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STATUTORY INSTRUMENTS

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**1985 No. 623 (C. 9)**

**POLICE**

**The Police and Criminal Evidence Act  
1984 (Commencement No. 2) Order 1985**

*Made - - - - 17th April 1985*

In exercise of the powers conferred on me by section 121 of the Police and Criminal Evidence Act 1984, I hereby make the following Order:—

1. This Order may be cited as the Police and Criminal Evidence Act 1984 (Commencement No. 2) Order 1985.

2. In this Order—

“the 1964 Act” means the Police Act 1964;

“the 1976 Act” means the Police Act 1976;

“the 1984 Act” means the Police and Criminal Evidence Act 1984;

“the Authority” means the Police Complaints Authority established in pursuance of section 83(1) of the 1984 Act;

“the Board” means the Police Complaints Board established in pursuance of section 1 of the 1976 Act;

“chief officer” includes a person discharging the functions of a chief officer;

“the commencement date” has the meaning assigned thereto by Article 3 below;

“complaint” means a complaint about the conduct of a member of a police force;

“the former complaints provisions” means the provisions applicable to complaints against members of police forces in force immediately before the commencement date.

3.—(1) Subject to paragraph (2) below, the provisions of the 1984 Act specified in the Schedule to this Order shall come into force on 29th April 1985 (in this Order referred to as “the commencement date”).

(2) In relation to an appeal by a member of a police force to the Secretary of State under section 37 of the 1964 Act (discipline appeals), written notice of which was received by the Secretary of State before the commencement date, the said section 37, and Schedule 5 to the 1964 Act, shall continue to have effect as they had effect immediately before the commencement date.

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(3) Appendix B to Schedule 2 to the Police and Criminal Evidence Act 1984 (Commencement No. 1) Order 1984 (repeals taking effect from 1st March 1985) is hereby amended by the insertion following the words “Section 5(3)” of the words “and section 17(6)”.

4.—(1) This Article applies to any complaint falling to be dealt with before the commencement date under the former complaints provisions and not disposed of in accordance with those provisions by that date.

(2) Subject to the following provisions of this Order any such complaint shall, as from the commencement date, continue to be dealt with as if Part IX of the 1984 Act had been in force at the date on which it was made, and as if anything done or falling to be done in relation thereto before the commencement date under any of the former complaints provisions was done or fell to be done in relation thereto under the corresponding provision of the said Part IX and the Regulations made thereunder, and, in particular—

- (a) where any such complaint was recorded under section 49(1) of the 1964 Act it shall be treated as having been recorded under section 85(1) of the 1984 Act;
- (b) where, under the said section 49(1), a chief officer has caused any such complaint to be investigated and has appointed an officer for that purpose, the officer shall be treated as having been appointed to investigate the complaint formally under section 85(3) of the 1984 Act;
- (c) a request made before the commencement date by a chief officer or a police authority to the chief officer of another force to provide an officer for the purpose of carrying out an investigation of any such complaint shall be treated as if it had been made by him to that other chief officer in relation to that complaint under section 85(7) of the 1984 Act or, in the case of a complaint against a senior officer, by the police authority under section 86(3) of that Act.
- (d) where the report of an investigation of any such complaint has been submitted to the Director of Public Prosecutions under section 49(3) of the 1964 Act, it shall be treated as having been submitted under section 90(4) of the 1984 Act;
- (e) where a copy of a report of an investigation of any such complaint has been submitted to the Board with a copy of the complaint and a memorandum under section 2(1)(b) of the 1976 Act, the memorandum shall be treated as having been submitted to the Authority under section 90(7) of the 1984 Act; and
- (f) where, under section 3(2) of the 1976 Act, a recommendation has been made or a direction given by the Board to a chief officer as to disciplinary charges to be preferred by him in relation to any such complaint, the recommendation or direction shall be treated as made or given to him by the Authority in relation to that complaint under subsection (1) or, as the case may be, subsection (3) of section 93 of the 1984 Act.

5. Sections 87 to 89 of the 1984 Act (which provide for the supervision by the Authority of investigations into complaints and other matters) shall not have effect in relation to any complaint or other matter unless—

- (a) notice thereof was first received by the appropriate authority on or after the commencement date, and
- (b) the conduct to be investigated occurred, or is alleged to have occurred, on or after 29th April 1984.

6. Where, immediately before the commencement date, there were in force under section 7(1) of the 1976 Act (arrangements between the Board and authorities maintaining bodies of constables other than police authorities) arrangements between the Board and any such authority as is referred to in that subsection, the arrangements shall, notwithstanding the repeal of that section, continue

in force as if made in pursuance of an agreement under section 96 of the 1984 Act between the Authority and the authority in question, until—

- (a) the end of 6 months from the commencement date, or
- (b) a new agreement is made between the Authority and the authority in question under the said section 96,

whichever is the earlier.

*Leon Brittan*  
One of Her Majesty's Principal Secretaries of  
State  
Home Office

17th April 1985

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## SCHEDULE

Article 3(1)

PROVISIONS OF THE POLICE AND CRIMINAL EVIDENCE  
ACT 1984 COMING INTO FORCE ON 29TH APRIL 1985

| <i>Provisions of the Act</i>  | <i>Subject matter of provisions</i>        |
|---|--|
| Part IX.  | Police complaints and discipline.          |
| Section 109(a) and (b).   | Amendments relating to Police Federations. |
| Section 116.  | Meaning of “serious arrestable offence”.   |
| Section 119 to the extent necessary to bring into operation the provisions of Schedules 6 and 7 respectively specified in Appendix A and Appendix B hereto. | Amendments and repeals.                    |
| Schedule 4.   | The Police Complaints Authority.           |
| Schedule 5.   | Serious arrestable offences.               |
| So much of Schedule 6 as is specified in Appendix A hereto.   | Minor and consequential amendments.        |
| So much of Schedule 7 as is specified in Appendix B hereto.   | Miscellaneous repeals.                     |

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**EXPLANATORY NOTE**

Article 3(1) of the Order brings into force on 29th April 1985 the provisions of the Police and Criminal Evidence Act 1984 set out in the Schedule to the Order, including Part IX, under which the Police Complaints Authority is established in place of the Police Complaints Board established under the Police Act 1976 and fresh provision is made for dealing with complaints against the police and police discipline.

As provided by section 120 of the 1984 Act, these provisions extend to England and Wales only except for section 83(2) (which so far as it relates to paragraph 7(1) of Schedule 4 extends throughout the United Kingdom and so far as it relates to paragraph 8 of that Schedule extends throughout Great Britain); section 109(a) and (b) (which extend throughout Great Britain); and section 119 (which so far as it relates to any of the provisions of Schedules 6 and 7 specified in Appendix A and Appendix B to the Schedule to this Order extends to any place to which that provision extends).

Article 3(3) rectifies an omission from Appendix B to Schedule 2 to the Police and Criminal Evidence Act 1984 (Commencement No. 1) Order (repeals taking effect from 1st March 1985). The substantive repeal was effected by section 110 of the Act which was brought into effect on that date by that Order.

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The remaining Articles make transitional provision. Article 4 enables complaints about the conduct of members of police forces received before 29th April 1985 under section 49 of the Police Act 1964 to continue to be dealt with under Part IX of the 1984 Act. Article 5 provides that sections 87 to 89 of the 1984 Act (which empower the Police Complaints Authority to supervise the investigation of complaints against the police and other matters) are only to apply if notice of the conduct in question was received by the chief officer or police authority on or after 29th April 1985 and the conduct to be investigated occurred, or is alleged to have occurred, on or after 29th April 1984. Article 6 provides for the temporary continuance of arrangements between the Police Complaints Board and authorities maintaining constabularies outside the Police Act 1964 after the replacement of the Board by the Authority.

The following provisions of the 1984 Act have been brought into force by commencement order made before the date of this Order:—

| Provision   | Date of commencement | S.I. No.  |
|---|----------------------|-----------|
| s.1 (partially)   | 1.1.85               | 1984/2002 |
| ss.7(2)(b) and (3), 23, 59, 66, 67, 106, 109(c), 112, 113(3) to (13), 115 and 118 | 1.1.85               | 1984/2002 |
| ss.108, 110 and 111   | 1.3.85               | 1984/2002 |
| s.119 and schs. 6 and 7 (partially)   | 1.3.85               | 1984/2002 |