



# Criminal Appeal Act 1995

## 1995 CHAPTER 35

### PART II

#### THE CRIMINAL CASES REVIEW COMMISSION

##### *Supplementary powers*

#### **17 Power to obtain documents etc**

- (1) This section applies where the Commission believe that a person serving in a public body has possession or control of a document or other material which may assist the Commission in the exercise of any of their functions.
- (2) Where it is reasonable to do so, the Commission may require the person who is the appropriate person in relation to the public body—
  - (a) to produce the document or other material to the Commission or to give the Commission access to it, and
  - (b) to allow the Commission to take away the document or other material or to make and take away a copy of it in such form as they think appropriate,and may direct that person that the document or other material must not be destroyed, damaged or altered before the direction is withdrawn by the Commission.
- (3) The documents and other material covered by this section include, in particular, any document or other material obtained or created during any investigation or proceedings relating to—
  - (a) the case in relation to which the Commission's function is being or may be exercised, or
  - (b) any other case which may be in any way connected with that case (whether or not any function of the Commission could be exercised in relation to that other case).
- (4) The duty to comply with a requirement under this section is not affected by any obligation of secrecy or other limitation on disclosure (including any such obligation or limitation imposed by or by virtue of an enactment) which would otherwise prevent

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the production of the document or other material to the Commission or the giving of access to it to the Commission.

## **18 Government documents etc. relating to current or old cases**

- (1) Section 17 does not apply to any document or other material in the possession or control of a person serving in a government department if the document or other material—
  - (a) is relevant to a case to which this subsection applies, and
  - (b) is in the possession or control of the person in consequence of the Secretary of State's consideration of the case.
- (2) Subsection (1) applies to a case if the Secretary of State—
  - (a) is, immediately before the day on which the repeal by this Act of section 17 of the 1968 Act or of section 14 of the 1980 Act comes into force, considering the case with a view to deciding whether to make a reference under that section or whether to recommend the exercise of Her Majesty's prerogative of mercy in relation to a conviction by a magistrates' court, or
  - (b) has at any earlier time considered the case with a view to deciding whether to make such a reference or whether so to recommend.
- (3) The Secretary of State shall give to the Commission any document or other material which—
  - (a) contains representations made to him in relation to any case to which this subsection applies, or
  - (b) was received by him in connection with any such case otherwise than from a person serving in a government department,and may give to the Commission any document or other material which is relevant to any such case but does not fall within paragraph (a) or (b).
- (4) Subsection (3) applies to a case if—
  - (a) the Secretary of State is, immediately before the day on which the repeal by this Act of section 17 of the 1968 Act or of section 14 of the 1980 Act comes into force, considering the case with a view to deciding whether to make a reference under that section or whether to recommend the exercise of Her Majesty's prerogative of mercy in relation to a conviction by a magistrates' court, or
  - (b) the Secretary of State has at any earlier time considered the case with a view to deciding whether to make such a reference, or whether so to recommend, and the Commission at any time notify him that they wish subsection (3) to apply to the case.

## **19 Power to require appointment of investigating officers**

- (1) Where the Commission believe that inquiries should be made for assisting them in the exercise of any of their functions in relation to any case they may require the appointment of an investigating officer to carry out the inquiries.
- (2) Where any offence to which the case relates was investigated by persons serving in a public body, a requirement under this section may be imposed—
  - (a) on the person who is the appropriate person in relation to the public body, or

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- (b) where the public body has ceased to exist, on any chief officer of police or on the person who is the appropriate person in relation to any public body which appears to the Commission to have functions which consist of or include functions similar to any of those of the public body which has ceased to exist.
- (3) Where no offence to which the case relates was investigated by persons serving in a public body, a requirement under this section may be imposed on any chief officer of police.
- (4) A requirement under this section imposed on a chief officer of police may be—
  - (a) a requirement to appoint a person serving in the police force in relation to which he is the chief officer of police, or
  - (b) a requirement to appoint a person serving in another police force selected by the chief officer.
- (5) A requirement under this section imposed on a person who is the appropriate person in relation to a public body other than a police force may be—
  - (a) a requirement to appoint a person serving in the public body, or
  - (b) a requirement to appoint a person serving in a police force, or in a public body (other than a police force) having functions which consist of or include the investigation of offences, selected by the appropriate person.
- (6) The Commission may direct—
  - (a) that a person shall not be appointed, or
  - (b) that a police force or other public body shall not be selected,under subsection (4) or (5) without the approval of the Commission.
- (7) Where an appointment is made under this section by the person who is the appropriate person in relation to any public body, that person shall inform the Commission of the appointment; and if the Commission are not satisfied with the person appointed they may direct that—
  - (a) the person who is the appropriate person in relation to the public body shall, as soon as is reasonably practicable, select another person in his place and notify the Commission of the proposal to appoint the other person, and
  - (b) the other person shall not be appointed without the approval of the Commission.

## **20 Inquiries by investigating officers**

- (1) A person appointed as the investigating officer in relation to a case shall undertake such inquiries as the Commission may from time to time reasonably direct him to undertake in relation to the case.
- (2) A person appointed as an investigating officer shall be permitted to act as such by the person who is the appropriate person in relation to the public body in which he is serving.
- (3) Where the chief officer of an England and Wales police force appoints a member of the Royal Ulster Constabulary as an investigating officer, the member appointed shall have in England and Wales the same powers and privileges as a member of the police force has there as a constable; and where the Chief Constable of the Royal Ulster Constabulary appoints a member of an England and Wales police force as an investigating officer, the member appointed shall have in Northern Ireland the same

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powers and privileges as a member of the Royal Ulster Constabulary has there as a constable.

- (4) The Commission may take any steps which they consider appropriate for supervising the undertaking of inquiries by an investigating officer.
- (5) The Commission may at any time direct that a person appointed as the investigating officer in relation to a case shall cease to act as such; but the making of such a direction shall not prevent the Commission from imposing a requirement under section 19 to appoint another investigating officer in relation to the case.
- (6) When a person appointed as the investigating officer in relation to a case has completed the inquiries which he has been directed by the Commission to undertake in relation to the case, he shall—
  - (a) prepare a report of his findings,
  - (b) submit it to the Commission, and
  - (c) send a copy of it to the person by whom he was appointed.
- (7) When a person appointed as the investigating officer in relation to a case submits to the Commission a report of his findings he shall also submit to them any statements, opinions and reports received by him in connection with the inquiries which he was directed to undertake in relation to the case.

## 21 Other powers

Sections 17 to 20 are without prejudice to the taking by the Commission of any steps which they consider appropriate for assisting them in the exercise of any of their functions including, in particular—

- (a) undertaking, or arranging for others to undertake, inquiries, and
- (b) obtaining, or arranging for others to obtain, statements, opinions and reports.

## 22 Meaning of “public body” etc

- (1) In sections 17, 19 and 20 and this section “public body” means—
  - (a) any police force,
  - (b) any government department, local authority or other body constituted for purposes of the public service, local government or the administration of justice, or
  - (c) any other body whose members are appointed by Her Majesty, any Minister or any government department or whose revenues consist wholly or mainly of money provided by Parliament or appropriated by Measure of the Northern Ireland Assembly.
- (2) In sections 19 and 20 and this section—
  - (a) “police force” includes the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve and any body of constables maintained otherwise than by a police authority,
  - (b) references to the chief officer of police, in relation to the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve, are to the Chief Constable of the Constabulary and, in relation to a police force maintained otherwise than by a police authority, are to the chief constable, and

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- (c) references to an England and Wales police force are to a police force maintained under section 2 of the Police Act 1964, the metropolitan police force or the City of London police force.
- (3) In section 18 and this section—
- (a) references to a government department include a Northern Ireland department and the Office of the Director of Public Prosecutions for Northern Ireland, and
  - (b) “Minister” means a Minister of the Crown as defined by section 8 of the Ministers of the Crown Act 1975 but also includes the head of a Northern Ireland department.
- (4) In sections 17, 19 and 20 “the appropriate person” means—
- (a) in relation to a police force, the chief officer of police,
  - (b) in relation to the Crown Prosecution Service, the Director of Public Prosecutions,
  - (c) in relation to the Office of the Director of Public Prosecutions for Northern Ireland, that Director,
  - (d) in relation to the Serious Fraud Office, the Director of the Serious Fraud Office,
  - (e) in relation to the Inland Revenue, the Commissioners of Inland Revenue,
  - (f) in relation to the Customs and Excise, the Commissioners of Customs and Excise,
  - (g) in relation to any government department not within any of the preceding paragraphs, the Minister in charge of the department, and
  - (h) in relation to any public body not within any of the preceding paragraphs, the public body itself (if it is a body corporate) or the person in charge of the public body (if it is not).
- (5) For the purposes of sections 17, 19 and 20—
- (a) a justices' chief executive or justices' clerk appointed by, or a member of the staff of, a magistrates' courts committee shall be treated as serving in the committee, and
  - (b) a person authorised under section 57 of the Northern Ireland (Emergency Provisions) Act 1991 to exercise the powers conferred by Schedule 5 to that Act shall be treated as if he were serving in a public body and he were the appropriate person in relation to the body.