

1973. No. 248

[C]

**POLICE****Royal Ulster Constabulary: Discipline and Disciplinary Appeals**

REGULATIONS, DATED 19TH JULY 1973, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTION 25 OF THE POLICE ACT (NORTHERN IRELAND) 1970.

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The Ministry of Home Affairs for Northern Ireland on behalf of the Secretary of State and in exercise of the powers conferred on it by section 25 of the Police Act (Northern Ireland) 1970(a) (hereinafter referred to as "the Act") and of every other power enabling it in that behalf and after consulting the Police Authority and the Police Association hereby makes the following regulations:—

## PART I

### GENERAL

#### *Citation and commencement*

1. These Regulations may be cited as the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1973 and shall come into operation on 1st September 1973.

#### *Revocation and transitional provisions*

2.—(1) The Royal Ulster Constabulary (Suspension from Duty) Regulations 1972(b) are hereby revoked.

(2) Anything done before the coming into operation of these Regulations for the purposes of the Regulations revoked by paragraph (1) or the Discipline Regulations (hereinafter referred to as "the former Regulations") applicable to the Royal Ulster Constabulary immediately prior to the coming into operation of these Regulations, by, to or before any person or authority, shall have effect as if it had been done for the purposes of these Regulations notwithstanding that it might, under these Regulations, have fallen to be done by, to or before a person other than that person or authority.

(3) Without prejudice to the generality of paragraph (2), any act performed or to be performed under the Regulations revoked by paragraph (1) or punishment imposed under the former Regulations shall be deemed to have been performed, to be performed, or to have been imposed under these Regulations.

(4) Without prejudice to the generality of paragraph (2), where immediately before the coming into operation of these Regulations a member was suspended from duty under the Regulations revoked by paragraph (1) he shall be treated as if he had been suspended under Regulations 21 or 37 as the case may be.

#### *Interpretation*

3.—(1) In these Regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

- (a) in Part II, any reference to a chief constable shall include a reference to the deputy chief constable acting as chief constable and any reference to the deputy chief constable shall include a reference to an assistant chief constable acting in the place of the deputy chief constable;
- (b) "discipline code" means the code of offences contained in Schedule 1;
- (c) "home police force" means a police force within the meaning of the Police Act 1969(c);
- (d) "force" means the Royal Ulster Constabulary;
- (e) "member" means a member of the Royal Ulster Constabulary;
- (f) "Minister" means, subject to paragraph (2), the Minister of Home Affairs;

(a) 1970. c. 9 (N.I.).

(c) 1969. c. 63.

(b) S.R. & O. (N.I.) 1972, No. 104.

- (g) "Ministry" means the Ministry of Home Affairs;
- (h) "offence" means an offence against discipline within the meaning of Regulation 5;
- (i) "senior officer" means a member above the rank of superintendent;
- (j) "superintendent" includes chief superintendent.

*Scope of the Regulations*

(2) Nothing in these Regulations shall be construed as making provision contrary to any provision in the Northern Ireland (Temporary Provisions) Act 1972(d) and, accordingly, so long as section 1 of that Act has effect any reference to the Minister shall be construed as a reference to the Secretary of State.

*Modification of regulations in their application to cases referred to a tribunal under Section 13(2) of the Act*

4.—(1) Where a complaint made by a member of the public against a member of the Force is referred by the chief constable to a tribunal under section 13(2) of the Act for consideration and report—

- (a) if the accused is of or below the rank of superintendent, the chief constable may deal with such report as if it were received from some other chief constable under Regulation 20;
- (b) if the accused is a senior officer, the chief constable shall forward the report to the Police Authority who shall deal with it as if it were the report of a tribunal received under Regulation 33.

(2) The chief constable shall send a copy of the report of the tribunal to the accused.

*Disciplinary offences*

5. A member commits an offence against discipline if he commits one or more of the offences set out in the discipline code contained in Schedule 1.

PART II

DISCIPLINE: RANKS OF AND BELOW SUPERINTENDENT

*Investigation of charges*

6.—(1) Where a report, allegation or complaint is received from which it appears that a member of or below the rank of superintendent may have committed an offence, the matter shall be referred to an investigating officer who shall cause it to be investigated:

Provided that where the matter arises otherwise than from a complaint received from a member of the public, it shall not be so referred if the chief constable decides that no disciplinary proceedings need be taken.

(2) Subject to paragraphs (3) and (4), the investigating officer shall be of or above the rank of inspector, as may be appropriate to the particular case under the general arrangements for the purpose, and shall be a member of the force or, if the chief constable of some other force is requested to provide an investigating officer, a member of that other police force.

(3) The investigating officer shall be a person other than—

- (a) the chief constable or deputy chief constable, or
- (b) a member serving in the same division or branch as the person who may have committed an offence:

Provided that sub-paragraph (b) shall not apply in a case in which the chief constable, in view of the nature of the report, allegation or complaint or otherwise, directs that it shall not apply.

*Personal explanation*

7. The investigating officer shall, as soon as is practicable (without prejudicing his or any other investigation of the matter) inform the member in writing of the report, allegation or complaint and give him a written notice—

- (a) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires, make a written or oral statement concerning the matter to the investigating officer or to the chief constable, and
- (b) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

*Formulation of charges*

8.—(1) The chief constable, after considering the report of the investigating officer and any statement made under Regulation 7, shall decide whether the member shall be charged with an offence and, if he decides that the member shall be so charged, he shall as soon as possible cause to be entered on a discipline form the offence with which the member is charged and such particulars as will leave the member in no doubt as to the precise nature of the alleged offence.

- (2) A discipline form shall be in the form set out in Schedule 2.

*Delegation of duties to deputy chief constable*

9. The chief constable may delegate to the deputy chief constable the duty of deciding under Regulation 8 whether a member shall be charged with an offence and, where he does so delegate this duty, any reference in Regulations 6, 7 or 8 to the chief constable shall be taken as a reference to the deputy chief constable.

*Documents to be supplied to accused*

10.—(1) Where a member is charged with an offence he shall, as soon as possible, be supplied with copies—

- (a) of any written statement he may have made under Regulation 7 or of an account of any oral statement so made;
- (b) of the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report of the investigating officer) notwithstanding that they may be confidential;
- (c) of any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address; and
- (d) of any statement relating to the charge made by any person other than a witness to be called in support of the charge, to the investigating officer or to anybody on his behalf, together with the person's name and address;

(2) Where the charge is founded on a report, allegation or complaint and a statement arising therefrom made by the same person, the reference in paragraph (1)(b) to the report, allegation or complaint shall, without prejudice to paragraph (1)(c) or (d), be construed as including a reference to that statement.

*Questions in the discipline form to be answered by accused*

11.—(1) The accused shall be invited to state in writing on the discipline form whether he admits or denies the charge.

(2) The accused shall be invited to state in writing on the discipline form the names and addresses of any witnesses to relevant facts whose attendance at the hearing of the case he wishes the chief constable to take steps to secure.

(3) Any such witness who is a member shall be ordered to attend at the hearing of the case and any other such witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

*Procedure at hearing*

12.—(1) The accused shall be ordered to appear at the hearing of the case.

(2) Subject to Regulations 20 the case against the accused shall be heard by the chief constable or, as he may decide, by a disciplinary board of officers appointed by him to whom the case may be referred for consideration and report thereon.

(3) The case against the accused shall be presented by a member other than the chief constable, deputy chief constable, or a member of the disciplinary board of officers.

(4) If the accused does not admit the charge, the hearing shall proceed as though he denied the charge.

(5) Before the case against the accused is presented, the accused may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the chief constable, if he upholds that submission, shall dismiss the charge to which the submission relates or, where the case is heard by a disciplinary board appointed to consider it, the board shall report to the chief constable that it is of the opinion that the charge should be dismissed.

(6) The accused may conduct his defence either in person or by a member or by a member of a home police force selected by himself on his behalf:

Provided that if the accused is represented by a member or by a member of a home police force the accused, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(7) A disciplinary board of officers appointed under paragraph (2) shall consist of an assistant chief constable and a chief superintendent, but where the accused is an officer of the rank of chief superintendent the disciplinary board shall consist of two assistant chief constables. Such a board shall neither dismiss the case nor impose a punishment but shall, as soon as possible after the hearing, submit a report to the chief constable setting out—

- (a) a statement of the facts admitted or in its opinion found to be proved so far as they are material to the case;
- (b) a statement as to the charges found in its opinion to be proved;
- (c) if any charges are in the opinion of the board found to be proved, a recommendation as to punishment;
- (d) any other matter arising out of the hearing which the board desires to bring to the notice of the chief constable.

(8) A verbatim record of the case shall be taken and sent to the chief constable and, if a punishment is imposed and the accused contemplates an appeal to the Minister, at his request made within the period during which notice of appeal may be given, a transcription of the record shall be made and the transcription thereof supplied to him.

*Adjournment of hearing*

13. The hearing of a case may be adjourned from time to time as may appear necessary for due hearing of the case.

*Hearing in absence of accused*

14.—(1) If the accused does not attend the hearing of the case, the hearing may be proceeded with and concluded in his absence:

Provided that—

- (a) if the accused is detained in pursuance of the sentence of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953(e) applies, and desires to make representations in person at the hearing, the hearing shall not be concluded until the accused has been enabled to make such representations;
- (b) if good reason is given to the chief constable or the disciplinary board of officers by or on behalf of the accused why the accused is unable to attend the hearing, other than that the accused is detained as aforesaid, the hearing shall be postponed or adjourned, as the case may be.

(2) Where, owing to the absence of the accused, it is impossible to comply with the procedure described in Regulations 7, 10, 11 and 12(1), that procedure shall be dispensed with.

*Attendance of complainant at hearing*

15.—(1) Without prejudice to Regulation 4 (modification for complaints referred to a tribunal), this Regulation shall apply in relation to the hearing of a charge against a member where the facts alleged in the charge were alleged in a complaint received by the chief constable from a member of the public.

(2) Subject to paragraph (4), the chief constable or the disciplinary board of officers shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if he or the said board considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing;

Provided that—

- (a) where the complainant is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence; and
- (b) where it appears to the chief constable or the disciplinary board of officers that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, he or the said board shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(3) Where the accused gives evidence, then, after the presenting officer has had an opportunity of cross-examining him, the chief constable or disciplinary board of officers shall put to him any questions which the complainant requests should be so put and might have been properly so put by the presenting officer and, at his or the board's discretion, may allow the complainant himself to put such questions to the accused.

(4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt the hearing: and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the chief constable or the board may exclude him from the remainder of the hearing.

(5) In this Regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was received by the chief constable from or through some other person or body.

#### *Decision of chief constable*

16.—(1) The chief constable, at the conclusion of the hearing or, where he has referred the case for hearing by a disciplinary board of officers to consider and report thereon in accordance with Regulation 12 or by some other chief constable in accordance with Regulation 20, on receiving the report of that board or that chief constable, as the case may be, shall decide either to dismiss the case or to impose one of the following punishments, namely:—

- (a) dismissal from the force;
- (b) requirement to resign from the force as an alternative to dismissal, either forthwith or on such date as may be specified in the decision;
- (c) reduction in rank;
- (d) reduction in the accused's rate of pay for such period, not exceeding 12 months, as shall be specified in the decision;
- (e) fine;
- (f) reprimand;
- (g) caution.

(2) As soon as possible after the chief constable has reached a decision, that decision shall be recorded on the discipline form and notified in writing to the accused.

#### *Reference to accused's personal record in considering punishment*

17. In considering which punishment should be imposed, if any charge is found to be proved, regard shall be had to the accused's record of police service as shown on his personal record.

#### *Limitations on punishments*

18.—(1) The punishment of a reduction in the accused's rate of pay or of a fine shall not be imposed for the offence set out in paragraph 15 of the discipline code.

(2) The punishment of a reduction in the accused's rate of pay shall not be such as to reduce the accused's rate of pay below the minimum of the scale of pay for his rank in the force.

(3) A fine imposed in respect of any one offence shall, without prejudice to any other method of recovery, be recoverable by way of deductions from the accused's pay during the period of thirteen weeks following the imposition of the punishment and shall be such that the aggregate sum which may be so deducted in respect of any one week (whether on account of one or more offences) does not exceed a seventh of his weekly pay:

Provided that in the event of the accused leaving the force, the whole amount of any fine unpaid may be deducted from any pay then due.



*Application of Regulations where the chief constable is interested or is a material witness*

19. In any case in which the chief constable is interested otherwise than in his capacity as such or in which he is a material witness, these Regulations shall apply as if for any reference in Regulations 12, 14, 15, 16 or 20 to the chief constable there were substituted a reference to such chief constable of another police force as had consented to act in the case at the request of the chief constable.

*Application of Regulations where it appears to the chief constable appropriate to remit the case for hearing by another chief constable*

20.—(1) In any case in which it appears appropriate to the chief constable so to do, he may remit the case, either before or during the hearing, to some other chief constable for a hearing or rehearing, as the case may be.

(2) Subject to paragraphs (3) and (4), Regulations 12, 13, 14, 15 and 17 shall apply in relation to the hearing or rehearing in accordance with this Regulation as they apply in relation to a hearing in accordance with Regulation 12(2) but as if—

- (a) for reference in the said Regulations to the chief constable there were substituted a reference to the chief constable to whom the case has been remitted; and
- (b) any reference to the power of the chief constable to refer the case for hearing by a disciplinary board of officers were omitted.

(3) The chief constable to whom a case is remitted in accordance with this Regulation shall neither dismiss the case nor impose a punishment but shall, as soon as possible after the hearing or rehearing, submit a report to the chief constable setting out—

- (a) a statement of the facts admitted or found to be proved so far as they are material to the case;
- (b) a statement as to the charges found to be proved;
- (c) if any charges are found to be proved, a recommendation as to the proper punishment which in his opinion should be imposed therefor;
- (d) any other matter arising out of the hearing which he desires to bring to the notice of the chief constable;

and shall send a copy of that report to the accused.

(4) A verbatim record of the proceedings at the hearing or rehearing of a case in accordance with this Regulation shall be taken and a transcription of the record shall be made and given to the chief constable concerned and, in the circumstances mentioned in Regulation 12(8), supplied to the accused.

*Suspension*

21.—(1) Where a report, allegation or complaint is received from which it appears that a member may have committed a disciplinary or criminal offence the chief constable may suspend that member from duty, whether or not the matter has then been investigated, and in such case he shall be suspended until—

- (a) the chief constable decides otherwise;
- (b) it is decided that the member shall not be charged with a disciplinary offence, or
- (c) the member has been so charged and either all the charges have been dismissed or a punishment has been imposed,

whichever first occurs:

Provided that the chief constable may delegate to the deputy chief constable his powers under this paragraph and, where he does so, any reference therein to the chief constable shall be taken as a reference to the deputy chief constable.

(2) Subject to paragraph (4), a member suspended under this Regulation shall not, by virtue of any statutory Regulations relative to the force, be entitled to any allowance, other than a rent allowance, supplementary rent allowance or compensatory grant, in respect of the period of suspension.

(3) Subject to paragraph (4), a member suspended under this Regulation who—

(a) is detained in pursuance of a sentence of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953 applies, or is in custody (whether in prison or elsewhere) between conviction by a court and sentence, or

(b) has absented himself from duty and whose whereabouts are unknown to the chief constable,

shall not, by virtue of any statutory Regulations relative to the force, be entitled to pay in respect of his period in detention or custody or, as the case may be, in respect of the period during which his whereabouts are unknown to the chief constable.

(4) Where a member returns to duty when the period of suspension comes to an end and—

(a) it has been decided that he shall not be charged with a disciplinary offence; or

(b) he has been so charged and all the charges have been dismissed; or

(c) he has been so charged and has been punished by a reduction in his rate of pay, fine, reprimand or caution,

he shall receive, as from the date of his suspension, the allowances to which, but for paragraph (2), and the pay to which, but for paragraph (3), he would have been entitled.

### *Chief constable's discipline book*

22. There shall be kept in the office of the chief constable a discipline book in which shall be entered every charge made against a member, together with the decision thereon and a record of the decision in any further disciplinary proceedings in connection therewith.

## PART III

### DISCIPLINE: RANKS ABOVE SUPERINTENDENT

#### *Personal explanation*

23. Where, following the investigation of a report, allegation or complaint, it appears that a senior officer may have committed an offence, the Police Authority shall, unless they decide that no disciplinary proceedings need be taken, inform him in writing of the report, allegation or complaint and give him a written notice—

(a) asking him whether or not he admits that he has committed an offence;

(b) informing him that he is not obliged to say anything concerning the matter but that he may, if he so desires, make a written or oral statement concerning the matter to the Police Authority, and

(c) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

*Punishment without a hearing*

24. If the senior officer admits that he has committed an offence, the Police Authority may impose a punishment in accordance with Regulation 34 without the case being heard in accordance with the following provisions of this Part.

*Procedure for formulating charges*

25.—(1) If the senior officer admits that he has committed an offence and the Police Authority do not proceed under Regulation 24, or if he does not admit that he has committed an offence and any statement he may have made to the Police Authority under Regulation 23 does not satisfy them that he has not committed an offence, the Police Authority shall instruct a solicitor, not being a member, officer or servant of the Police Authority, to enter on a discipline form the offence with which the senior officer is charged and such particulars as will leave him in no doubt as to the precise nature of the alleged offence.

(2) A discipline form shall be in the form set out in Schedule 3.

*Documents to be supplied to accused*

26.—(1) Where a senior officer is charged with an offence, he shall, as soon as possible, be supplied with copies of—

- (a) any written statement he may have made under Regulation 23 or of an account of any oral statement so made;
- (b) the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report arising out of the investigation referred to in Regulation 23) notwithstanding that they may be confidential;
- (c) any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address, and
- (d) any statement relating to the charge made by any person, other than a witness to be called in support of the charge, in the course of the investigation referred to in Regulation 23, to the Police Authority or to anybody on their behalf, together with the person's name and address.

(2) Where the charge is founded on a report, allegation or complaint and a statement arising therefrom made by the same person, the reference in paragraph (1)(b) to the report, allegation or complaint shall, without prejudice to paragraph (1)(c) or (d), be construed as including a reference to that statement.

*Tribunal*

27.—(1) The case shall be heard by a tribunal consisting of a single person selected and appointed by the Police Authority with the approval of the Ministry of Home Affairs.

(2) To assist the tribunal on matters pertaining to the police there shall also be appointed by the Police Authority one or more assessors selected by that Authority with the approval of the tribunal, one at least of whom shall be a person engaged or experienced in police administration, so however that there shall not be so appointed—

- (a) a person who is one of Her Majesty's inspectors of constabulary;
- (b) the chief constable, or
- (c) a member, officer or servant of the Police Authority or of the Ministry.

*Procedure at hearing*

28.—(1) The case against the accused shall be presented by counsel or a solicitor, not being a member, officer or servant of the Police Authority or of the Ministry.

(2) If the accused does not admit the charge, the hearing shall proceed as though he denied the charge.

(3) Before the case against the accused is presented, the accused may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the tribunal if it upholds that submission shall determine that the charge to which the submission relates should be dismissed.

(4) The accused may conduct his defence either in person or by counsel, a solicitor, a member of the force, or a member of a home police force selected by himself on his behalf;

Provided that if the accused is represented by a member, or a member of a home police force, the accused, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(5) A verbatim record of the proceedings at the hearing of the case shall be taken and a transcription of the record shall be made and sent to the Police Authority and, if a punishment is imposed by that Authority and the accused contemplates an appeal to the Minister, at his request made within the period during which notice of appeal may be given, a transcription of the record shall be made and the transcription thereof supplied to him.

*Adjournment of hearing*

29. The hearing of a case may be adjourned from time to time as may appear necessary for due hearing of the case.

*Hearing in absence of accused*

30.—(1) It shall be within the discretion of the tribunal to proceed with the hearing of the case in the absence of the accused if it appears just and proper so to do.

(2) Where, owing to the absence of the accused, it is impossible to comply with the procedure described in Regulations 23 and 26, that procedure shall be dispensed with.

*Hearing to be in private*

31. The hearing of the case shall be held in public only if the tribunal so directs.

*Attendance of complainant at hearing*

32.—(1) Without prejudice to Regulation 4 (modification for complaints referred to a tribunal under Section 13(2) of the Act) this Regulation shall apply in relation to the hearing of a charge against a senior officer where the facts alleged in the charge were alleged in a complaint received from a member of the public.

(2) Notwithstanding anything in Regulation 31 but subject to paragraph (4), the tribunal shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing:

Provided that—

- (a) where the complainant is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and
  - (b) where it appears to the tribunal that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.
- (3) Where the accused gives evidence, then after the person presenting the case against him has had an opportunity of cross-examining him, the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at its discretion, may allow the complainant himself to put such questions to the accused.
- (4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the hearing: and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the tribunal may exclude him from the remainder of the hearing.
- (5) In this Regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was received from or through some other person or body.

#### *Tribunal's report*

**33.**—(1) The tribunal shall, as soon as possible after the hearing, submit a report to the Police Authority setting out—

- (a) a statement of the facts admitted or found to be proved so far as they are material to the case;
- (b) a statement as to the charges found to be proved;
- (c) if any charges are found to be proved, a recommendation as to the proper punishment which in its opinion should be imposed therefor;
- (d) a recommendation as to whether the accused senior officer should pay any, and if so what, part or the whole of his own costs of the hearing;
- (e) any other matter arising out of the hearing which it desires to bring to the notice of the Police Authority.

(2) The tribunal shall send to the accused a copy of the report.

#### *Decision of the Police Authority*

**34.**—(1) The decision of the Police Authority on receipt of the report of the tribunal shall be either to dismiss the case or to impose one of the following punishments, namely:—

- (a) dismissal from the force;
- (b) requirement to resign from the force as an alternative to dismissal, either forthwith or on such date as may be specified in the decision;
- (c) reprimand;

(2) As soon as possible after receipt of the report of the tribunal, the decision of the Police Authority shall be recorded on the discipline form and notified in writing to the accused.

*Reference to accused's record in considering punishment*

35. In considering which punishment should be imposed if any charge is found to be proved, regard shall be had to the record of the police service of the accused.

*Copy of report and decision to be sent to the Minister*

36. A copy of the report of the tribunal together with the decision of the Police Authority shall be sent by the Police Authority to the Minister.

*Suspension*

37.—(1) When a report, allegation or complaint is received from which it appears that a senior officer may have committed a disciplinary or criminal offence, the Police Authority may suspend that officer from duty, whether or not the matter has then been investigated, and in such case he shall be suspended until—

- (a) the Police Authority decides otherwise;
- (b) it is decided that the officer shall not be charged with a disciplinary offence, or
- (c) the officer has been so charged and either all the charges have been dismissed or a punishment has been imposed,

whichever first occurs.

(2) In case of urgency, the power of suspension conferred on the Police Authority by paragraph (1) may, in relation to a deputy chief constable or an assistant chief constable, be exercised by the chief constable, and, in such case, the Police Authority shall as soon as possible decide whether to continue the period of suspension or terminate it under paragraph (1)(a).

(3) Subject to paragraph (5), a senior officer suspended under this Regulation shall not, by virtue of any statutory Regulations relative to the force, be entitled to any allowance, other than a rent allowance, supplementary rent allowance or compensatory grant, in respect of the period of suspension.

(4) Subject to paragraph (5), a senior officer suspended under this Regulation who—

- (a) is detained in pursuance of a sentence of a Court in a prison or other institution to which the Prison Act (Northern Ireland) 1953 applies, or is in custody (whether in prison or elsewhere) between conviction by a court and sentence, or

- (b) has absented himself from duty and whose whereabouts are unknown to the Police Authority,

shall not, by virtue of any statutory Regulations relative to the force, be entitled to pay in respect of his period in detention or custody or, as the case may be, in respect of the period during which his whereabouts are unknown to the Police Authority.

(5) Where a senior officer returns to duty when the period of suspension comes to an end and—

- (a) it has been decided that he shall not be charged with a disciplinary offence, or

- (b) he has been so charged and all the charges have been dismissed, or

- (c) he has been so charged and has been punished by a reprimand,

he shall receive, as from the date of his suspension, the allowances to which, but for paragraph (3), and the pay to which, but for paragraph (4), he would have been entitled.

*Expenses of hearing*

38.—(1) All the expenses of a hearing under this Part, including the costs of the accused, shall, unless the Police Authority in consequence of a recommendation of the tribunal under Regulation 33 otherwise directs, be defrayed by the Police Authority.

(2) Any costs payable under this Regulation shall be subject to taxation in such manner as the Ministry may direct.

## PART IV

## APPEALS

*Disciplinary appeal*

39. A member of the force (in this Part referred to as "the appellant") who is dealt with for an offence against discipline may appeal under this Part to the Minister.

*Notice of appeal*

40.—(1) An appeal under this Part shall be instituted by the appellant giving a notice of appeal in the form set out in Schedule 4, and annexing thereto the documents specified in the said notice.

(2) The notice of appeal shall be submitted to the Minister within twenty-one days from the date on which the appellant was notified in writing of the decision against which he desires to appeal:

Provided that where the Minister is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and right so to do, he may extend the period within which a notice of appeal may be submitted until a date specified by him.

(3) The appellant shall, within the said period of twenty-one days or by the date fixed by the Minister, as the case may be, send to the respondent a copy of the notice of appeal and of the documents annexed thereto.

(4) The appellant may withdraw his appeal by notice in writing submitted to the Minister at any time before the appeal is decided by the Minister or, where he has appointed a tribunal, before the inquiry opens.

*Decision of the Minister*

41.—(1) On an appeal under this Regulation the Minister may make an order—

- (a) allowing the appeal;
- (b) dismissing the appeal; or
- (c) varying the punishment by substituting some other punishment (whether more or less severe) which could have been imposed on the appellant.

(2) The Minister may direct the appellant to pay the whole or any part of his own costs but, subject to any such direction, all the costs and expenses of an appeal under this Regulation, including the costs of the parties, shall be defrayed by the Police Authority.

*Respondent*

42.—(1) On any appeal under Regulation 39 the disciplinary authority shall be made the respondent.

(2) For the purposes of this part "the disciplinary authority" means—

- (a) the chief constable in relation to a finding that a member of the force of or below the rank of superintendent has committed an offence and to any punishment imposed therefor; and
- (b) the Police Authority in relation to a finding that a senior officer has committed an offence or to any punishment imposed therefor.

*Inquiries*

43.—(1) The Minister may, unless it appears to him that the case is of such a nature that it can properly be determined without taking evidence, appoint a tribunal of one or more persons (one at least of whom shall be a person engaged or experienced in police administration) to hold an inquiry and report to him.

(2) The Minister shall, before making an order under Regulation 41, consider any report made to him under this paragraph, as well as the notice of appeal and any other documents submitted to him by the appellant and the respondent in accordance with Regulations under this Part.

(3) The Minister may before making an order under Regulation 41 remit the case for further investigation by—

- (a) the person or persons who held the inquiry; or
- (b) if he thinks fit, the disciplinary authority; or
- (c) where the case is one in which a complaint has been considered and reported on by a tribunal under Section 13(2) of the Act, by that tribunal.

*Notice and effect of Orders*

44.—(1) A copy of any order made by the Minister under Regulation 41 shall as soon as it is made be sent to the appellant and the respondent together with, if an inquiry was held, a copy of the report of the person holding the inquiry, and the order shall be final and binding upon all parties.

(2) Where an appeal is allowed, or the punishment is varied, by the Minister, the order shall take effect by way of substitution for the decision appealed from as from the date of that decision: and where the effect of the order is to reinstate the appellant in the force or in his rank he shall, for the purpose of reckoning service for pensions and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in that rank, as the case may be, continuously from the date of the decision to the date of his reinstatement and, if he was suspended for a period immediately preceeding the date of the decision, the order shall deal with the suspension.

(3) Any costs payable under Regulation 41 shall be subject to taxation in such manner as the Ministry may direct.

*Statement by respondent*

45.—(1) The respondent, when so required by the Minister, shall send him a written statement as to whether or not he desires to oppose the appeal and, where he desires to oppose it, as to—



- (a) the facts and contentions on which the respondent relies and the documentary or other evidence, if any, which he desires to submit;
- (b) whether, in the event of an inquiry being held, he desires to appear by a legal or other representative, and
- (c) whether, in the event of an inquiry being held, it would be an inquiry to which Regulation 51 applies and, if so, the name and address of the complainant within the meaning of that Regulation.

(2) The respondent, if so required by the Minister, shall also send him such number of copies as he may require of—

- (a) the statement referred to in paragraph (1), and
- (b) such papers, reports, records and other documents as the Minister may specify.

(3) The respondent shall send to the appellant a copy of the statement referred to in paragraph (1) and of each document, a copy of which has been sent to the Minister in accordance with paragraph (2)(b).

#### *Documents to be sent to the tribunal*

46. Where the Minister appoints a tribunal to hold an inquiry he shall send to each member of the tribunal—

- (a) a copy of the notice of appeal and of each document annexed thereto, and
- (b) a copy of the statement referred to in Regulation 45(1) and of each document, a copy of which has been sent to the Minister in accordance with Regulation 45(2)(b).

#### *Procedure at inquiry*

47.—(1) Where the Minister appoints a tribunal, the tribunal (or, where it consists of two or more persons, the member thereof appointed by the Minister to preside at the inquiry) shall fix the day for the opening of the inquiry and shall cause notice thereof to be sent to the appellant, the respondent and the Minister, not less than fourteen days before the day in question.

(2) It shall be within the discretion of the tribunal to proceed with the inquiry in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn the inquiry from time to time as may appear necessary for the due hearing of the case.

(3) The tribunal may, at any time before the conclusion of the inquiry, allow the notice of appeal or any documents annexed thereto, the respondent's statement or any papers, reports, records or other documents, copies of which have been sent to the Minister in accordance with Regulation 45(2)(b), to be amended as it thinks just.

(4) Subject to this Part, the procedure at an inquiry shall be determined by the tribunal.

#### *Representation at inquiry*

48.—(1) The appellant shall have the right to appear at the inquiry in person, by a serving member or a serving member of a home police force or by counsel or a solicitor.

(2) The respondent shall have the right to appear at the inquiry by a serving member, by the Secretary or other officer of the Police Authority or by counsel or a solicitor.

*Inquiry to be in private*

49.—(1) Unless the Minister otherwise directs, the inquiry shall be held in private:

Provided that it shall be within the discretion of the tribunal to allow such person or persons as it considers desirable to attend the whole or such part of the inquiry as it may think fit.

(2) Notwithstanding that the Minister has directed that an inquiry should be held in public or that the tribunal has allowed a person to attend the inquiry, where it appears to the tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed publicly, the tribunal shall require any member of the public present to withdraw while that evidence is given.

*Evidence at inquiry*

50.—(1) Unless the tribunal otherwise determines, the inquiry shall be conducted by way of rehearing the charge and the evidence in support thereof shall be given first.

(2) All evidence given at the inquiry shall be given on oath.

(3) All witnesses giving evidence at the inquiry shall be subject to examination and cross-examination.

(4) It shall be within the discretion of the tribunal to determine any question as to whether any evidence tendered shall be admitted or whether any question shall or shall not be put to a witness.

(5) A verbatim record of the evidence given at the inquiry shall be taken and a transcription of the record shall be made.

*Attendance of complainant at inquiry*

51.—(1) This Regulation shall apply in relation to an inquiry held by a tribunal appointed under Regulation 43 where the facts alleged in the charge were alleged in a complaint received from a member of the public and the appeal is not against punishment only.

(2) Notice of the opening of the inquiry shall be sent to the complainant and Regulation 47(1) shall apply as if the reference therein to the respondent included a reference to the complainant.

(3) Notwithstanding anything in Regulation 49(1) but subject to paragraph (5), the tribunal shall allow the complainant to attend the inquiry while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the inquiry:

Provided that—

(a) where the complainant is to be called as a witness at the inquiry, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and

(b) where it appears to the tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(4) Where the appellant gives evidence, then after the person representing the respondent has had an opportunity of cross-examining him, the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at its discretion, may allow the complainant himself to put such questions to the accused.

(5) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the inquiry: and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the tribunal may exclude him from the remainder of the inquiry.

(6) In this Regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was received from or through some other person or body.

#### *Report of tribunal*

52. The tribunal shall draw up and submit to the Minister, as soon as may be after the termination of the inquiry, a report, in triplicate, of its findings, setting out—

- (a) a statement of the facts admitted or found to be proved, so far as material to the case;
- (b) a statement as to the charge or charges found to be proved;
- (c) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any, and if so what, punishment should, in its opinion, be substituted therefor;
- (d) where the appeal is against punishment by dismissal, by being required to resign or by reduction in rank, a recommendation as to the extent (if any) that the appellant, if he were reinstated in the force or in his rank, should be deemed, for the purposes of pay, to have served in the force or in that rank, as the case may be, continuously from the date of the decision appealed from to the date of his reinstatement and, if he was suspended for a period immediately preceding the date of the decision, as to the provision dealing with the suspension which should be included in the order;
- (e) a recommendation as to whether or not the appellant should be required to pay the whole or a specified part of his own costs of the appeal;
- (f) any other matter arising out of the appeal which it desires to bring to the notice of the Minister:

and shall send therewith to the Minister the verbatim record of the evidence given at the inquiry, the transcription thereof, the documents sent to the tribunal in accordance with Regulation 46 and all other documents produced at the inquiry furnished in connection therewith.

#### *Further investigation by tribunal*

53. Where the Minister remits a case for further investigation by a tribunal in accordance with Regulation 43(3), these Regulations shall apply in relation to that further investigation, subject to any necessary modifications, as they apply in relation to an inquiry.

*Service of documents*

54. Where any notice or other document is required by these Regulations to be submitted or sent by or to the Minister or any other person or the Police Authority, it shall be a sufficient compliance with these Regulations if such notice or other document is sent, by registered letter post or the recorded delivery service, within such time, if any, as is prescribed by these Regulations, in a letter directed to the person or Police Authority for whom it is intended at his or its usual office or other ordinary address or, in the case of a notice or other document intended for the Minister, to the Minister at the Ministry of Home Affairs at the official address of the Headquarters of the Ministry (or, so long as section 1 of the Northern Ireland (Temporary Provisions) Act 1972 has effect, to the Secretary of State at the aforementioned Headquarters).

*Determination of questions*

55. If any question arises as to the proper compliance with any provision of this Part it shall be determined by the Minister whose decision shall be final.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 19th day of July 1973.

(L.S.)

*W. G. Robinson,*  
Assistant Secretary.

## SCHEDULE 1

## Regulation 5

## DISCIPLINE CODE

1. *Discreditable conduct*, which offence is committed where a member acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the force, or of the police service.

2. *Misconduct towards a member*, which offence is committed where—

(a) a member's conduct towards another member is oppressive or abusive,  
or

(b) a member assaults another member.

3. *Disobedience to orders*, which offence is committed where a member without good and sufficient cause, disobeys or omits or neglects to carry out any lawful order, written or otherwise, or contravenes any provision of the Royal Ulster Constabulary Regulations 1973(f) or any other statutory provision relating to restrictions on the private lives of members, or requiring him to notify the chief constable that he, or a relation included in his family, has a business interest, within the meaning of those Regulations.

4. *Neglect of duty*, which offence is committed where a member without good and sufficient cause—

(a) neglects or omits to attend promptly and diligently to or carry out anything which it is his duty as a member to attend to or carry out, or

(b) fails to work his beat in accordance with orders, or leaves the place of duty to which he has been ordered, or having left his place of duty for an authorised purpose fails to return thereto without undue delay,  
or

(c) is absent without leave from, or is late for, any duty.

5. *Falsehood or prevarication*, which offence is committed where a member—

(a) knowingly or through negligence makes any false, misleading or inaccurate oral or written statement or entry in any official document or record, or

(b) without good and sufficient cause, destroys or mutilates any official document or record, or alters or erases or adds to any entry therein, or

(c) has wilfully made any false statement in connection with his appointment to the force.

6. *Improper disclosure of information*, which offence is committed where a member—

(a) without proper authority communicates to any person any information which he has in his possession as a member, or

(b) makes any anonymous communication to the Police Authority or any member of the force, or

(c) canvasses any member of the Police Authority with regard to any matter concerning the force.

7. *Corrupt or improper practice*, which offence is committed where a member—

- (a) fails properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty, or
- (b) in his capacity as a member and without the consent of the chief constable or the Police Authority, directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, or
- (c) places himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a member, or
- (d) improperly uses, or attempts so to use, his position as a member for his private advantage, or
- (e) in his capacity as a member and without the consent of the chief constable writes, signs or gives any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind.

8. *Abuse of authority*, which offence is committed where a member—

- (a) without good and sufficient cause makes an arrest, or
- (b) uses any unnecessary violence towards any prisoner or other person with whom he may be brought into contact in the execution of his duty, or
- (c) is uncivil to any member of the public.

9. *Neglect of health*, which offence is committed where a member neglects, without good and sufficient cause, to carry out any instructions of a medical officer appointed by the Police Authority or, while absent from duty on account of sickness, commits any act or adopts any conduct calculated to retard his return to duty.

10. *Improper dress or untidiness*, which offence is committed where a member while on duty, or while off duty but wearing uniform in a public place, is improperly dressed or is untidy in his appearance.

11. *Damage to police property*, which offence is committed where a member—

- (a) wilfully or by carelessness causes any waste, loss or damage to any police property, or
- (b) fails to report any loss of or damage to any such property issued to, or used by, him or entrusted to his care.

12. *Drunkenness or drug-taking*, which offence is committed when a member renders himself unfit through drink or drugs or a combination thereof for duties which he is or will be required to perform or which he may reasonably foresee having to perform.

13. *Drinking on duty or soliciting drink*, which offence is committed where a member, while on duty—

- (a) without proper authority drinks, or receives from any other person, any intoxicating liquor, or
- (b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor.

14. *Entering licensed premises*, which offence is committed where a member—

(a) while on duty, or

(b) while off duty but wearing uniform,

without good and sufficient cause enters any premises in respect of which a licence or permit has been granted in pursuance of the law relating to liquor licensing or betting and gaming or regulating places of entertainment.

15. *Criminal conduct*, which offence is committed where a member has been found guilty by a court of law of a criminal offence.

16. *Being an accessory to a disciplinary offence*, which offence is committed where a member connives at or is knowingly an accessory to any offence against discipline.

SCHEDULE 2

Regulation 8

DISCIPLINE FORM

CHARGE AGAINST Name .....

No. .... Rank ..... Rate of Pay .....

Particulars of Service .....

CHARGE

Offence of which member is accused	Particulars of alleged offence, including time, date and place	Names and addresses of witnesses in support of charge and whose statements are attached
		1. .... ..... .....
		2. .... ..... .....
		3. .... ..... .....
		4. .... ..... .....
		5. .... ..... .....
		6. .... ..... .....

Questions to be answered by accused

1. Do you admit or deny the charge? .....

2. Do you wish—

(a) to select a member of the R.U.C. or a member of a home Police Force to assist you in presenting your case? \*If so, give his name, rank and police force. If not, write "No".



(b) the chief constable to take steps with a view to securing the attendance of any witnesses for you at the hearing of the case? \*If so, give their names and addresses. If not, write "None".

\*This information may be furnished later.

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Date ..... Signature of accused .....

Hearing

Date ..... Time ..... Place .....  
and by adjournment on—

Date ..... Time ..... Place .....

Notified to Accused

..... Initials

..... Date

Chief Constable's decision

I find the accused guilty/not guilty of the disciplinary offence with which he has been charged. I have referred to and taken note of the personal record of the accused.

Punishment imposed .....

Date ..... Signature .....

Chief Constable's decision notified to accused

I have been notified of the chief constable's decision.

Date ..... Signature of accused .....



SCHEDULE 3

Regulation 25

DISCIPLINE FORM

CHARGE AGAINST Name .....

Rank .....

Particulars of Service .....

CHARGE

Offence of which member is accused	Particulars of alleged offence, including time, date and place	Names and addresses of witnesses in support of charge and whose statements are attached
		1. .... ..... .....
		2. .... ..... .....
		3. .... ..... .....
		4. .... ..... .....
		5. .... ..... .....
		6. .... ..... .....

Police Authority's decision

The Police Authority has found the accused guilty/not guilty of the disciplinary offence with which he has been charged and has referred to and taken note of the personal record of the accused.

Punishment imposed .....

Date ..... Signature .....

*Police Authority's decision notified to accused*

I have been notified of the Police Authority's decision.

Date ..... Signature of accused .....

*For office use only*

1. Copy of discipline form supplied to accused. Initials ..  
Date .....

2. Decision of Police Authority notified in writing to accused. Initials ..  
Date .....

Particulars of any appeal to the Minister

.....  
.....  
.....

SCHEDULE 4

FORM OF NOTICE OF APPEAL TO THE MINISTER

I, [here insert name and number]

on the ..... day of ..... 19..... while holding the rank of ..... in the Royal Ulster Constabulary was found to have committed the following disciplinary offence(s), that is to say [here insert charge or charges found to be proved] ..... and was punished therefore [here insert particulars of punishment] .....

I was notified in writing of the decision on .....

\*I desire to appeal against the said finding and punishment.

\*I do not desire to appeal against the said finding but desire to appeal against the said punishment.

I desire/do not desire\* to submit additional evidence not taken into consideration at the hearing of the charge(s) against me.

I annex—

- (1) a concise statement (marked A) of the grounds on which I desire to appeal;
(2) a list (marked B) of the documents, if any (other than documents produced at the hearing), which I desire to submit;
(3) a list (marked C) of the names and addresses of the witnesses I desire to call, with a concise statement of the material facts which each such witness will prove.

At the date on which I was so punished I was in receipt of pay at the rate of £..... a year.

Before being so punished I was suspended on the ..... day of ..... 19....., at which date I was in receipt of pay at the rate of £..... a year.

I declare that a copy of this notice of appeal and of each document annexed thereto has been sent to the [chief constable] [Police Authority]\* whose decision is the subject of this appeal.

\* Delete those words which are inapplicable.

Signature .....

Address .....

Date ..... 19.....

## EXPLANATORY NOTE

*(This note is not part of the Regulations, but is intended to indicate their general purport.)*

These Regulations supersede the provisions dealing with discipline and disciplinary appeals in regard to the Royal Ulster Constabulary as set out in the Royal Ulster Constabulary Code Regulations promulgated under section 6 of the Constabulary (Ireland) Act 1836.

In accordance with section 25(3) of the Police Act (N.I.) 1970 the regulations provide that for ranks of and below superintendent and for the senior officers, the chief constable and the Police Authority shall be the respective disciplinary authorities.

The main differences between these regulations and those formerly contained in the Royal Ulster Constabulary Code are as follows:—

The chief constable may delegate to the deputy chief constable the duty of deciding whether a man shall be charged with a disciplinary offence (Regulation 9). The case against the accused may be heard by the chief constable or by a disciplinary board of officers (Regulation 12). In the case of a senior officer provision is made for hearing by a tribunal (Regulation 27).

Regulation 16 sets out the punishments which the chief constable may impose. The power of dismissal in respect of members of and below the rank of superintendent is now vested in the chief constable and in respect of senior officers in the Police Authority. This power was formerly exercisable by the Governor of Northern Ireland.

The chief constable may remit a case against a member for hearing or rehearing to some other chief constable (Regulation 20).

A discipline book is to be kept by the chief constable (Regulation 22).

An appeal against a decision of a disciplinary authority may be made to the Minister (Regulation 39), who may appoint a tribunal to hold an enquiry into the matter and report to him (Regulation 43). The Minister may also remit the case for further investigation (Regulation 43).

The offences set out in the Discipline Code have been revised.