



Ministry of Defence Police Act 1987

1987 CHAPTER 4

[^{F14} Representation etc. at disciplinary proceedings

- (1) The Secretary of State shall by regulations make provision for or in connection with—
 - (a) enabling the officer concerned or the relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 3A;
 - (b) enabling the panel conducting such proceedings to receive advice from a relevant lawyer or another person falling within any prescribed description of persons.
- (2) Regulations under this section may in particular make provision—
 - (a) specifying the circumstances in which the officer concerned or the relevant authority is entitled to be represented by a relevant lawyer;
 - (b) specifying the circumstances in which the officer concerned or the relevant authority is entitled to be represented by a person (other than a relevant lawyer) who falls within any prescribed description of persons;
 - (c) for securing that—
 - (i) the relevant authority may be legally represented, and
 - (ii) the panel conducting the proceedings may receive advice from a relevant lawyer,whether or not the officer concerned is legally represented.
- (3) Without prejudice to the powers conferred by this section, regulations under this section shall, in relation to cases where the officer concerned is entitled to legal or other representation, make provision—
 - (a) for securing that the officer is notified of his right to such representation;
 - (b) specifying when the officer is to be so notified;
 - (c) for securing that proceedings at which the officer may be dismissed are not to take place unless the officer has been notified of his right to such representation.
- (4) In this section—

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“the officer concerned”, in relation to proceedings within subsection (1)(a), means the member [^{F2}or, as the case may be, the former member] of the Ministry of Defence Police to whom the proceedings relate;

“the panel”, in relation to proceedings within subsection (1)(a), means the panel of persons, or the person, prescribed for the purpose of conducting the proceedings;

“prescribed” means prescribed by regulations under this section;

“relevant authority” means—

(a) where the officer concerned is a member of the Ministry of Defence Police (other than a senior officer), the chief constable for the Ministry of Defence Police;

(aa) [^{F3}where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was not a senior officer, the chief constable for the Ministry of Defence Police;]

(b) where the officer concerned is a senior officer, the Ministry of Defence Police Committee;

(c) [^{F4}where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was a senior officer, the Ministry of Defence Police Committee;]

“relevant lawyer” means—

(a) in relation to England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act), and

(b) in relation to Scotland or Northern Ireland, counsel or a solicitor;

“senior officer” means a member of the Ministry of Defence Police holding a rank above that of chief superintendent.

(5) But in prescribed circumstances “relevant authority” also includes—

(a) in relation to England and Wales, the [^{F5}Independent Office for Police Conduct] ;

(b) in relation to Scotland, the Police Complaints Commissioner for Scotland;

(c) in relation to Northern Ireland, the Police Ombudsman for Northern Ireland.

(6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Subsection (6) does not apply to a statutory instrument containing (whether alone or with other provision) any regulations under this section coming into force at a time that is the earliest time at which any regulations under this section are to come into force since the commencement of paragraph 15 of Schedule 22 to the Criminal Justice and Immigration Act 2008.

(8) A statutory instrument within subsection (7) may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.]

Textual Amendments

F1 S. 4 substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 22 para. 15](#) (with [Sch. 27 para. 35](#)); [S.I. 2009/3074](#), art. 2(r)

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- F2** Words in s. 4(4) inserted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 7 para. 3\(a\)](#); S.I. 2017/1139, reg. 2(b) (as amended by S.I. 2017/1162, reg. 2)
- F3** Words in s. 4(4) inserted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 7 para. 3\(b\)\(i\)](#); S.I. 2017/1139, reg. 2(b) (as amended by S.I. 2017/1162, reg. 2)
- F4** Words in s. 4(4) inserted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 7 para. 3\(b\)\(ii\)](#); S.I. 2017/1139, reg. 2(b) (as amended by S.I. 2017/1162, reg. 2)
- F5** Words in s. 4(5)(a) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 9 para. 63\(3\)](#); S.I. 2017/1249, reg. 2 (with reg. 3)

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