, unless remedial measures are taken, the force will cease to be efficient or will cease to be effective,
 the Secretary of State may direct the police authority responsible for maintaining the force to take such measures as may be specified in the direction.”

## **16 Reports from police authorities**

After section 29 of the 1964 Act there shall be inserted—

### **“29A Reports from police authorities**

- (1) A police authority shall, whenever so required by the Secretary of State, submit to the Secretary of State a report on such matters connected with the discharge of the authority’s functions, or otherwise with the policing of its area, as may be specified in the requirement.
- (2) A requirement under subsection (1) of this section may specify the form in which a report is to be given.
- (3) The Secretary of State may arrange, or require the police authority to arrange, for a report under this section to be published in such manner as he thinks fit.”

## **17 Police grant and other grants**

For section 31 of the 1964 Act there shall be substituted—

### **“31 Police grant**

- (1) Subject to the following provisions of this section, the Secretary of State shall for each financial year make grants for police purposes to—
  - (a) police authorities for areas other than the metropolitan police district, and
  - (b) the Receiver for the Metropolitan Police District;
 and in those provisions references to police authorities shall be taken as including references to the Receiver.
- (2) For each financial year the Secretary of State shall with the approval of the Treasury determine—
  - (a) the aggregate amount of grants to be made under this section, and
  - (b) the amount of the grant to be made to each authority;

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and any determination may be varied by further determinations under this subsection.

- (3) The Secretary of State shall prepare a report setting out any determination under subsection (2) of this section, and stating the considerations which he took into account in making the determination.
- (4) In determining the allocation among police authorities of the whole or any part of the aggregate amount of grants, the Secretary of State may exercise his discretion by applying such formulae or other rules as he considers appropriate.
- (5) The considerations which the Secretary of State takes into account in making a determination under subsection (2) of this section, and the formulae and other rules referred to in subsection (4), may be different for different authorities or different classes of authority.
- (6) A copy of every report prepared under subsection (3) of this section shall be laid before the House of Commons, and no payment of grant shall be made unless the report setting out the determination of its amount has been approved by resolution of that House.
- (7) A grant to a police authority under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may with the approval of the Treasury determine; and any such time may fall within or after the financial year concerned.
- (8) Where in consequence of a further determination under subsection (2) of this section the amount of an authority's grant is less than the amount already paid to it for the year concerned, a sum equal to the difference shall be paid by the authority to the Secretary of State on such day as he may specify; but no sum shall be payable by an authority under this subsection unless the report setting out the further determination has been approved by resolution of the House of Commons.

### **31A Grants for capital expenditure**

- (1) The Secretary of State may make grants in respect of capital expenditure incurred (or to be incurred) for police purposes by—
  - (a) police authorities for areas other than the metropolitan police district, and
  - (b) the Receiver for the Metropolitan Police District.
- (2) Grants under this section may be made either unconditionally or subject to conditions.
- (3) The Secretary of State shall exercise his powers under this section only with the approval of the Treasury.

### **31B Grants for expenditure on safeguarding national security**

- (1) The Secretary of State may make grants in respect of expenditure incurred (or to be incurred) for police purposes by—
  - (a) police authorities for areas other than the metropolitan police district, and

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(b) the Receiver for the Metropolitan Police District,  
in connection with safeguarding national security.

- (2) Grants under this section may be made either unconditionally or subject to conditions.
- (3) The Secretary of State shall exercise his powers under this section only with the approval of the Treasury.”

## **18 Regulations for police forces**

(1) Section 33 of the 1964 Act (regulations for the administration etc. of police forces) shall be amended as follows.

(2) In subsection (2) (which lists certain matters with respect to which regulations may be made) for paragraph (e) (discipline) there shall be substituted—

“(e) the conduct, efficiency and effectiveness of members of police forces and the maintenance of discipline;”.

(3) After that subsection there shall be inserted—

“(3) Without prejudice to the powers conferred by this section, regulations under this section shall—

(a) establish, or make provision for the establishment of, procedures for cases in which a member of a police force may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution, and

(b) make provision for securing that any case in which a senior officer may be dismissed or dealt with in any of the other ways mentioned in paragraph (a) of this subsection is decided—

(i) where he is an officer of the metropolitan police force, by the Commissioner of Police of the Metropolis, and

(ii) where he is an officer of any other force, by the police authority which maintains the force or by a committee of that authority.

For the purposes of this subsection “senior officer” means a member of a police force holding a rank above that of superintendent.

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

(a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers or other persons, or

(b) authorise or require the delegation by any person of functions conferred on him by or under the regulations.”

(4) After subsection (4) there shall be inserted—

“(4A) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.”

(5) In subsection (5) the words “and may” onwards shall be omitted.



## **19 Appeals against dismissal etc**

- (1) For section 37 of the 1964 Act (disciplinary appeals to Secretary of State) there shall be substituted—

### **“37 Appeals against dismissal etc**

- (1) A member of a police force who is dismissed, required to resign or reduced in rank by a decision taken in proceedings under regulations made in accordance with subsection (3) of section 33 of this Act may appeal to a police appeals tribunal against the decision except where he has a right of appeal to some other person; and in that case he may appeal to a police appeals tribunal from any decision of that other person as a result of which he is dismissed, required to resign or reduced in rank.
- (2) Where a police appeals tribunal allows an appeal it may, if it considers that it is appropriate to do so, make an order dealing with the appellant in a way—
- (a) which appears to the tribunal to be less severe than the way in which he was dealt with by the decision appealed against, and
  - (b) in which he could have been dealt with by the person who made that decision.
- (3) The Secretary of State may make rules as to the procedure on appeals to police appeals tribunals under this section.
- (4) Rules made under this section may make provision for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents, and may, in particular, apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the rules.
- (5) A statutory instrument containing rules made under this section shall be laid before Parliament after being made.
- (6) Schedule 5 to this Act shall have effect in relation to appeals under this section.”
- (2) For Schedule 5 to the 1964 Act there shall be substituted the Schedule set out in Schedule 3 to this Act.

## **20 Inspectors of constabulary**

- (1) Section 38 of the 1964 Act (appointment and functions of inspectors of constabulary) shall be amended as follows.
- (2) In subsection (2) for the word “efficiency” onwards there shall be substituted the words “efficiency and effectiveness of, every police force maintained for a police area”.
- (3) In subsection (3) after the word “efficiency” there shall be inserted the words “and effectiveness”.

## **21 Reports from inspectors of constabulary**

After section 38 of the 1964 Act there shall be inserted—

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### **“38A Publication of reports**

- (1) Subject to subsection (2) of this section, the Secretary of State shall arrange for any report received by him under section 38(2) of this Act to be published in such manner as he thinks fit.
- (2) The Secretary of State may exclude from publication under subsection (1) of this section any part of a report if, in his opinion, the publication of that part—
  - (a) would be against the interests of national security, or
  - (b) might jeopardise the safety of any person.
- (3) The Secretary of State shall send a copy of the published report—
  - (a) (except where he is himself the police authority) to the police authority maintaining the police force to which the report relates, and
  - (b) to the chief officer of police of that police force.
- (4) The police authority shall invite the chief officer of police to submit comments on the published report to the authority before such date as it may specify.
- (5) The police authority shall prepare comments on the published report and shall arrange for—
  - (a) its comments,
  - (b) any comments submitted by the chief officer of police in accordance with subsection (4) of this section, and
  - (c) any response which the authority has to the comments submitted by the chief officer,
 to be published in such manner as the authority thinks fit.
- (6) The police authority (except where it is the Secretary of State) shall send a copy of any document published under subsection (5) of this section to the Secretary of State.”

## **22 Assistant inspectors and staff officers**

In section 39 of the 1964 Act for subsection (1) (appointment of assistant inspectors of constabulary and staff officers) there shall be substituted—

“(1) The Secretary of State may appoint assistant inspectors of constabulary.

(1A) Members of a police force may be appointed by the Secretary of State to be assistant inspectors of constabulary or to be staff officers to the inspectors of constabulary.”

## **23 Common services**

For section 41 of the 1964 Act there shall be substituted—

### **“41 Common services**

- (1) The Secretary of State may provide and maintain, or may contribute to the provision or maintenance of, such organisations, facilities and services as he

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considers necessary or expedient for promoting the efficiency or effectiveness of the police.

- (2) Charges may be made for the use of facilities and services provided by the Secretary of State (or by organisations provided or maintained by him) under subsection (1) of this section.
- (3) The Secretary of State may by regulations make provision for requiring all police forces in England and Wales to use specified facilities or services, or facilities or services of a specified description, (whether or not provided under subsection (1) of this section) if he considers that it would be in the interests of the efficiency or effectiveness of the police for them to do so.
- (4) Before making regulations under this section, the Secretary of State shall consult—
  - (a) persons whom he considers to represent the interests of police authorities, and
  - (b) persons whom he considers to represent the interests of chief officers of police.”

## **24 Grants by local authorities**

Before section 54 of the 1964 Act there shall be inserted—

### **“53A Grants by local authorities**

- (1) The council of a county, district, county borough or London borough may make grants to any police authority established under section 3 of this Act whose police area falls wholly or partly within the county, district, county borough or borough.
- (2) The council of a London borough, county, or district which falls wholly or partly within the metropolitan police district may make grants for police purposes to the Receiver for the Metropolitan Police District.
- (3) Grants under this section may be made unconditionally or, with the agreement of the chief officer of police for the police area concerned, subject to conditions.
- (4) This section applies to the Council of the Isles of Scilly as it applies to a county council.”

## **25 Acceptance of gifts and loans**

After section 53A of the 1964 Act there shall be inserted—

### **“53B Acceptance of gifts and loans**

- (1) A police authority may, in connection with the discharge of any of its functions, accept gifts of money, and gifts or loans of other property, on such terms as the authority thinks fit.
- (2) The terms on which gifts or loans are accepted under subsection (1) of this section may include terms providing for the commercial sponsorship of any activity of the police authority or of the police force maintained by it.

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- (3) In the application of this section to the metropolitan police, for the references to the police authority there shall be substituted references to the Receiver for the Metropolitan Police District.”

## 26 Police officers engaged on service outside their force

After section 53B of the 1964 Act there shall be inserted—

### “53C Police officers engaged on service outside their force

- (1) For the purposes of this section “relevant service” means—
- (a) temporary service on which a person is engaged in accordance with arrangements made under section 15A(2) of this Act,
  - (b) central service (as defined in section 43(5) of this Act) on which a person is engaged with the consent of the appropriate authority,
  - (c) service the expenses of which are payable under section 1(1) of the Police (Overseas Service) Act 1945, on which a person is engaged with the consent of the appropriate authority,
  - (d) service in the Royal Ulster Constabulary, on which a person is engaged with the consent of the Secretary of State and the appropriate authority, or
  - (e) service pursuant to an appointment under section 10 of the Overseas Development and Co-operation Act 1980, on which a person is engaged with the consent of the appropriate authority.
- (2) In subsection (1) of this section “appropriate authority” has the same meaning as in section 43 of this Act.
- (3) Subject to subsections (4) to (7) of this section, a member of a police force engaged on relevant service shall be treated as if he were not a member of that force during that service; but, except where a pension, allowance or gratuity becomes payable to him out of money provided by Parliament by virtue of regulations made under the Police Pensions Act 1976—
- (a) he shall be entitled at the end of the period of relevant service to revert to his police force in the rank in which he was serving immediately before the period began, and
  - (b) he shall be treated as if he had been serving in that force during the period of relevant service for the purposes of any scale prescribed by or under regulations made under section 33 of this Act fixing his rate of pay by reference to his length of service.
- (4) In the case of relevant service to which subsection (1)(c) of this section refers, the reference in subsection (3) to regulations made under the Police Pensions Act 1976 shall be read as including a reference to regulations made under section 1 of the Police (Overseas Service) Act 1945.
- (5) A person may, when engaged on relevant service, be promoted in his police force as if he were serving in that force; and in any such case—
- (a) the reference in paragraph (a) of subsection (3) of this section to the rank in which he was serving immediately before the period of relevant service began shall be construed as a reference to the rank to which he is promoted, and

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- (b) for the purposes mentioned in paragraph (b) of that subsection he shall be treated as having served in that rank from the time of his promotion.
- (6) A member of a police force who—
- (a) has completed a period of relevant service within paragraph (a), (b) or (e) of subsection (1) of this section, or
  - (b) while engaged on relevant service within paragraph (c) of that subsection, is dismissed from that service by the disciplinary authority established by regulations made under section 1 of the Police (Overseas Service) Act 1945 or is required to resign as an alternative to dismissal, or
  - (c) while engaged on relevant service within paragraph (d) of that subsection, is dismissed from that service or is required to resign as an alternative to dismissal,
- may be dealt with under regulations made in accordance with subsection (3) of section 33 of this Act for anything done or omitted while he was engaged on that service as if that service had been service in his police force; and section 37 of this Act shall apply accordingly.
- (7) For the purposes of subsection (6) of this section a certificate certifying that a person has been dismissed, or required to resign as an alternative to dismissal, shall be evidence of the fact so certified, if—
- (a) in a case within paragraph (b) of that subsection, it is given by the disciplinary authority referred to in that paragraph, or
  - (b) in a case within paragraph (c) of that subsection, it is given by or on behalf of the Chief Constable of the Royal Ulster Constabulary, or such other person or authority as may be designated for the purposes of this subsection by order of the Secretary of State.”