
STATUTORY INSTRUMENTS

1996 No. 1646 (C.35) (S.142)

POLICE

**The Police and Magistrates' Courts Act 1994
(Commencement No.10 and Savings) (Scotland) Order 1996**

<i>Made</i>	- - - -	<i>19th June 1996</i>
<i>Laid before Parliament</i>		<i>11th July 1996</i>
<i>Coming into force</i>	- -	<i>1st August 1996</i>

The Secretary of State, in exercise of the powers conferred on him by section 94(1), (4) and (5) of the Police and Magistrates' Courts Act 1994⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Police and Magistrates' Courts Act 1994 (Commencement No.10 and Savings) (Scotland) Order 1996 and shall come into force on 1st August 1996.

(2) In this Order—

“the 1967 Act” means the Police (Scotland) Act 1967⁽²⁾;

“the 1967 Regulations” means the Police (Discipline) (Scotland) Regulations 1967⁽³⁾;

“the 1969 Rules” means the Police (Appeals) (Scotland) Rules 1969⁽⁴⁾;

“the 1990 Regulations” means the Police (Discipline) (Senior Officers) (Scotland) Regulations 1990⁽⁵⁾;

“the 1994 Act” means the Police and Magistrates' Court Act 1994;

“disciplinary offence” means a disciplinary offence set out in the Discipline Code in Schedule 1 to the 1967 Regulations;

“existing case” means any case where an act or omission was committed or made by a constable of a police force before 1st August 1996, which amounts or may amount to a disciplinary offence at the time when the act or omission was committed or made and, without prejudice

(1) 1994 c. 29.

(2) 1967 c. 77.

(3) S.I. 1967/1021, amended by S.I. 1971/843, 1975/1544, 1976/1073, 1982/902, 1987/2226 and 1995/647.

(4) S.I. 1969/1632.

(5) S.I. 1990/1017, amended by S.I. 1995/647.

to that generality, an existing case includes any such case irrespective of whether it is before, on or after that date that—

- (a) a report, allegation or complaint is received in relation thereto;
- (b) the constable is charged or found guilty of that disciplinary offence; or
- (c) an appeal is made in relation to such a finding and any punishment imposed or only in relation to a punishment;

but, for the avoidance of doubt, it does not include any case where—

- (i) the disciplinary offence consists of the conviction of the constable of a criminal offence as mentioned in paragraph 13 of Schedule 1 to the 1967 Regulations; and
- (ii) such a conviction occurs on or after that date, even although the act or omission which constituted the criminal offence of which the constable was convicted was committed or made by the constable before that date;

“existing provisions” means—

- (a) the provisions of section 44 of the Police Act 1964;
- (b) the provisions of sections 7(3), 26, 30 and 42(1) of, and paragraph 2 of Schedule 2 and Schedule 3 to, the 1967 Act;
- (c) the 1967 Regulations and the 1990 Regulations and any regulations made under section 26 of the 1967 Act on or after 1st August 1996 which amend either of those Regulations in relation to existing cases;
- (d) the 1969 Rules and any rules made under paragraph 5 of Schedule 3 to the 1967 Act on or after 1st August 1996 which amend those Rules in relation to existing cases,

and any reference in this definition to a provision of the Police Act 1964 or the 1967 Act or to the 1969 Rules, the 1967 Regulations or the 1990 Regulations (but not to any rules or regulations amending those Rules or Regulations on or after 1st August 1996) is a reference to that provision or to those Rules or Regulations as in force immediately before 1st August 1996.

Provisions of the 1994 Act coming into force on 1st August 1996

2. The provisions of the 1994 Act which are specified in column 1 of the Schedule to this Order, and described by reference to the subject matter in column 2 of that Schedule, shall, insofar as not then in force, come into force on 1st August 1996 but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day only for that purpose.

Savings

3. Notwithstanding any repeal or amendment effected by the provisions of the 1994 Act specified in the Schedule to this Order, the existing provisions shall continue to apply in relation to any existing case.

St Andrew’s House,
Edinburgh
19th June 1996

James Douglas-Hamilton
Minister of State, Scottish Office

SCHEDULE

Article 2

PROVISIONS OF THE 1994 ACT WHICH COME INTO FORCE ON 1ST AUGUST 1996

Column 1 Provision	Column 2 Subject matter	Column 3 Extent of commencement
Section 44	Minor and consequential amendments	Only so far as it relates to the entries in Schedule 5 to the 1994 Act specified below.
Section 52(2)	Regulations for police forces	
Section 52(3)	Regulations for police forces	
Section 52(4)	Regulations for police forces	
Section 55	Appeals against dismissal etc.	
Section 61	Examination of handling of complaints against constables	
Section 63(3)	Other amendments of the 1967 Act	
Section 63(8)	Other amendments of the 1967 Act	
Section 63(10)	Other amendments of the 1967 Act	
Section 93	Repeals	Only so far as it relates to the entries in Part I of Schedule 9 to the 1994 Act specified below.
Schedule 5	Police: minor and consequential amendments	<ol style="list-style-type: none"> 1. Only so far as extending to Scotland, paragraph 11. 2. In paragraph 39, the opening words and sub-paragraph (b). 3. In paragraph 40, sub-paragraphs (1) and (3).
Schedule 6	Schedule to be inserted in Police (Scotland) Act 1967: Appeals Tribunals	
Schedule 9, Part I	Repeals	<ol style="list-style-type: none"> 1. The following entries in respect of the 1967 Act:— <ul style="list-style-type: none"> In section 26, subsection (7). In section 42(1), the words “or to commit breaches of discipline”. In Schedule 2, paragraph 2.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st August 1996 the remaining provisions of Part II (which concern the arrangements for policing in Scotland) of the Police and Magistrates' Courts Act 1994 and related repeals.

The provisions brought into force are listed in the Schedule to this Order subject to any restriction of purpose specified.

Article 3 makes provision for certain savings in relation to proceedings brought under provisions of the Police (Scotland) Act 1967 which are substituted by provisions of the said Act of 1994 which are brought into force by this Order.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Police and Magistrates' Courts Act 1994 have been brought into force by commencement order made before the date of this Order:

Provision	Date of Commencement	S.I.No.
Sections 1 to 3 and Schedules 1 and 2 (partially), section 18 (partially), section 41, section 44 and Schedule 5 (partially), section 46, section 52 (partially), section 65, section 93 and Part I of Schedule 9 (partially).	8.8.94	1994/2025
Part III, section 93 and Part I of Schedule 9 (partially).	23.8.94	1994/2151
Section 4 (partially), section 8 (partially), section 10 (partially), section 11 (partially), sections 14 to 16 (partially), section 22, section 25, section 31 (partially), section 42, section 43 and Schedule 4 (partially), section 44 and Schedule 5 (partially), section 45 (partially), section 93 and Part I of Schedule 9 (partially).	1.10.94	1994/2025

Provision	Date of Commencement	S.I.No.
Section 17 (partially), section 27 (partially), section 28 (partially).	1.11.94	1994/2025
Sections 69 to 71, section 74, section 78, section 79 (partially), sections 85 to 87, section 88 (partially), sections 89 and 90, section 91(1) and Part I of Schedule 8 (partially), section 92, section 93 and Part II of Schedule 9 (partially).	1.11.94	1994/2594
Section 44 and Part I of Schedule 5 (partially), section 93 and Part I of Schedule 9 (partially).	31.12.94	1994/3262
Section 48 (partially), section 51 (partially), section 52(1), section 52(3) (partially), section 53(1), section 55(1) (partially), sections 56 to 58, section 59 (partially), section 62, section 63(1), (6), (7)(b) and (9)(b), section 93 and Part I of Schedule 9 (partially).	1.1.95	1994/3075
Section 91(1) and Part I of Schedule 8 (partially).	3.2.95	1995/42
Section 59.	1.4.95	1994/3075
Sections 1 to 12, sections 14 to 16, sections 20 and 21, sections 23 and 24, section 26, section 29, sections 30 and 31, section 39(2) and (3), section 40, sections 43 to 45, section 93 and Part I of Schedule 9 (partially), Schedules 1, 2 and 4, Parts I and II of Schedule 5 (partially).	1.4.95	1994/3262
Section 47(2)(a), section 48, section 53(2), sections 60, section 63(2), (4), (5) and (7), section 93 and Part I of Schedule 9 (partially).	1.4.95	1995/492
Section 72 (partially), section 73, section 75 (partially), sections 76 and 77, sections 79 to 81, section 83(1)	1.4.95	1995/685

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Provision	Date of Commencement	S.I.No.
and (2) (partially), section 84, section 88, section 91(1) and Parts I and II of Schedule 8 (partially), section 91(2) and (3), section 93 and Part II of Schedule 9 (partially).		
Section 72(6) (partially).	1.10.95	1995/685
Section 47(1), (2), (4) and (5), section 63(9)(a), section 93 and Part I of Schedule 9 (partially).	13.12.95	1995/3003
Section 51.	1.1.96	1994/3075
Section 72(6) (partially).	1.1.96	1995/685
Section 47(3), section 49, section 54, section 63(9) (insofar as not in force), section 64, section 93 and Part I of Schedule 9 (partially).	1.4.96	1995/492