STATUTORY INSTRUMENTS

1977 No. 577

POLICE

The Police (Withdrawn, Anonymous Etc. Complaints) Regulations 1977

Laid before Parliament in draft

Made - - - 28th March 1977

Coming into operation in accordance with Regulation 1(2)

In exercise of the powers conferred on me by section 6 of the Police Act 1976(a), and after consulting the Police Advisory Board for England and Wales in accordance with section 46(3) of the Police Act 1964(b) (as extended by section 6(3) of the said Act of 1976), I hereby make the following Regulations, a draft of which has been laid before Parliament and approved by resolution of each House of Parliament.

Citation and operation

- 1.—(1) These Regulations may be cited as the Police (Withdrawn, Anonymous Etc. Complaints) Regulations 1977.
- (2) These Regulations shall come into operation on the day on which sections 2 and 6 of the Poice Act 1976 come into force, that is to say, on the day appointed for the coming into force of those sections by order(c) under section 13(1) of that Act.

Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say:—
 - "the Act of 1964" means the Police Act 1964;
 - "the Act of 1976" means the Police Act 1976;
 - "chief officer" shall be construed as including a reference to a deputy chief officer acting as chief officer and "chief officer concerned" means, in relation to a complaint against a member of a police force, the chief officer of that force;
 - "complaint" means a complaint made on or after the day on which section 2 of the Act of 1976 comes into force and in relation to which the requirements of section 49(1) of the Act of 1964 and of section 2(1) of the Act of 1976 have effect or would have effect but for the provisions of section 2(2)(b) of that Act or of these Regulations; and "copy of a complaint", in the case of a complaint made orally, shall include a copy of the record of the complaint;
 - "complainant" means the originator of a complaint notwithstanding that it was transmitted to the chief officer concerned by some other person or by the Complaints Board or some other body;

- "Complaints Board" means the Police Complaints Board established in pursuance of section 1 of the Act of 1976.
- (2) In these Regulations, unless the context otherwise requires, any reference to a Regulation shall be construed as a reference to a Regulation contained in these Regulations, any reference in a Regulation, or in the Schedule to these Regulations, to a paragraph shall be construed as a reference to a paragraph of that Regulation, or of that Schedule, and any reference in a paragraph to a sub-paragraph shall be construed as a reference to a sub-paragraph of that paragraph.
- (3) The Interpretation Act 1889(a) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Withdrawn Complaints

- 3.—(1) The requirements of section 49 of the Police Act of 1964 (investigation of complaints) are hereby dispensed with as respects a complaint if the chief officer concerned receives from the complainant notification in writing (signed by him or by his solicitor or other authorised agent on his behalf) to the effect either—
 - (a) that he withdraws the complaint, or
 - (b) that he does not wish any further steps to be taken in consequence thereof.
- (2) Subsection (2)(b) of section 2 of the Act of 1976 (which disapplies the provisions of subsection (1) relating to the reference to the Complaints Board of reports where, in accordance with regulations, the complaint has been withdrawn or the complainant has indicated that he does not wish any further steps to be taken) shall have effect if, and only if, the complainant gives to the chief officer concerned such notification as is mentioned in paragraph (1).
- (3) Where a complainant gives such notification as is mentioned in paragraph (1) and it relates to a complaint—
 - (a) which was transmitted to the chief officer concerned by the Complaints Board, or
 - (b) a copy of which has been sent to the Board in pursuance of subsection (1)(a) or (4)(a) of section 2 of the Act of 1976,

the chief officer concerned shall cause a copy of the notification to be sent to the Board.

Complaints which are anonymous, repetitious or incapable of investigation

- 4.—(1) Where the chief officer concerned is of the opinion—
 - (a) that a complaint is an anonymous or repetitious one within the meaning of paragraph 2 or 3 of the Schedule to these Regulations, or that it is not reasonably practicable to complete the investigation of a complaint, within the meaning of paragraph 4 thereof, and
 - (b) that, in all the circumstances, the requirements of section 49 of the Act of 1964 and of section 2(1) and (4) of the Act of 1976 (to the extent that they have not already been satisfied) should be dispensed with,

he may, in accordance with this Regulation, request the Complaints Board to dispense with the said requirements as respects the complaint.

- (2) The request, which shall be made in writing, shall be accompanied by—
 - (a) a copy of the complaint,
 - (b) a memorandum signed by the chief officer concerned explaining why he is of the opinion mentioned in paragraph (1), and
 - (c) where he is of the opinion that the complaint is a repetitious complaint and, as respects the previous complaint, the person then the complainant gave such notification as is mentioned in Regulation 3(1), a copy of that notification unless it has previously been sent to the Complaints Board in pursuance of Regulation 3(3).
- (3) If, after considering a request under this Regulation, the Complaints Board share the opinion of the chief officer concerned, they may dispense with the requirements mentioned in paragraph (1) but they shall not reject his request except after consultation with him.
- (4) The Complaints Board shall, as soon as may be, notify the chief officer concerned, in writing, of their decision on his request and, where they dispense with the requirements mentioned in paragraph (1), shall inform the complainant of their action unless the complaint is an anonymous one or it otherwise appears to them to be not reasonably practicable so to inform him within a period which is reasonable in all the circumstances of the case.

Delegation by chief officer of powers under Regulation 4

- 5.—(1) Subject to paragraph (3), the chief officer concerned may delegate to such an officer as is mentioned in paragraph (2) his power under Regulation 4(1) to make a request to the Complaints Board to dispense with the requirements there mentioned and, where he does so delegate that power, any reference in Regulation 4 or the Schedule to these Regulations to the chief officer concerned shall be taken as a reference to the officer to whom that power is delegated.
 - (2) The said power may be delegated—
 - (a) in the City of London police force, to an assistant commissioner thereof or to a commander thereof acting in the place of an assistant commissioner who is himself either acting in the place of the commissioner or for any reason absent;
 - (b) in the metropolitan police force, to an assistant commissioner or deputy assistant commissioner thereof;
 - (c) in any other police force, to the deputy chief constable or to an assistant chief constable thereof acting in the place of the deputy chief constable who is himself either acting in the place of the chief officer under section 6(1) of the Act of 1964 or for any reason absent.
- (3) The power under Regulation 4(1) to request the Complaints Board to dispense with the requirements there mentioned as respects a complaint shall not, in pursuance of a delegation under paragraph (1), be exercisable by the officer who investigated the complaint in question.

Merlyn Rees,
One of Her Majesty's Principal
Secretaries of State.

Home Office, Whitehall. 28th March 1977.

SCHEDULE

Regulation 4

COMPLAINTS WHICH ARE ANONYMOUS, REPETITIOUS OR INCAPABLE OF INVESTIGATION

- 1.—(1) In this Schedule any reference to an injured person other than the complainant shall have effect only in the case of a complaint against a member of a police force in respect of his conduct towards a person other than the complainant; and, in such a case, any such reference is a reference to that other person.
- (2) In this Schedule any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.
- 2. For the purposes of Regulation 4 a complaint is an anonymous one if, and only if, the complainant discloses (or purports to disclose) neither the name and address of the complainant nor that of any other injured person and it is not reasonably practicable to ascertain such a name and address.
- 3.—(1) For the purposes of Regulation 4 a complaint is a repetitious one if, and only if—
 - (a) it is substantially the same as a previous complaint (whether made by the same or a different complainant) and contains no fresh allegations which significantly affect the account of the conduct complained of, and
 - (b) such action as is referred to in sub-paragraph (2) has been taken as respects the previous complaint.
- (2) The condition in sub-paragraph (1)(b) shall be satisfied if, as respects the previous complaint, either—
 - (a) the requirements of section 2(1) of the 1976 Act were complied with;
 - (b) the complainant gave such a notification as is mentioned in Regulation 3(1), or
 - (c) the Board, under Regulation 4, dispensed with the requirements mentioned in paragraph (1) of that Regulation.
- 4. For the purposes of Regulation 4 it shall not be reasonably practicable to complete the investigation of a complaint if, and only if, in the opinion of the chief officer concerned or, as the case may be, of the Complaints Board, either—
 - (a) it is not reasonably practicable to communicate with the complainant or any other injured person, notwithstanding that the complaint is not an anonymous one within the meaning of paragraph 2, or
 - (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of--
 - (i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation, or
 - (ii) a refusal or failure, on the part of an injured person other than the complainant, to support the complaint, evidenced either by a statement in writing (signed by him or by his solicitor or other authorised agent on his behalf) to the effect that he does not support it or by a refusal or failure, on his part, such as is mentioned in sub-paragraph (i) above.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations relate to complaints against a member of a police force received by the chief officer of police from a member of the public. Regulation 1(2) provides that they shall come into operation on the date on which sections 2 and 6 of the Police Act 1976 come into force, that is to say, by virtue of the Police Act 1976 (Commencement No. 2) Order 1977 on 1st June 1977.

By virtue of Regulation 3, the requirements of section 49 of the Police Act 1964 (investigation of complaints) are dispensed with and section 2(1) of the Police Act 1976 (reference to the Police Complaints Board of reports) is disapplied where the complainant notifies the chief officer of police, in writing, that he withdraws his complaint or does not wish any further steps to be taken in consequence thereof.

Regulation 4 is concerned with complaints which are anonymous or repetitious (within the meaning of paragraph 2 or 3 of the Schedule) or in relation to which an investigation is not reasonably practicable (within the meaning of paragraph 4 of the Schedule). Where both the chief officer of police concerned and the Police Complaints Board are of the opinion that a complaint falls into one of these categories and that, in all the circumstances, the requirements of section 49 of the Act of 1964 and of section 2(1) and (4) of the Act of 1976 should be dispensed with, the Board are empowered, if so requested by the chief officer, to dispense with those requirements. Regulation 5 permits a chief officer of police to delegate his powers and functions under Regulation 4 to an appropriate senior officer of the force.

SI 1977/577 ISBN 0-11-070577-7

