



# Police Act 1996

## 1996 CHAPTER 16

### PART IV

#### COMPLAINTS, DISCIPLINARY PROCEEDINGS ETC.

F1 ...

#### Textual Amendments

- F1** Pt. 4 Ch. 1 repealed (1.4.2004) by [Police Reform Act 2002 \(c. 30\)](#), s. 108(2), [Sch. 8](#) (with s. 26(9)(10)(28)); S.I. 2004/913, art. 2(f)(iv) (with savings in S.I. 2004/671, arts. 1(1), 2(3)(4))

#### Modifications etc. (not altering text)

- C1** Pt. 4 Ch. 1 restricted by S.I. 1985/520, reg. 11(1) (as amended (15.11.2003) by [The Police \(Complaints\) \(General\) \(Amendment\) Regulations 2003 \(S.I. 2003/2602\)](#), regs. 1(1), [8\(2\)](#))
- C2** Pt. IV Ch. I continued (1.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) Order 2004 \(S.I. 2004/671\)](#), arts. 1(1), [2\(3\)\(4\)](#)

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#### Modifications etc. (not altering text)

- C3** S. 65 applied (1.4.1999) by [S.I. 1999/731](#), [reg. 11\(5\)](#)

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*Status: Point in time view as at 01/12/2008.*

**Changes to legislation:** *There are currently no known outstanding effects for the Police Act 1996, Part IV. (See end of Document for details)*

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**Extent Information**

**E1** This section extends E.W. but also extends S. so far as it relates to Sch. 5, para.8

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*Status: Point in time view as at 01/12/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Police Act 1996, Part IV. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C4** S. 81 modified (1.6.1999) by **S.I. 1999/1273, reg. 28**

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## CHAPTER II

### DISCIPLINARY AND OTHER PROCEEDINGS

#### [<sup>F2</sup>84] **Representation etc. at disciplinary and other proceedings**

- (1) The Secretary of State shall by regulations make provision for or in connection with—
  - (a) enabling the officer concerned or a relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A);
  - (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 a relevant authority is entitled to be legally represented (by a relevant lawyer);
  - (b) specifying the circumstances in which the officer concerned or a 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) a 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—
  - (a) “the officer concerned”, in relation to proceedings within subsection (1) (a), means the member of a police force or special constable to whom the proceedings relate;

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“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 a police force (other than a senior officer), or a special constable, the chief officer of police of the police force of which the officer is a member, or for which the officer is appointed as a special constable;
- (b) where the officer concerned is a senior officer, the police authority for the police force of which the officer is a member;

“relevant lawyer” means 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);

“senior officer” means a member of a police force holding a rank above that of chief superintendent.

- (5) But in prescribed circumstances “relevant authority” also includes the Independent Police Complaints Commission.
- (6) Regulations under this section may make different provision for different cases and circumstances.
- (7) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Subsection (7) 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 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008.
- (9) A statutory instrument within subsection (8) 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**

- F2** S. 84 substituted (3.11.2008 for specified purposes, 1.12.2008 in so far as not already in force) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 22 para. 7](#) (with [Sch. 27 para. 35](#)); [S.I. 2008/2712, art. 2, Sch. para. 16\(b\)](#) (with [art. 4](#)); [S.I. 2008/2993, art. 2\(1\)\(h\)\(i\)](#) (with [art. 3](#))

## **85 Appeals against dismissal etc.**

- [<sup>F3</sup>(1) The Secretary of State shall by rules make provision specifying the cases in which a member of a police force or a special constable may appeal to a police appeals tribunal.
- (2) A police appeals tribunal may, on the determination of an appeal under this section, make an order dealing with the appellant in any way in which he could have been dealt with by the person who made the decision appealed against.]
- (3) The Secretary of State may make rules as to the procedure on appeals to police appeals tribunals under this section.

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[<sup>F4</sup>(4) Rules made under this section may, in particular, make provision—

- (a) for enabling a police appeals tribunal, in such circumstances as are specified in the rules, to determine a case without a hearing;
- (b) for the appellant or the respondent to be entitled, in a case where there is a hearing, to be represented—
  - (i) by a relevant lawyer within the meaning of section 84, or
  - (ii) by a person who falls within any description of persons prescribed by the rules;
- (c) for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents,

and rules made in pursuance of paragraph (c) may apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the rules.]

[<sup>F4</sup>(4A) Rules under this section may make different provision for different cases and circumstances.]

[<sup>F5</sup>(5) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

[<sup>F5</sup>(5A) Subsection (5) does not apply to a statutory instrument containing (whether alone or with other provision) the first rules made under this section after the commencement of paragraph 8 of Schedule 22 to the Criminal Justice and Immigration Act 2008: such an instrument may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.]

(6) Schedule 6 shall have effect in relation to appeals under this section.

#### Textual Amendments

- F3** S. 85(1)(2) substituted (3.11.2008 for specified purposes, 1.12.2008 in so far as not already in force) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 22 para. 8(2)**; S.I. 2008/2712, art. 2, Sch. para. 16(c) (with art. 4); S.I. 2008/2993, art. 2(1)(h)(i) (with art. 3)
- F4** S. 85(4)(4A) substituted for s. 85(4) (3.11.2008 for specified purposes, 1.12.2008 in so far as not already in force) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 22 para. 8(3)** (with Sch. 27 para. 35); S.I. 2008/2712, art. 2, Sch. para. 16(c) (with art. 4); S.I. 2008/2993, art. 2(1)(h)(i) (with art. 3)
- F5** S. 85(5)(5A) substituted for s. 85(5) (3.11.2008 for specified purposes, 1.12.2008 in so far as not already in force) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 22 para. 8(4)**; S.I. 2008/2712, art. 2, Sch. para. 16(c) (with art. 4); S.I. 2008/2993, art. 2(1)(h)(i) (with art. 3)

#### Modifications etc. (not altering text)

- C5** S. 85 excluded (31.3.1999) by S.I. 1999/533, **art. 3(2)**  
S. 85 applied (1.4.1999) by S.I. 1999/731, **reg. 15(6)**
- C6** S. 85(2)-(5) applied (31.10.1997) by 1997 c. 50, **s. 82(2)**; S.I. 1997/2390, **art. 2(2)(r)**

<sup>F6</sup>**86** **Admissibility of statements in subsequent proceedings.**

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#### Textual Amendments

- F6** S. 86 repealed (1.4.2004) by [Police Reform Act 2002 \(c. 30\)](#), s. 108(2), **Sch. 8**; S.I. 2004/913, art. 2(f)(iv)

### 87 Guidance concerning disciplinary proceedings etc.

[<sup>F7</sup>(1) The Secretary of State may issue relevant guidance to—

- (a) police authorities,
- (b) chief officers of police,
- (c) other members of police forces,
- (d) special constables, and
- (e) persons employed by a police authority who are under the direction and control of the chief officer of police of the police force maintained by that authority.]

[<sup>F7</sup>(1ZA) “Relevant guidance” is guidance as to the discharge of functions under regulations under section 50 or 51 in relation to the matters mentioned in section 50(2)(e) or 51(2)(ba).]

[<sup>F8</sup>(1A) The Secretary of State may also issue guidance to the Independent Police Complaints Commission concerning the discharge of its functions under any regulations under section 50 [<sup>F9</sup>or 51] in relation to disciplinary proceedings.

- (2) Nothing in this section shall authorise the issuing of any guidance about a particular case.
- (3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in discharging the functions to which the guidance relates.
- (4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.
- (5) In this section “disciplinary proceedings” means any proceedings under any regulations under section 50 [<sup>F10</sup>or 51] that are identified as disciplinary proceedings by those regulations.]

#### Textual Amendments

- F7** S. 87(1)(1ZA) substituted for s. 87(1) (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 22 para. 9(2)**; S.I. 2008/2993, art. 2(1)(h)(ii) (with art. 3)
- F8** S. 87(1A)-(5) substituted for s. 87(2) (1.4.2004) by [Police Reform Act 2002 \(c. 30\)](#), s. 108(2), **Sch. 7 para. 18**; S.I. 2004/913, art. 2(e)
- F9** Words in s. 87(1A) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 22 para. 9(3)**; S.I. 2008/2993, art. 2(1)(h)(ii) (with art. 3)
- F10** Words in s. 87(5) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 22 para. 9(4)**; S.I. 2008/2993, art. 2(1)(h)(ii) (with art. 3)

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## **88 Liability for wrongful acts of constables.**

- (1) The chief officer of police for a police area shall be liable in respect of [<sup>F11</sup>any unlawful conduct of] constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and accordingly shall [<sup>F12</sup>, in the case of a tort,] be treated for all purposes as a joint tortfeasor.
  - (2) There shall be paid out of the police fund—
    - (a) any damages or costs awarded against the chief officer of police in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
    - (b) any sum required in connection with the settlement of any claim made against the chief officer of police by virtue of this section, if the settlement is approved by the police authority.
  - (3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the chief officer of police; and references in subsections (1) and (2) to the chief officer of police shall be construed accordingly.
  - (4) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
    - (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for [<sup>F13</sup>any unlawful conduct of] that person,
    - (b) any costs incurred and not recovered by such a person in such proceedings, and
    - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
  - (5) Subsection (4) applies to a person who is—
    - (a) a member of the police force maintained by the police authority,
    - (b) a constable for the time being required to serve with that force by virtue of section 24 or 98 [<sup>F14</sup>of this Act <sup>F15</sup>...], or
    - (c) a special constable appointed for the authority's police area.
- [<sup>F16</sup>(5A) This section shall have effect where, by virtue of section 23 or 24 of the Serious Organised Crime and Police Act 2005, a member of the staff of the Serious Organised Crime Agency who is neither a constable nor an employee of the police authority is provided to a police force as if—
- (a) any unlawful conduct of his in the performance or purported performance of his functions were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and
  - (b) subsection (4) applied to him in the case of the police authority maintaining that force.]
- [<sup>F17</sup>(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a constable who is a member of a police force as if—
- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor

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- an employee of the police authority were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and
- (b) subsection (4) applied, in the case of the police authority maintaining that force, to every member of that team to whom it would not apply apart from this subsection.
- (7) In this section “international joint investigation team” means any investigation team formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
- (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
- (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.
- (8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### **Textual Amendments**

- F11** Words in s. 88(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 102(1)(a)(2)(a)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xi)**
- F12** Words in s. 88(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 102(1)(b)(2)(a)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xi)**
- F13** Words in s. 88(4)(a) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 102(4)(5)(a)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xi)**
- F14** Words in s. 88(5)(b) inserted (1.4.1998) by [1997 c. 50](#), s. 134(1), **Sch. 9 para. 85**; [S.I. 1998/354](#), **art. 2(2)(ay)**
- F15** Words in s. 88(5)(b) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 4 para. 80(2)**, **Sch. 17 Pt. 2**; [S.I. 2006/378](#), art. 4(1), **Sch. paras. 10, 13(y)**
- F16** S. 88(5A) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 4 para. 80(3)**; [S.I. 2006/378](#), art. 4(1), **Sch. para. 10**
- F17** S. 88(6)-(8) inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 103(1)**, [105\(2\)-\(5\)](#); [S.I. 2002/2306](#), **art. 2(f)(xii)**

#### **Modifications etc. (not altering text)**

- C7** S. 88 applied (with modifications) (1.1.2000) by [S.I. 1999/3272](#), **art. 3**
- C8** S. 88(1)-(5) modified (1.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **s. 25(5)**; [S.I. 2004/1572](#), **art. 3(h)**
- C9** S. 88(1) excluded by [1974 c. 37](#), s. 51A(2D)(2E)(b) (as inserted (7.4.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 158(1)**, [178\(1\)\(a\)](#) (with s. 158(5)-(7)))



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