



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

2006 asp 10

## PART 1

### POLICE

## CHAPTER 2

### COMPLAINTS AND MISCONDUCT

#### *Supervision of complaints*

#### **36 Duty of Commissioner not to proceed with certain complaint handling reviews**

- (1) If it appears to the Commissioner (whether on an application by the appropriate authority in relation to the complaint or otherwise) that a complaint handling review is or would, if it took place, be one to which subsection [<sup>F1</sup>(1A) or] (2) applies, the Commissioner must discontinue or, as the case may be, not proceed with the review.

[<sup>F2</sup>(1A) This subsection applies to a complaint handling review if—

- (a) it relates or, if it took place, would relate to a relevant complaint in respect of which the appropriate authority in relation to the complaint—
    - (i) has concluded its consideration of the complaint; and
    - (ii) has communicated its findings to the complainer;
  - (b) a period of 3 months or longer has elapsed between the date on which those findings were so communicated and the date on which the Commissioner was requested to carry out the complaint handling review; and
  - (c) the Commissioner is not satisfied that there are exceptional circumstances which justified the delay in requesting the review.]
- (2) This subsection applies to a complaint handling review which relates or, if it took place, would relate to a relevant complaint of a specified description.

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**Changes to legislation:** *Police, Public Order and Criminal Justice (Scotland) Act 2006, Section 36 is up to date with all changes known to be in force on or before 16 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (3) In subsection (2), “specified” means specified in regulations made by the Scottish Ministers.
- (4) Where a complaint handling review is, under this section, discontinued or not proceeded with—
- (a) the Commissioner must notify the appropriate authority in relation to the complaint and the persons mentioned in section 35(4) of that fact;
  - (b) the Commissioner may give the appropriate authority in relation to the complaint directions to do any such things as the Commissioner is authorised to direct by regulations made by the Scottish Ministers;
  - (c) the Commissioner may himself or herself take any steps of a description specified in regulations so made as the Commissioner considers appropriate for purposes connected with the discontinuance of the complaint handling review or the fact that it is not to take place; and
  - (d) subject to paragraphs (b) and (c), the Commissioner is to take no further action in accordance with this Chapter in relation to the review or the complaint to which it relates.

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#### Textual Amendments

- F1** Words in s. 36(1) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(4\)\(a\)](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)
- F2** S. 36(1A) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(4\)\(b\)](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)
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#### Commencement Information

- I1** S. 36 wholly in force at 1.4.2007; s. 36 not in force at Royal Assent see s. 104; s. 36 in force at 1.1.2007 for specific purposes by S.S.I. 2006/607, [art. 3](#), [Sch.](#); s. 36 in force so far as not already in force at 1.4.2007 by S.S.I. 2007/84, [art. 3\(3\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 47A inserted by [2023 c. 41 s. 45\(3\)](#)