



Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

PART 1

POLICE

CHAPTER 2

COMPLAINTS AND MISCONDUCT

Other functions

42 General functions of the Commissioner

The Commissioner has the general functions of—

- (a) securing the maintenance by the Commissioner, and by each of the relevant authorities, of suitable arrangements for the handling of relevant complaints;
- (b) keeping under review all arrangements maintained for that matter;
- (c) securing that arrangements maintained for that matter—
 - (i) are efficient and effective;
 - (ii) contain and manifest an appropriate degree of independence; and
 - (iii) are adhered to;
- (d) making such recommendations, and giving such advice, for the modification of—
 - (i) the arrangements maintained for that matter; and
 - (ii) the practice of relevant authorities in relation to other matters,as appear from the carrying out of the Commissioner's other functions, to be necessary or desirable.

43 Reports to the Scottish Ministers

- (1) As soon as practicable after the end of each financial year, the Commissioner must make a report to the Scottish Ministers on the carrying out of the Commissioner's functions during that year.
- (2) The Commissioner must also make such reports to the Scottish Ministers about matters relating generally to the carrying out of the Commissioner's functions as they may, from time to time, require.
- (3) The Commissioner may, from time to time, make such other reports to the Scottish Ministers as the Commissioner considers appropriate for drawing their attention to matters which—
 - (a) have come to the Commissioner's notice; and
 - (b) are matters which the Commissioner considers should be drawn to their attention by reason of their gravity or of other exceptional circumstances.
- (4) The Commissioner must prepare such reports containing advice and recommendations as the Commissioner considers appropriate for the purpose of carrying out the function under section 42(d).
- (5) The Scottish Ministers must lay before the Parliament and arrange publication of—
 - (a) every annual report under subsection (1) received by them; and
 - (b) every other report under this section received by them (but only if and to the extent that the Scottish Ministers consider it appropriate to do so).
- (6) The Commissioner must—
 - (a) send copies of every annual report under subsection (1) to all relevant authorities and to the chief inspector of constabulary appointed under section 33 of the 1967 Act;
 - (b) send copies of every report under subsection (4) to all relevant authorities and to the Scottish Ministers.
- (7) The Commissioner may send a copy of any report made under this section to any person the Commissioner thinks fit.

44 Provision of information to the Commissioner

- (1) A relevant authority must, at such times, in such circumstances and in accordance with such requirements as may be set out in regulations made by the Scottish Ministers, provide the Commissioner with all such information and documents as may be specified or described in regulations so made.
- (2) A relevant authority must—
 - (a) provide the Commissioner with all such other information and documents specified or described in a notification given by the Commissioner to that person; and
 - (b) produce to the Commissioner all such evidence and other things so specified or described,
as appear to the Commissioner to be required by the Commissioner for the purposes of the carrying out of any of the Commissioner's functions.

- (3) Anything falling to be provided or produced by any person in pursuance of a requirement imposed under subsection (2) must be provided or produced in such form, in such manner and within such period as may be specified in—
 - (a) the notification imposing the requirement; or
 - (b) in any subsequent notification given by the Commissioner to that person for the purposes of this subsection.
- (4) Nothing in this section requires a relevant authority to provide the Commissioner with any information or document, or to produce any other thing, before the earliest time at which it is practicable for the authority to do so.
- (5) A requirement imposed by any notification or regulations under this section may authorise or require information or documents to which it relates to be provided to the Commissioner electronically.

45 Power of Commissioner to issue guidance

- (1) The Commissioner may issue guidance—
 - (a) to relevant authorities;
 - (b) to persons appointed to reconsider complaints,about the carrying out by the persons to whom the guidance is issued of any of the functions conferred on them by virtue of this Chapter.
- (2) Before issuing any guidance under this section, the Commissioner must consult—
 - (a) persons whom the Commissioner considers representative of each of the office holders who and bodies which are relevant authorities; and
 - (b) such other persons as the Commissioner thinks fit.
- (3) A person to whom guidance is issued under subsection (1) must have regard to that guidance in carrying out the functions to which the guidance relates.
- (4) The power conferred by subsection (1) to issue guidance includes power to vary or revoke any such guidance.

46 Disclosure of information by and to the Commissioner

- (1) Information obtained by the Commissioner in connection with any of the Commissioner's functions may be disclosed by the Commissioner to any public body or office-holder (in Scotland, in any other part of the United Kingdom or in a country or territory outside the United Kingdom)—
 - (a) for any purpose connected with the carrying out of any of the Commissioner's functions; or
 - (b) for the purpose of enabling or assisting the public body or office-holder to carry out any function.
- (2) Information disclosed by the Commissioner under this section to any body or office-holder must not be further disclosed except—
 - (a) for a purpose connected with any function of that body or office-holder; and
 - (b) with the consent of the Commissioner.
- (3) Consent under subsection (2) may be given—
 - (a) in relation to a particular disclosure; or

Status: *This is the original version (as it was originally enacted).*

- (b) in relation to disclosures made in circumstances specified or described in the consent.
- (4) Any person may disclose information to the Commissioner if the disclosure is made for the purposes of the carrying out of any of the Commissioner's functions.
- (5) A disclosure under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure; or
 - (b) any other restriction on the disclosure of information (however imposed).