



Police (Northern Ireland) Act 1998

1998 CHAPTER 32

PART III

THE POLICE FORCE

F118

Textual Amendments

F1 S. 18 repealed (4.11.2001) by 2000 c. 32, s. 78(4), **Sch. 8**; S.R. 2001/396, art. 2, **Sch.**

F219

Textual Amendments

F2 S. 19 repealed (4.11.2001) by 2000 c. 32, s. 78(4), **Sch. 8**; S.R. 2001/396, art. 2, **Sch.**

F320

Textual Amendments

F3 S. 20 repealed (4.11.2001) by 2000 c. 32, s. 78(4), **Sch. 8**; S.R. 2001/396, art. 2, **Sch.**

F421

Status: Point in time view as at 13/04/2006.

Changes to legislation: Police (Northern Ireland) Act 1998, Part III is up to date with all changes known to be in force on or before 27 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments
F4 S. 21 repealed (4.11.2001) by 2000 c. 32, s. 78(4), Sch. 8; S.R. 2001/396, art. 2, Sch.

F5 22

Textual Amendments
F5 S. 22 repealed (4.11.2001) by 2000 c. 32, s. 78(4), Sch. 8; S.R. 2001/396, art. 2, Sch.

F6 23

Textual Amendments
F6 S. 23 repealed (4.11.2001) by 2000 c. 32, s. 78(4), Sch. 8; S.R. 2001/396, art. 2, Sch.

F7 24

Textual Amendments
F7 S. 24 repealed (4.11.2001) by 2000 c. 32, s. 78(4), Sch. 8; S.R. 2001/396, art. 2, Sch.

25 Regulations for [F8Police Service of Northern Ireland].

- (1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government, administration and conditions of service of members of [F8the Police Service of Northern Ireland].
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
 - (a) the ranks to be held by members of [F8the Police Service of Northern Ireland];
 - (b) the qualifications for appointment and promotion of members of [F8the Police Service of Northern Ireland];
 - (c) periods of service on probation;
 - (d) voluntary retirement of members of [F8the Police Service of Northern Ireland];
 - (e) the conduct, efficiency and effectiveness of members of [F8the Police Service of Northern Ireland] and the maintenance of discipline;
 - (f) the suspension or dismissal of members of [F8the Police Service of Northern Ireland] from membership of [F8the Police Service of Northern Ireland] and from the office of constable;
 - (g) the maintenance of personal records of members of [F8the Police Service of Northern Ireland];
 - (h) the duties which are or are not to be performed by members of [F8the Police Service of Northern Ireland];

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- (i) the treatment as occasions of police duty of attendance at meetings of the Police Association and of any body recognised by the Secretary of State for the purposes of section 35;
 - (j) the hours of duty, leave, pay and allowances of members of [^{F8}the Police Service of Northern Ireland];
 - (k) the pensions and gratuities in respect of service as a member of [^{F8}the Police Service of Northern Ireland] (including provision for the recognition for the purposes of such pensions and gratuities of service otherwise than as a member of the police force and for the payment and receipt of transfer values or of other lump sums made for the purpose of creating or restoring rights to such pensions and gratuities); and
 - (l) the issue, use and return of equipment.
- (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 [^{F8}the Police Service of Northern Ireland] 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) is decided by the [^{F9}Board].
- (4) Without prejudice to the powers conferred by this section, regulations under this section shall provide for appeals to an appeals tribunal by members of [^{F8}the Police Service of Northern Ireland] who are dismissed, required to resign or reduced in rank—
 - (a) in a case where there is no right of appeal to any other person, by a decision taken in proceedings under regulations made in accordance with subsection (3); and
 - (b) in a case where there is a right of appeal to another person, by a decision of that person.
- (5) 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)—
 - (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, the [^{F9}Board], the Chief Constable or other persons; or
 - (b) authorise or require the delegation by any person of functions conferred on him by or under the regulations.
- (6) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except^{F10}—
 - (a) as permitted by section 36A of the Police (Northern Ireland) Act 2000; or
 - (b) where the person appointed holds the rank of superintendent or a higher rank.
- (7) Where regulations made in accordance with subsection (2)(a) vary the ranks held by members of [^{F8}the Police Service of Northern Ireland], the regulations may make such amendments as appear to the Secretary of State to be necessary or expedient to any statutory provision (including this Act) containing a reference to any rank held by a member of [^{F8}the Police Service of Northern Ireland].

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- (8) The Secretary of State shall consult both the [^{F9}Board] and the Police Association before making any regulations under this section, other than regulations made by virtue of subsection (2)(j), (k) or (l).

Textual Amendments

- F8** Words in s. 25 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F9** Words in s. 25(3)(b)(5)(a)(8) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(a)**; S.R. 2001/396, art. 2, **Sch.**
- F10** S. 25(6)(a)(b) and word inserted (8.4.2003) by Police (Northern Ireland) Act 2003 (c. 6), s. 24(2)

Modifications etc. (not altering text)

- C1** S. 25 restricted (4.11.2001) by S.I. 1976/1042 (N.I. 15), **art. 84(2)** (as inserted (4.11.2001) by 2000 c. 32, s. 74, **Sch. 5 para. 1(4)**; S.R. 2001/396, art. 2, **Sch.**)
- C2** S. 25 modified (8.9.2003) by The Police (Northern Ireland) Act 1998 (Modification) Order 2003 (S.R. 2003/376), arts. 1(1), 2

Commencement Information

- II** S. 25 partly in force; s. 25 not in force at Royal Assent see s. 75(1); s. 25(1)-(3)(5)-(8) in force at 9.2.1999 by S.R. 1999/48, **art. 3** (with art. 4)

26 Regulations for [^{F11}Police Service of Northern Ireland] Reserve.

- (1) The Secretary of State may make regulations as to the government, administration and conditions of service of reserve constables.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
- the ranks to be held by reserve constables;
 - the appointment and promotion of reserve constables;
 - the retirement of reserve constables;
 - the conduct, efficiency and effectiveness of reserve constables and the maintenance of discipline;
 - the suspension or dismissal of reserve constables from their office;
 - the remuneration and allowances of reserve constables; and
 - the application to reserve constables, subject to such modifications as may be prescribed by the regulations, of any provision made under section 25 or any other statutory provision with respect to pensions [^{F12}or gratuities] payable to or in respect of members of [^{F11}the Police Service of Northern Ireland].
- (3) Without prejudice to the powers conferred by this section, regulations under this section shall establish, or make provision for the establishment of, procedures for cases in which a reserve constable may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.
- (4) Without prejudice to the powers conferred by this section, regulations under this section shall provide for appeals to an appeals tribunal by reserve constables who are dismissed, required to resign or reduced in rank—

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- (a) in a case where there is no right of appeal to any other person, by a decision taken in proceedings under regulations made in accordance with subsection (3); and
 - (b) in a case where there is a right of appeal to another person, by a decision of that person.
- (5) 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 [F13Board], the Chief Constable or other persons; or
 - (b) authorise or require the delegation by any person of functions conferred on him by or under the regulations.
- (6) The Secretary of State shall consult both the [F13Board] and the Police Association before making any regulations under this section.

Textual Amendments

- F11** Words in s. 26(2)(g) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F12** Words in s. 26(2)(g) inserted (23.11.2000) by 2000 c. 32, **ss. 49(5)(a), 79(2)(a)** (with Sch. 7 para. 2)
- F13** Words in s. 26(5)(a)(6) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(a)**; S.R. 2001/396, art. 2, **Sch.**

Modifications etc. (not altering text)

- C3** S. 26 restricted (4.11.2001) by S.I. 1976/1042 (N.I. 15), **art. 84(2)** (as inserted (4.11.2001) by 2000 c. 32, s. 74, **Sch. 5 para. 1(4)**; S.R. 2001/396, art. 2, **Sch.**)
- C4** S. 26(2)(g) amended (23.11.2000) by 2000 c. 32, **ss. 49(5)(b), 79(2)(a)** (with Sch. 7 para. 2)

Commencement Information

- I2** S. 26 partly in force; s. 26 not in force at Royal Assent see s. 75(1), s. 26(1)-(3)(5)(6) in force at 9.2.1999 by S.R. 1999/48, **art. 3** (with art. 4)

27 Members of [F14Police Service of Northern Ireland] engaged on other police service.

- (1) For the purposes of this section “relevant service” means—
- (a) service in a police force in Great Britain, on which a member of [F14the Police Service of Northern Ireland] is engaged with the consent of the Chief Constable and the Secretary of State;
 - [F15(aa) temporary service on which a member of the police force is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 30);]
 - [F16(b)
 - (c) temporary service with the Police Information Technology Organisation on which a member of [F14the Police Service of Northern Ireland] is engaged with the consent of the Chief Constable;
 - [F17(ca) temporary service with the Assets Recovery Agency on which a member of the Police Service of Northern Ireland is engaged with the consent of the Chief Constable;]

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- [^{F18}(cb) seconded service as a member of the staff of the Serious Organised Crime Agency on which a member of the Police Service of Northern Ireland is engaged with the consent of the Chief Constable;]
- (d) temporary service on which a member of [^{F14}the Police Service of Northern Ireland] is engaged in accordance with arrangements under section 8 of this Act;
- (e) temporary service as an inspector of constabulary under section 56 of the ^{M1}Police Act 1996 on which a member of [^{F14}the Police Service of Northern Ireland] is engaged with the consent of the Chief Constable;
- (f) temporary service under the Crown in connection with the provision by the Secretary of State of such organisations and services as are described in section 57 of the ^{M2}Police Act 1996, on which a member of [^{F14}the Police Service of Northern Ireland] is engaged with the consent of the Chief Constable;
- (g) service the expenses of which are payable under section 1(1) of the ^{M3}Police (Overseas Service) Act 1945, on which a member of [^{F14}the Police Service of Northern Ireland] is engaged with the consent of the Chief Constable; ^{F19} . . .
- (h) service pursuant to an appointment under section 10 of the ^{M4}Overseas Development and Co-operation Act 1980, on which a member of [^{F14}the Police Service of Northern Ireland] is engaged with the consent of the Chief Constable [^{F20}, or
- (j) service in connection with the provision by the Secretary of State of assistance under the International Development Act 2001 on which a member of the Police Service of Northern Ireland is engaged with the consent of the Chief Constable.]
- (2) In this section “member of the Police Service of Northern Ireland” does not include the Chief Constable.
- (3) Subject to subsections (4) to (7), a member of [^{F14}the Police Service of Northern Ireland] engaged on relevant service shall be treated as if he were not a member of [^{F14}the Police Service of Northern Ireland] during that service; but, except where a pension, allowance or gratuity becomes payable to him by virtue of regulations under section 25—
- (a) he shall be entitled at the end of the period of relevant service to revert to [^{F14}the Police Service of Northern Ireland] in the rank in which he was serving immediately before that period began; and
- (b) he shall be treated as if he had been serving in [^{F14}the Police Service of Northern Ireland] during the period of relevant service for the purpose of any scale prescribed by or under regulations made under section 25 fixing his rate of pay by reference to his length of service.
- (4) A member of [^{F14}the Police Service of Northern Ireland] may, when engaged on relevant service, be promoted in [^{F14}the Police Service of Northern Ireland], as if he were serving in it; and in any such case—
- (a) the reference in paragraph (a) of subsection (3) 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
- (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.
- (5) A member of [^{F14}the Police Service of Northern Ireland] who—

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- (a) while engaged on relevant service within subsection (1)(a), is dismissed from that service or is required to resign as an alternative to dismissal; or
 - (b) has completed a period of relevant service within [^{F21}subsection (1)(aa), (c), (ca), (cb), (d), (e), (f), (h) or (j)]; or
 - (c) while engaged on relevant service within subsection (1)(g), is dismissed from that service by the disciplinary authority established by regulations made under section 1 of the ^{M5}Police (Overseas Service) Act 1945 or is required to resign as an alternative to dismissal,
may be dealt with under regulations made in accordance with section 25(3) for anything done or omitted while he was engaged on that service as if that service had been service in [^{F14}the Police Service of Northern Ireland].
- (6) For the purposes of subsection (5)(a), 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 it is given by or on behalf of the chief officer of the police force in which that person was engaged in relevant service.
- [^{F22}(6A) Regulations made by virtue of section 25(3) or (4) in relation to a member of the PSNI who has completed a period of relevant service within subsection (1)(d) may provide for a relevant procedure to be treated for the purposes of the regulations as carried out in accordance with procedures for which provision is made by regulations made by virtue of section 25(3).
- (6B) In subsection (6A) “ relevant procedure ” means an investigation, hearing or other procedure carried out in relation to the person concerned in a country or territory outside the United Kingdom in connection with the person’s relevant service.]
- (7) A member of [^{F14}the Police Service of Northern Ireland] engaged on relevant service within subsection [^{F23}(1)(c), (ca) or (cb)]—
- (a) shall continue to be a constable; and
 - (b) shall be treated for the purposes of sections ^{F24}. . . , 32, 33, 35 and 67 of this Act [^{F25}and [^{F26}sections 31A and 32] of the Police (Northern Ireland) Act 2000] as if he were a member of [^{F14}the Police Service of Northern Ireland].
- (8) The Secretary of State shall be liable in respect of [^{F27}any unlawful conduct of] a member of [^{F14}the Police Service of Northern Ireland] engaged on relevant service within subsection (1)(e) or (f) in the performance or purported performance of his functions in like manner as a master is liable in respect of [^{F27}any unlawful conduct of] his servants in the course of their employment, and shall [^{F27}, in the case of a tort,] be treated for all purposes as a joint tortfeasor.
- [^{F28}(9) The preceding provisions of this section apply to a police officer serving in the Police Service of Northern Ireland Reserve as they apply to a police officer serving in the Police Service of Northern Ireland, but with the substitution—
- (a) for references to the Police Service of Northern Ireland of references to the Police Service of Northern Ireland Reserve;
 - (b) for the references in subsection (3) to section 25 of references to section 26; and
 - (c) for the reference in subsection (5) to section 25(3) of a reference to section 26(3).]

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Textual Amendments

- F14** Words in s. 27 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F15** S. 27(1)(aa) inserted (1.4.2004) by Police Reform Act 2002 (c. 30), s. 108(2), **Sch. 7 para. 22(1)**; S.I. 2004/913, art. 2(e)
- F16** S. 27(1)(b) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 114(2)(a)**, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), **Sch. paras. 10, 13(ff)**
- F17** S. 27(1)(ca) inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 34(2)**; S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F18** S. 27(1)(cb) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 114(2)(b)**; S.I. 2006/378, art. 4(1), **Sch. para. 10**
- F19** Word in s. 27(1)(g) repealed (17.6.2002) by 2002 c. 1, s. 19(2), **Sch. 4** (with **Sch. 5 para. 5**); S.I. 2002/1408, art. 2
- F20** S. 27(1)(j) and the word preceding it inserted (17.6.2002) by 2002 c. 1, s. 19(1), **Sch. 3 para. 12(2)** (with **Sch. 5 para. 5**); S.I. 2002/1408, art. 2
- F21** Words in s. 27(5)(b) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 114(3)**; S.I. 2006/378, art. 4(1), **Sch. para. 10**
- F22** S. 27(6A)(6B) inserted (8.4.2003) by Police (Northern Ireland) Act 2003 (c. 6), s. 25
- F23** Words in s. 27(7) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 114(4)**; S.I. 2006/378, art. 4(1), **Sch. para. 10**
- F24** Words in s. 27(7)(b) omitted (4.11.2001) by virtue of 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(c)**; S.R. 2001/396, art. 2, **Sch.**
- F25** Words in s. 27(7)(b) inserted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(c)**; S.R. 2001/396, art. 2, **Sch.**
- F26** Words in s. 27(7)(b) substituted (8.4.2003) by Police (Northern Ireland) Act 2003 (c. 6), s. 20(5)
- F27** Words in s. 27(8) substituted (1.10.2002) by 2002 c. 30, s. 102(1)(2); S.I. 2002/2306, art. 2(f)(xi)
- F28** S. 27(9) added (30.3.2001) by 2000 c. 32, s. 50; S.R. 2001/132, art. 2, **Sch.**

Marginal Citations

- M1** 1996 c. 16.
- M2** 1996 c. 16.
- M3** 1945 c. 17.
- M4** 1980 c. 63.
- M5** 1945 c. 17.

28 The ^{F29}Police Fund].

- (1) The Secretary of State may by regulations provide—
- (a) for the establishment, maintenance and operation of the ^{F29}Police Fund]; and
 - (b) for the payment into that fund of—
 - (i) fines imposed on members of the police force in disciplinary proceedings; and
 - (ii) such other moneys as may be specified in the regulations.
- (2) The Secretary of State shall consult both the ^{F30}Board] and the Police Association before making any regulations under this section.

Status: Point in time view as at 13/04/2006.

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Textual Amendments

- F29** Words in s. 28(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(d)**; S.R. 2001/396, art. 2, **Sch.**
- F30** Words in s. 28(2) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(a)**; S.R. 2001/396, art. 2, **Sch.**

29 Liability for wrongful acts of constables.

- (1) The Chief Constable shall be liable in respect of [^{F31}any unlawful conduct of] members of the police force 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 [^{F31}any unlawful conduct of] his servants in the course of their employment, and accordingly shall [^{F31}, in the case of a tort,] be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid out of funds put at the disposal of the Chief Constable under [^{F32}section 10(5) of the Police (Northern Ireland) Act 2000]—
- any damages or costs awarded against the Chief Constable 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 those proceedings; and
 - any sum required in connection with the settlement of any claim made against the Chief Constable by virtue of this section, if the settlement is approved by the [^{F33}Board].
- (3) The Chief Constable may, in such cases and to such extent as appear to him to be appropriate, pay—
- any damages or costs awarded against a member of the police force in proceedings for [^{F34}any unlawful conduct of] that member;
 - any costs incurred and not recovered by a member of the police force in such proceedings; and
 - any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings, if the settlement is approved by the [^{F33}Board].
- (4) The Chief Constable may make arrangements for the legal representation of any member of the police force in any proceedings mentioned in subsection (3).
- (5) This section applies to persons serving with the [^{F35}the Police Service of Northern Ireland] by virtue of section 98 of the ^{M6}Police Act 1996 or [^{F36}section 23 or 24 of the Serious Organised Crime and Police Act 2005] as it applies to members of the police force.
- [^{F37}(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 the Police Service of Northern Ireland as if 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 Board,
- were unlawful conduct of a constable under the direction and control of the Chief Constable.

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- (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 Article 34 of the Treaty on 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

- F31** Words in s. 29(1) substituted (1.10.2002) by 2002 c. 30, s. 102(1)(2); S.I. 2002/2306, art. 2(f)(xi)
- F32** Words in s. 29(2) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 23(2)(e); S.R. 2001/396, art. 2, Sch.
- F33** Words in s. 29(2)(b)(3)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 23(2)(a); S.R. 2001/396, art. 2, Sch.
- F34** Words in s. 29(3)(a) substituted (1.10.2002) by 2002 c. 30, s. 102(4); S.I. 2002/2306, art. 2(f)(xi)
- F35** By 2000 c. 32, s. 78(1), Sch. 6 para. 23(2)(f) it is provided (4.11.2001) that words in s. 29(5) are substituted; S.R. 2001/396, art. 2, Sch.
- F36** Words in s. 29(5) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 115; S.I. 2006/378, art. 4(1), Sch. para. 10
- F37** S. 29(6)-(8) inserted (1.10.2002) by 2002 c. 30, s. 103(5); S.I. 2002/2306, art. 2(f)(xii)

Modifications etc. (not altering text)

- C5** S. 29 applied (30.3.2001) by 2000 c. 32, s. 41(1)(a)(i); S.R. 2001/132, art. 2, Sch.

Marginal Citations

- M6** 1996 c. 16.

30 Protection of members of the police force in executing warrants.

- (1) No action shall be brought against a member of the police force in respect of any act done in execution of a warrant by reason of—
- (a) any irregularity in the issuing of the warrant; or
 - (b) any lack of jurisdiction in the person who issued it.
- (2) Where any such action is commenced, the judge may, on an application by the defendant supported by an affidavit of facts, order that the proceedings in such action be set aside with or without costs.

31 Property coming into the possession of the police.

- (1) Where any property has come into the possession of the police in connection with their investigation of a suspected offence, a court of summary jurisdiction, on an application under this subsection, may—

Status: Point in time view as at 13/04/2006.

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- (a) make an order for the delivery of the property to the person appearing to the court to be the owner of the property; or
 - (b) where the owner cannot be ascertained, make such order with respect to the property as the court thinks fit.
- (2) An application under subsection (1) in relation to any property may be made—
 - (a) by a member of the police force; or
 - (b) by a person claiming an interest in the property.
- (3) An order under subsection (1) does not affect the right of any person to take, within 6 months from the date of the order, legal proceedings against any person in possession of property delivered by virtue of the order for the recovery of the property; but, on the expiration of that period, the right shall cease.
- (4) The Secretary of State may make regulations for the disposal of property which has come into the possession of the police (whether as mentioned in subsection (1) or otherwise), in cases where—
 - (a) the owner of the property has not been ascertained; and
 - (b) no order of a competent court has been made with respect to the property.
- (5) Regulations under subsection (4) may—
 - (a) authorise the sale of property;
 - (b) authorise the application of any money which has come into the possession of the police as mentioned in that subsection and the proceeds of any such sale as is mentioned in paragraph (a)—
 - (i) to defray expenses incurred under the regulations;
 - (ii) to pay reasonable compensation to persons by whom property has been delivered to the police; and
 - (iii) for such other purposes as may be specified in or determined under the regulations;
 - (c) provide that where, in the case of property other than money—
 - (i) the property has remained in the possession of the police for at least a year;
 - (ii) the police would under the regulations have power to sell the property;
 - (iii) in the opinion of the [F38Board], the property can be used for police purposes; and
 - (iv) [F39the Board] determines, in such manner as may be prescribed by the regulations, that the property is to be retained by, the [F38Board] is to become the owner of the property on the making of the determination or at such later time as the regulations may specify;
 - (d) in relation to property which is in the possession of the police by virtue of Article 11 of the ^{M7}Criminal Justice (Northern Ireland) Order 1994, make (subject to subsection (6)) provision for disposal (including disposal by vesting in the [F38Board]) in cases where no application under subsection (1) by a claimant of the property has been made within 6 months from the date on which the order was made or no such application has succeeded;
 - (e) provide for the publication of determinations under paragraph (c)(iv).
- (6) Regulations under subsection (4) may not provide for the vesting in the [F38Board] of property in relation to which an order has been made under Article 12 of the ^{M8}Criminal Justice (Northern Ireland) Order 1994.

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- (7) Except as provided by subsection (8), property shall not be sold unless it has remained in the possession of the police for at least a year.
- (8) Property may be sold at any time if—
- (a) the property is perishable; or
 - (b) custody of the property would involve unreasonable expense or inconvenience,
- but the proceeds of sale shall not be disposed of unless they have remained in the possession of the police for at least a year.
- (9) Where property is in the possession of the police by virtue of Article 11 of the ^{M9}Criminal Justice (Northern Ireland) Order 1994—
- (a) no application shall be made under subsection (1) by any claimant after the expiration of 6 months from the date on which the order in respect of the property was made under that Article;
 - (b) no such application shall succeed unless the claimant satisfies the court either—
 - (i) that he had not consented to the offender having possession of the property; or
 - (ii) where an order is made under paragraph (1)(a) of that Article, that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that sub-paragraph.

Textual Amendments

- F38** Words in s. 31 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(a)(g)**; S.R. 2001/396, art. 2, **Sch.**
- F39** Words in s. 31(3)(c)(iv) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 23(2)(g)**; S.R. 2001/396, art. 2, **Sch.**

Modifications etc. (not altering text)

- C6** S. 31 excluded (13.4.2006) by **Terrorism Act 2006 (c. 11), ss. 28(7)(b), 39(2)**; S.I. 2006/1013, art. 2(2) (b)

Marginal Citations

- M7** 1994 NI 15.
M8 1994 NI 15.
M9 1994 NI 15.

Status:

Point in time view as at 13/04/2006.

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