
STATUTORY INSTRUMENTS

1998 No. 641

POLICE

The NCIS (Complaints) Regulations 1998

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| <i>Made</i> | - - - - | <i>9th March 1998</i> |
| <i>Laid before Parliament</i> | | <i>11th March 1998</i> |
| <i>Coming into force</i> | - - | <i>1st April 1998</i> |

In exercise of the powers conferred on him by section 39 of the Police Act 1997⁽¹⁾, the Secretary of State hereby makes the following Regulations:

1. These Regulations may be cited as the NCIS (Complaints) Regulations 1998 and shall come into force on 1st April 1998.

2. In these Regulations—

“the 1997 Act” means the Police Act 1997;

“the PCA” means the Police Complaints Authority established under section 83 of the Police and Criminal Evidence Act 1984⁽²⁾ (“the 1984 Act”);

“civilian member of NCIS” means a person appointed under section 9(1)(c) of the 1997 Act;

“complaint” means a complaint about the conduct of a member of NCIS, other than a police member engaged with NCIS on a period of temporary service under section 97 of the Police Act 1996⁽³⁾,

which is submitted—

(a) by a member of the public, or

(b) on behalf of a member of the public and with his written consent;

“Director General” means the Director General of NCIS appointed under section 6 of the 1997 Act;

“disciplinary proceedings” means proceedings identified as such in regulations made pursuant to section 37 of the 1997 Act;

“police force” means a police force maintained under section 2 of the 1996 Act, and “member of a police force” shall be construed accordingly;

(1) 1997 c. 50.
(2) 1984 c. 60.
(3) 1996 c. 16.

“serious injury” means a fracture, damage to an internal organ, impairment of bodily functions, a deep cut or deep laceration;

“senior police member” means the Director General or a police member appointed under section 9(2)(a) of the 1997 Act.

PART I

PROCEDURE FOR HANDLING COMPLAINTS RELATING TO THE CONDUCT OF SENIOR POLICE MEMBERS OF NCIS

Handling of complaints etc.

3.—(1) Where a complaint regarding the conduct of a senior police member of NCIS is submitted to the Director General, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.

(2) After complying with paragraph (1), the Director General shall—

- (a) send the complaint or, if it was submitted orally, particulars of it, to the NCIS Service Authority, and
- (b) give notice that he has done so to the person by whom or on whose behalf the complaint was submitted.

(3) Nothing in these Regulations shall have effect in relation to a complaint in so far as it relates to the direction or control of NCIS by the Director General.

(4) If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal or disciplinary proceedings, none of the provisions of these Regulations which relate to the recording and investigation of complaints shall have effect in relation to the complaint in so far as it relates to the conduct.

Investigation of complaint

4.—(1) Where a complaint regarding the conduct of a senior police member of NCIS is—

- (a) submitted to the NCIS Service Authority, or
- (b) is sent to the NCIS Service Authority under regulation 3(2),

it shall record, and subject to paragraph (2), investigate it.

(2) If satisfied that the conduct complained of, even if proved, would not justify criminal or disciplinary proceedings, the NCIS Service Authority may deal with the complaint according to its discretion.

(3) In any other case, the NCIS Service Authority shall appoint a member of a police force to investigate the complaint.

(4) If the NCIS Service Authority requests the chief officer of police of a police force to provide a member of his force for appointment under paragraph (3), the said officer shall comply with the request.

(5) No member of a police force of a rank lower than that of the member whose conduct is the subject of the complaint may be appointed under paragraph (3).

(6) Unless an investigation under this regulation is supervised by the PCA under regulation 7, the investigating officer shall submit his report to the NCIS Service Authority.

5.—(1) The NCIS Service Authority—

(a) shall refer to the PCA—

- (i) any complaint regarding a senior police member of NCIS alleging that the conduct complained of resulted in the death of, or serious injury to, some other person, and
- (ii) any complaint regarding a senior police member of NCIS which is of the same description as a complaint specified in regulations made by the Secretary of State for the purposes of section 87 of the Police and Criminal Evidence Act 1984, and

(b) may refer to the PCA any complaint which is not required to be referred to them.

(2) The PCA may require the submission to them for consideration of any complaint regarding the conduct of a senior police member of NCIS not referred to them by the NCIS Service Authority; and the NCIS Service Authority shall comply with any such requirement not later than the end of the specified period.

(3) For the purposes of paragraph (2) the specified period shall be the period which is specified in regulations made by the Secretary of State for the purpose of subsection (2) of section 87 of the 1984 Act.

(4) Where a complaint falls to be referred to the PCA under paragraph (1)(a), it shall be the duty of the NCIS Service Authority to refer it to them not later than the end of the period specified by the Secretary of State for the purpose of paragraph (1) of section 87 of the 1984 Act in regulations.

Reference of other matters to the PCA

6.—(1) The NCIS Service Authority may refer to the PCA any matter to which this regulation applies, if it appears to the NCIS Service Authority that the matter ought to be referred by reason—

- (a) of its gravity, or
- (b) of exceptional circumstances.

(2) This regulation applies to any matter which—

- (a) appears to the NCIS Service Authority to indicate that a senior police member of NCIS may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings, and
- (b) is not the subject of a complaint.

Supervision of investigation by PCA

7.—(1) The PCA shall supervise the investigation of—

- (a) any complaint alleging that the conduct of a senior police member of NCIS resulted in the death of, or serious injury to, some other person,
- (b) any other complaint which is of the same description as a complaint specified for the purposes of section 89 of the 1984 Act in regulations made by the Secretary of State under that Act, and
- (c) any complaint which is not within paragraph (a) or (b) and any matter referred to the PCA under regulation 6, if the PCA determine that it is desirable in the public interest that they should do so.

(2) Where the PCA have made a determination under paragraph (1)(c), they shall notify it to the NCIS Service Authority.

(3) Where an investigation is to be supervised by the PCA, they may require—

- (a) that no appointment is made under regulation 4(3) unless they have given notice to the NCIS Service Authority that they approve the person who it proposes to appoint, or

- (b) if such an appointment has already been made and the PCA are not satisfied with the person appointed, that—
 - (i) the NCIS Service Authority, as soon as reasonably practicable, appoint another member of a police force and notify the PCA that it proposes to appoint him, and
 - (ii) the appointment is not made unless the PCA give notice to the NCIS Service Authority that they approve that person.

(4) Where the Secretary of State, by regulations made under section 89(4) of the 1984 Act, authorises the PCA to impose requirements as to a particular investigation additional to any requirement imposed by subsection (3) of that section then, in addition to any requirement imposed by paragraph (3) above, the PCA may impose the like additional requirements, subject to any restrictions or conditions specified in those regulations, in relation to any investigation under these regulations.

(5) A member of a police force shall comply with any requirement imposed upon him by virtue of the application of paragraph (4).

Reports on investigations etc.

8.—(1) At the end of an investigation which the PCA have supervised, the investigating officer shall—

- (a) submit a report on the investigation to the PCA, and
- (b) send a copy of the report to the NCIS Service Authority.

(2) After consideration of a report submitted to them under paragraph (1) the PCA shall submit an appropriate statement to the NCIS Service Authority.

(3) If it is practicable to do so, the PCA, when submitting the appropriate statement under paragraph (2), shall send a copy of it to the senior police member of NCIS whose conduct has been investigated.

- (4) If—
 - (a) the investigation related to a complaint, and
 - (b) it is practicable to do so,

the PCA shall also send a copy of the appropriate statement to the person by or on behalf of whom the complaint was submitted.

(5) The power to issue an appropriate statement includes power to issue separate statements in respect of the disciplinary and criminal aspects of the investigation.

(6) No disciplinary proceedings shall be brought before the appropriate statement is submitted to the NCIS Service Authority.

(7) Subject to paragraph (8), neither the NCIS Service Authority nor the Director of Public Prosecutions shall bring criminal proceedings before the appropriate statement is submitted to the NCIS Service Authority.

(8) The restriction imposed by paragraph (7) does not apply if it appears to the Director that there are exceptional circumstances which make it undesirable to wait for the submission of the appropriate statement.

- (9) In this regulation “appropriate statement” means a statement—
 - (a) as to whether the investigation was or was not conducted to the PCA’s satisfaction,
 - (b) specifying any respect in which it was not so conducted, and
 - (c) dealing with any other matters which are matters of the kind provided for in regulations made under section 89 of the 1984 Act for the purposes of that section.

Steps to be taken after investigation

9. On receiving—

- (a) a report concerning the conduct of a senior police member of NCIS which is submitted to it under regulation 4(6), or
- (b) a copy of a report concerning the conduct of a senior police member of NCIS which is sent to it under regulation 8(1),

the NCIS Service Authority shall send a copy of the report to the Director of Public Prosecutions unless the report satisfies the NCIS Service Authority that no criminal offence has been committed.

Reports by PCA

10.—(1) The PCA may make a report to the Secretary of State on any matters coming to their notice under these Regulations to which they consider that his attention should be drawn by reason of their gravity or of other exceptional circumstances.

(2) The PCA shall send a copy of any report under paragraph (1) to the NCIS Service Authority and the Director General.

(3) The Secretary of State shall lay before Parliament a copy of every report received by him under this regulation and shall cause every such report to be published.

(4) The PCA shall send to the NCIS Service Authority—

- (a) a copy of every report made under subsection (3) of section 97 of the 1984 Act, and
- (b) which the PCA consider should be brought to the NCIS Service Authority's attention in connection with its functions under section 40 of the 1997 Act.

Restriction on disclosure of information

11.—(1) No information received by the PCA in connection with any of their functions under these Regulations shall be disclosed by any person who is or has been a member, officer or servant of the PCA except—

- (a) to the Secretary of State or to a member, officer or servant of the PCA or, so far as may be necessary for the proper discharge of the functions of the PCA, to other persons;
- (b) for the purposes of any criminal, civil or disciplinary proceedings, or
- (c) in the form of a summary or other general statement made by the PCA which does not identify the person from whom the information was received or any person to whom it relates.

(2) Any person who discloses information in contravention of this regulation shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

12. Where the Secretary of State makes regulations under section 99 of the 1984 Act as to the procedure to be followed under Part IX of that Act then the procedures provided for by those regulations shall be the procedures to be followed under these Regulations with the following modifications—

- (i) references to “appropriate authority” shall be interpreted as references to the NCIS Service Authority;
- (ii) references to the “chief officer” shall be interpreted as references to the Director General of NCIS;

- (iii) references to a “complaint” shall be interpreted as references to a complaint under these Regulations; and references to a complainant shall be construed accordingly;
- (iv) references to a “member of a police force” shall be interpreted as references to a senior police member of NCIS;
- (v) references to provisions of the 1984 Act shall be interpreted as references to the equivalent provision in these Regulations.

PART II

PROCEDURE FOR HANDLING COMPLAINTS RELATING TO THE CONDUCT OF CIVILIAN MEMBERS OF NCIS

Handling of complaints, etc.

13.—(1) Where a complaint regarding the conduct of a civilian member of NCIS is submitted to the Director General, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.

(2) After complying with paragraph (1) the Director General shall determine whether he is the appropriate authority in relation to the civilian member of NCIS whose conduct is the subject of the complaint.

(3) If the Director General determines that he is not the appropriate authority, he shall—

- (a) send the complaint or, if it was submitted orally, particulars of it to the appropriate authority; and
- (b) give notice that he has done so to the person by whom or on whose behalf the complaint was submitted.

(4) For the purposes of this Part of these Regulations “the appropriate authority” means—

- (a) in relation to a civilian member of NCIS appointed by the NCIS Service Authority pursuant to the provisions of section 9(9)(b) of the 1997 Act, the NCIS Service Authority; and
- (b) in relation to any other civilian member of NCIS, the Director General.

Investigation of complaint

14. The appropriate authority shall record the complaint and cause it to be investigated.

Notifying member of the complaint

15. The appropriate authority shall give written notice of the complaint to the civilian member concerned.

Duty to inform complainant of outcome

16. On completion of the investigation of the complaint the appropriate authority shall notify the complainant of its findings and of any action it proposes to take.

Register of complaints

17. The Director General shall maintain a register of complaints regarding the conduct of civilian members of NCIS for whom he is the appropriate authority.

Home Office
9th March 1998

Alun Michael
Minister of State

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 Regulations)

Part I of these Regulations makes provision for the procedures for handling complaints relating to the conduct of senior police members of the National Crime Intelligence Service. The Regulations generally mirror Part IX of the Police and Criminal Evidence Act 1984 (c. 60). Part II of these Regulations makes provision for the handling of complaints relating to the conduct of civilian members of the National Criminal Intelligence Service.