



Police and Magistrates' Courts Act 1994

1994 CHAPTER 29

PART I

POLICE

CHAPTER II

OTHER PROVISIONS ABOUT THE POLICE

Financial provisions

27 Precepts

- (1) In section 39 of the Local Government Finance Act 1992, in subsection (1) (list of major precepting authorities) for paragraphs (b) and (c) there shall be substituted—
 - “(b) a police authority established under section 3 of the Police Act 1964;”.
- (2) In section 54 of that Act (designation of authorities whose budget requirements are to be limited), in subsection (3) (classes of authorities to be treated on same principles) for paragraph (f) there shall be substituted—
 - “(f) police authorities established under section 3 of the Police Act 1964;”.

28 Approval of decisions about precepts

- (1) A police authority established under section 3 of the 1964 Act shall not—
 - (a) issue a precept under section 40 of the Local Government Finance Act 1992, or
 - (b) make the calculations required by section 43 of that Act,except by a decision of the authority which complies with subsection (2) below.
- (2) A decision complies with this subsection only if the members approving it—
 - (a) constitute at least half of the total membership at the time of the decision, and

- (b) include more than half of the members (at that time) appointed under paragraph 2 of Schedule 1B to the 1964 Act (local authority appointees).

29 Directions as to minimum budget

- (1) The power of the Secretary of State to give directions under section 28D of the 1964 Act to a police authority established under section 3 of that Act shall include power to direct the authority that the amount of its budget requirement for any financial year (under section 43 of the Local Government Finance Act 1992) shall not be less than an amount specified in the direction.
- (2) The power exercisable by virtue of subsection (1) above, and any direction given under that power, are subject to any limitation imposed under Chapter V of Part I of the Local Government Finance Act 1992.
- (3) A direction shall not be given by virtue of subsection (1) above in relation to a financial year at any time after the end of the preceding December.
- (4) Where the Secretary of State gives a direction to a police authority under subsection (1) above any precept issued or calculation made by the authority under Part I of the Local Government Finance Act 1992 which is inconsistent with the direction shall be void.

30 Revenue accounts and capital finance

In section 39 of the Local Government and Housing Act 1989, in subsection (1) (authorities to which provisions about revenue accounts and capital finance apply) for paragraph (j) there shall be substituted—

“(j) a police authority established under section 3 of the Police Act 1964;”.

31 Financial administration

In section 111 of the Local Government Finance Act 1988, in subsection (2) (definition of “relevant authority” for the purposes of provisions regulating financial administration) for paragraph (e) there shall be substituted—

“(e) a police authority established under section 3 of the Police Act 1964;”.

32 Initial financing of new police authorities

- (1) The Secretary of State may make grants to any police authority established under section 3 of the 1964 Act in respect of expenditure incurred (or to be incurred) by it at any time before the beginning of its first precepting year.
- (2) Without prejudice to any other powers to borrow, a police authority established under section 3 of the 1964 Act may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which it may require for the purpose of meeting its expenditure before the beginning of its first precepting year.
- (3) The sums borrowed by an authority under this section shall not exceed such amount as the Secretary of State may determine, and shall be repaid before the end of its first precepting year.
- (4) In this section the “first precepting year” of a police authority is the financial year in which revenue is first received by it as a result of a precept issued by it under Part I of the Local Government Finance Act 1992.

33 Validation of past grants

- (1) Any deductions made from grants under section 31 of the 1964 Act for any period ended after 31st March 1980 and before the passing of this Act on account of common services expenditure shall be deemed to have been made in accordance with that section and any order made under it.
- (2) In subsection (1) above “common services expenditure” means expenditure incurred by the Secretary of State under—
 - (a) section 41 (common services) of the 1964 Act, or
 - (b) section 44 (Police Federations) of that Act, or
 - (c) section 4 of the Police Act 1969 (Police Council for the United Kingdom) or section 1 of the Police Negotiating Board Act 1980.

Complaints against and conduct of police officers

34 Reference of matters other than complaints to Complaints Authority

In section 88 of the Police and Criminal Evidence Act 1984 (references of matters other than complaints to the Complaints Authority), in paragraph (a) for the words “an offence against discipline” there shall be substituted the words “behaved in a manner which would justify disciplinary proceedings”.

35 Steps to be taken after investigation of complaint

- (1) Section 90 of the Police and Criminal Evidence Act 1984 (steps to be taken after investigation: general) shall be amended as follows.
- (2) In subsection (3), paragraph (ii) and the word “and” immediately preceding it shall be omitted.
- (3) In subsection (4), paragraph (b) and the word “and” immediately preceding it shall be omitted.
- (4) In subsection (5)—
 - (a) for the words “Subject to section 91(1) below” there shall be substituted the words “In such cases as may be prescribed by regulations made by the Secretary of State”, and
 - (b) for the words “preferred disciplinary charges” onwards there shall be substituted the words “brought (or proposes to bring) disciplinary proceedings in respect of the conduct which was the subject of the investigation and, if not, giving his reasons”.
- (5) Subsection (6) shall be omitted.
- (6) In subsection (7)—
 - (a) for the words “Subject to section 91(1) below” there shall be substituted the words “In such cases as may be prescribed by regulations made by the Secretary of State”, and
 - (b) for the words “preferred disciplinary charges” onwards there shall be substituted the words “brought (or proposes to bring) disciplinary proceedings in respect of the conduct which was the subject of the investigation and, if not, giving his reasons”.

- (7) Subsection (8) shall be omitted.
- (8) In subsection (9) for the words “the chief officer” onwards there shall be substituted the words “then, if the chief officer is required by virtue of regulations under subsection (5) or (7) above to send the Authority a memorandum, he shall at the same time send them a copy of the complaint, or of the record of the complaint, and a copy of the report of the investigation”.
- (9) In subsection (10)—
- (a) in paragraph (a) for the words “prefer disciplinary charges” onwards there shall be substituted the words “bring disciplinary proceedings, it shall be his duty to bring and proceed with them; and”, and
 - (b) in paragraph (b) for the words “preferred such charges” there shall be substituted the words “brought such proceedings”.

36 Powers of Complaints Authority as to disciplinary proceedings

- (1) Section 93 of the Police and Criminal Evidence Act 1984 (powers of Complaints Authority as to disciplinary charges) shall be amended as follows.
- (2) In subsection (1) for the words “preferred disciplinary charges” onwards there shall be substituted the words “brought disciplinary proceedings or does not propose to do so, the Authority may recommend him to bring such proceedings”.
- (3) In subsection (2) for the words “withdraw charges which he has preferred” there shall be substituted the words “discontinue disciplinary proceedings that he has brought”.
- (4) In subsection (3) for the words “prefer such charges” onwards there shall be substituted the words “bring disciplinary proceedings, they may direct him to do so”.
- (5) In subsection (5) for the words “prefer and proceed with charges specified in” there shall be substituted the words “comply with”.
- (6) For subsection (6) there shall be substituted—
- “(6) The Authority may withdraw a direction given under this section.”
- (7) For subsections (7) and (8) there shall be substituted—
- “(7) A chief officer shall—
- (a) advise the Authority of what action he has taken in response to a recommendation or direction under this section, and
 - (b) furnish the Authority with such other information as they may reasonably require for the purpose of discharging their functions under this section.”

37 Repeal of certain provisions about discipline

The following provisions of the Police and Criminal Evidence Act 1984 shall cease to have effect—

- (a) section 67(8) (failure to comply with a code of practice is a disciplinary offence);
- (b) section 92 (powers of Complaints Authority to direct reference of reports etc. to Director of Public Prosecutions);

Status: This is the original version (as it was originally enacted).

- (c) section 94 (disciplinary tribunals);
- (d) section 97(4) (review of complaints procedure and reports by Complaints Authority);
- (e) section 101 (discipline regulations);
- (f) in section 104, subsections (1) and (2) (which prevent a police officer convicted or acquitted of a criminal offence being charged with an equivalent disciplinary offence).

38 Saving for certain complaints procedures

The amendment, by any provision of this Act, of Part IX of the Police and Criminal Evidence Act 1984 shall not affect any procedures established by virtue of section 96 of that Act (constabularies maintained by authorities other than police authorities) before the amendment comes into force.

Reorganisation of local government

39 Police areas in England: alterations under Local Government Act 1992

- (1) The Local Government Act 1992 shall be amended as follows.
- (2) In section 14(5) (matters on which Local Government Commission to make recommendations) after paragraph (d) there shall be added—
 - “(e) whether, in connection with any recommended structural or boundary change, there should be any change in police areas (including any change resulting in a reduction or increase in the number of police areas)”.
- (3) In section 15 (procedure on a review) in subsections (3)(c) and (4)(c) (duty to deposit draft and final recommendations with affected councils) after the word “council” there shall be inserted the words “or police authority”.
- (4) In section 17 (implementation of recommendations), in subsection (3)(g) for the words “and election” there shall be substituted the words “, election and membership”.
- (5) After subsection (5) of section 17 there shall be added—
 - “(6) The Secretary of State shall exercise his power to make orders under this section in relation to police areas 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, and
 - (c) a London borough,is divided between two or more police areas; but this subsection 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.”
- (6) In section 18, subsection (2) and paragraph (a) of subsection (4) shall cease to have effect.

Status: This is the original version (as it was originally enacted).

- (7) In section 19(2) (provision that may be made by regulations), in paragraph (a) after the words “local authority” in each place where they occur there shall be inserted the words “or police authority”.

40 Police areas in Wales: alterations under Local Government Act 1972

- (1) The Local Government Act 1972 shall be amended as follows.
- (2) In section 54(1) (changes that may be proposed by Welsh Local Government Boundary Commission) after paragraph (e) there shall be added—
- “(f) a change in police areas (including a change resulting in a reduction or increase in the number of police areas) in connection with a change in local government areas”.
- (3) In section 58 (implementation of Commission’s reports) after subsection (3) there shall be inserted—
- “(3A) The Secretary of State shall exercise his power to make orders under this section in relation to police areas in such a way as to ensure that no county or county borough is divided between two or more police areas.”
- (4) In section 60 (procedure for reviews)—
- (a) in subsection (2)(a)(i) (duty to consult local authorities etc.) after the word “area” there shall be inserted the words “and the police authority for any police area”;
- (b) in subsection (2)(c) (duty to deposit documents with councils, etc.) after the words “principal council” there shall be inserted the words “or police authority”, and after the word “such” there shall be inserted the word “principal”;
- (c) in subsection (5)(b) (further duty to deposit documents with councils, etc.) after the words “principal council” there shall be inserted the words “or police authority”, and after the word “such” there shall be inserted the word “principal”.
- (5) In section 67 (provision that may be made by orders), in subsection (5)(b) for the words “and election” there shall be substituted the words “, election and membership”.

Miscellaneous

41 Metropolitan police: assistant commissioners

In section 2 of the Metropolitan Police Act 1856 (power to appoint six assistant commissioners of police)—

- (a) the word “six”, and
- (b) the words “and upon every vacancy” onwards,
- shall be omitted.

42 Application of Firearms Act 1968 to civilian staff

In section 54 of the Firearms Act 1968 (application of Act to Crown servants) for subsection (3) (which provides that members of police forces are deemed to be in the service of Her Majesty) there shall be substituted—

“(3) For the purposes of this section and of any rule of law whereby any provision of this Act does not bind the Crown, a person shall be deemed to be in the service of Her Majesty if he is—

- (a) a member of a police force, or
- (b) a person employed by a police authority who is under the direction and control of a chief officer of police.”

43 Application to police authorities of enactments relating to local authorities etc

Schedule 4 to this Act (which makes amendments relating to the application of enactments to police authorities, including amendments providing for them to be treated as local authorities for certain purposes) shall have effect.

44 Minor and consequential amendments

Schedule 5 to this Act (which makes minor and consequential amendments relating to the police) shall have effect.

45 Application of certain provisions to new police authorities

- (1) Any relevant legislative provision which, immediately before the passing of this Act, applied to police authorities constituted in accordance with section 2 of the 1964 Act shall, except where the context otherwise requires, apply in the same way to police authorities established under section 3 of the 1964 Act (as substituted by section 2 of this Act).
- (2) Subsection (1) above is subject to any provision to the contrary made by or under this Act.
- (3) For the purposes of subsection (1) above, a provision is a “relevant legislative provision” if it is a provision (other than a provision which applies only to specified police authorities) of an instrument which—
 - (a) was made before the passing of this Act under a public general Act, and
 - (b) is of a legislative character.

46 Interpretation of Part I

In this Part of this Act “the 1964 Act” means the Police Act 1964.