



Police Act 1996

1996 CHAPTER 16

PART IV

COMPLAINTS, DISCIPLINARY PROCEEDINGS ETC.

CHAPTER II

DISCIPLINARY AND OTHER PROCEEDINGS

88 Liability for wrongful acts of constables.

- (1) The chief officer of police for a police area shall be liable in respect of [^{F1}any unlawful conduct of] constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and accordingly shall [^{F2}, in the case of a tort,] be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid out of the police fund—
 - (a) any damages or costs awarded against the chief officer of police in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
 - (b) any sum required in connection with the settlement of any claim made against the chief officer of police by virtue of this section, if the settlement is approved by the [^{F3}local policing body].
- (3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the chief officer of police; and references in subsections (1) and (2) to the chief officer of police shall be construed accordingly.
- (4) A [^{F4}local policing body] may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—

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- (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for [^{F5}any unlawful conduct of] that person,
 - (b) any costs incurred and not recovered by such a person in such proceedings, and
 - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (5) Subsection (4) applies to a person who is—
- (a) a member of the police force maintained by the [^{F6}local policing body],
 - (b) a constable for the time being required to serve with that force by virtue of section 24 or 98 [^{F7}of this Act ^{F8}...], or
 - (c) a special constable appointed for the [^{F9}local policing body's] police area.
- [^{F10}(5A) This section shall have effect where, by virtue of section 23 or 24 of the Serious Organised Crime and Police Act 2005, a member of the staff of the Serious Organised Crime Agency who is neither a constable nor an employee of the [^{F11}local policing body] is provided to a police force as if—
- (a) any unlawful conduct of his in the performance or purported performance of his functions were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and
 - (b) subsection (4) applied to him in the case of the [^{F11}local policing body] maintaining that force.]
- [^{F12}(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a constable who is a member of a police force as if—
- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor an employee of the [^{F13}local policing body] were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and
 - (b) subsection (4) applied, in the case of the [^{F13}local policing body] maintaining that force, to every member of that team to whom it would not apply apart from this subsection.
- (7) In this section “international joint investigation team” means any investigation team formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under [^{F14}Article 34 of the Treaty on European Union (as it had effect before 1 December 2009) or under Article 87 of the Treaty on the Functioning of the European Union];
 - (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
 - (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.
- (8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F1 Words in s. 88(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), ss. 102\(1\)\(a\)\(2\)\(a\), 105\(2\)-\(5\); S.I. 2002/2306, art. 2\(f\)\(xi\)](#)

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- F2** Words in s. 88(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), **ss. 102(1)(b)(2)(a), 105(2)-(5); S.I. 2002/2306, art. 2(f)(xi)**
- F3** Words in s. 88(2)(b) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 42(2); S.I. 2011/3019, art. 3, Sch. 1**
- F4** Words in s. 88(4) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 42(2); S.I. 2011/3019, art. 3, Sch. 1**
- F5** Words in s. 88(4)(a) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), **ss. 102(4)(5)(a), 105(2)-(5); S.I. 2002/2306, art. 2(f)(xi)**
- F6** Words in s. 88(5)(a) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 42(3)(a); S.I. 2011/3019, art. 3, Sch. 1**
- F7** Words in s. 88(5)(b) inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para. 85; S.I. 1998/354, art. 2(2)(ay)**
- F8** Words in s. 88(5)(b) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 80(2), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(y)**
- F9** Words in s. 88(5)(c) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 42(3)(b); S.I. 2011/3019, art. 3, Sch. 1**
- F10** S. 88(5A) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 80(3); S.I. 2006/378, art. 4(1), Sch. para. 10**
- F11** Words in s. 88(5A) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 42(4); S.I. 2011/3019, art. 3, Sch. 1**
- F12** S. 88(6)-(8) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **ss. 103(1), 105(2)-(5); S.I. 2002/2306, art. 2(f)(xii)**
- F13** Words in s. 88(6) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 42(5); S.I. 2011/3019, art. 3, Sch. 1**
- F14** Words in s. 88(7)(a) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1 (with art. 2(2))**

Modifications etc. (not altering text)

- C1** S. 88 applied (with modifications) (1.1.2000) by S.I. 1999/3272, **art. 3**
- C2** S. 88(1)-(5) modified (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **s. 25(5); S.I. 2004/1572, art. 3(h)**
- C3** S. 88(1) excluded by 1974 c. 37, s. 51A(2D)(2E)(b) (as inserted (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 158(1), 178(1)(a) (with s. 158(5)-(7))**)

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