

*These notes refer to the Police Reform Act 2002
(c.30) which received Royal Assent on 24 July 2002*

POLICE REFORM ACT 2002

EXPLANATORY NOTES

BACKGROUND

11. The Government published the white paper *Policing a New Century: A Blueprint for Reform* (CM 5326) in December 2001 (available on the website <http://www.policereform.gov.uk>). The white paper set out the Government's intentions for the future of policing in England and Wales. It followed an extensive period of consultation with the police service, representative organisations and others. The key principles of the reform programme are:
 - to continue the reduction in crime;
 - to tackle persistent offenders more effectively;
 - to improve detection and conviction rates;
 - to tackle anti-social behaviour;
 - to reduce the fear of crime;
 - to provide support to victims of crime; and
 - to rebuild public confidence in key aspects of the police service.
12. A summary of the main responses to the white paper is available on the website: <http://www.policereform.gov.uk>
13. Many aspects of the reform programme can be implemented without primary legislation, through alteration of regulations, guidance issued by the Home Office, agreements between the Home Office and police organisations, and so on. This Act incorporates the changes that require legislation.

Part 1: Powers of the Secretary of State

14. The Government wishes to improve performance in the police service, bringing all forces up to the level of the best. In legislative terms, this involves:
 - A National Policing Plan that will set out the Government's priorities for policing and how they are to be delivered, and the indicators by which performance will be measured.
 - A three tiered approach to good practice – regulations, codes of practice and guidance – to ensure that good operational and management policies for policing are applied throughout the service. Regulations are binding in law on chief officers and must be applied. The Secretary of State already has powers under the Police Act 1996 (the 1996 Act) to make regulations in various circumstances. This Act extends the scope of those regulation-making powers. Codes of practice are the means of ensuring that all chief officers reflect good practice into the particular approach of their force in the interests of efficiency and effectiveness. They differ from regulations in that although all chief officers must have regard to them, they allow

for variation in the light of local circumstances. The 1996 Act already contains provision for codes of practice to which police authorities must have regard; this Act introduces a parallel provision for chief officers. The third tier, guidance, is not usually issued under any statutory authority and so for the generality of police operational and management policies, is not addressed in this Act. However, the Act does contain a number of provisions to issue guidance in specific areas, for example the matters to be contained in three-year strategy plans. Guidance is already issued by the Home Office, ACPO, HM Inspectorate of Constabulary (HMIC) and others: the decisions of chief officers should be informed by the guidance, but they are not bound by it.

- Further measures that will allow the Secretary of State to intervene in a force where HMIC is satisfied the force is not efficient or effective. Section 40 of the 1996 Act already allows the Secretary of State to direct a police authority to take specific remedial action following an adverse report by HMIC; the Act widens the ways in which the Secretary of State can take such action. In particular, the Act introduces a new power enabling the Secretary of State to direct a police authority to produce, in conjunction with the relevant chief officer, an action plan to address the poor performance highlighted by HMIC. The Act also allows the Secretary of State to require that HMIC inspects a force or part of a force.

Part 2: Complaints and Misconduct

15. The Government issued a consultation paper in May 2000 entitled *Complaints against the Police: A Consultation Document* (available on the Home Office website at <http://www.homeoffice.gov.uk>). This paper was based on a KPMG study commissioned by the Home Office on *Feasibility of an Independent System for Investigating Complaints against the Police* (ISBN 1-84082-453-0) and a study by Liberty on *An Independent Police Complaints Commission* (available through Liberty's website at <http://liberty-human-rights.org.uk>). The paper sought views on various aspects of the police complaints system including the recording and investigation of complaints, police discipline, and openness on the part of the police, including the disclosure of reports and other information. The Government received 45 responses (28 from police bodies, 12 from other interested bodies and 5 from private individuals).
16. In response to the consultation exercise the Government issued, in December 2000, a framework document entitled *Complaints against the Police: Framework for a New System* (also available through the Home Office website). This document set out the emerging framework for the new complaints procedures, explained how this framework was developed, and invited further views on specific points. In light of the responses to the consultation paper and the framework document the Government has introduced the provisions in Part 2 and sections 35 to 37 of Part 3 of the Act.
17. **Part 2** will create a new system for handling complaints against the police and will establish a new body to oversee this system, the IPCC. The IPCC will replace the Police Complaints Authority (originally established under the Police and Criminal Evidence Act 1984) and will be a Non-Departmental Public Body (NDPB).
18. The IPCC will have referred to it all serious cases falling into specified categories, whether or not a complaint has been made. It will have its own powers of investigation and will have a body of independent investigators at its disposal. It will also have the power to manage or to supervise police investigations of complaints. The IPCC will have the power to call in any case to investigate, to manage or to supervise.
19. Chief officers of police will have to co-operate with IPCC investigations. They will have a legal obligation to provide the IPCC with access to documentation or other material, allow the IPCC to copy such documentation, and allow the IPCC access to police premises.

20. Access to the complaints system will be increased. Persons other than the victim will be able to make a complaint against the police. Furthermore, complainants will be able to make their complaints via a third party or through independent organisations. Complainants will also have a right of appeal to the IPCC against the refusal by the appropriate authority to record a complaint.
21. Subject to a test relating to any risk that harm may be caused by disclosure of the information, complainants will be provided with an account of how the complaint investigation has been conducted, a summary of the evidence and an explanation of why the conclusions to an investigation were reached. A complainant will have a right of appeal to the IPCC if they feel that the written account does not provide a satisfactory explanation of the investigation. In certain circumstances, information may be disclosed to persons other than the complainant but they will not have a right of appeal.
22. These provisions are intended to provide a more robust system for dealing with complaints against the police and to increase public confidence in the complaints system as a whole.

Part 3: Removal, suspension and disciplining of police officers

23. Circumstances in which the removal of a chief officer is required are likely to be rare. Nonetheless, it is thought to be prudent to ensure that adequate arrangements are in place to cover this eventuality. Consequently, the Act adds to the circumstances in which senior officers can be required to retire or resign and introduces a new power of suspension from duty. It also streamlines the process surrounding the early departure of chief officers.
24. This Part of the Act also contains measures regarding the conduct of disciplinary proceedings for all officers, which are tied into the provisions of Part 2 of the Act on complaints and misconduct. One element of this, regulations enabling a change in police conduct procedures to allow inferences to be drawn from failure to mention a fact when questioned or charged, as is the case in criminal proceedings as a result of provision made under section 34 of the Criminal Justice and Public Order Act 1994, was recommended by the Home Affairs Committee in December 1997 (*First Report from the Home Affairs Committee Session 1997-98: Police Disciplinary and Complaints Procedure* (HC 258) – accessible via <http://www.parliament.uk>). The Committee felt it would go some way towards addressing concerns over the use of ‘no comment’ in interviews in police discipline investigations. The Secretary of State accepted their recommendation to end the ‘right to silence’ in discipline proceedings and announced it in the House of Commons on 23 March 1998 (*Official Report*, volume 309, column 22).

Part 4: Police Powers etc.

Chapter 1: Exercise of police powers etc. by civilians

25. As proposed in *Policing a New Century: A Blueprint for Reform*, the Act provides for specified police support staff and civilians to be given particular powers in various defined circumstances in order to perform certain defined functions. The purpose of this is three-fold:
 - Firstly, it is intended to free up police officer time for their core functions by making more effective use of support staff, including detention officers, escort officers, and investigating officers acting as Scenes of Crime Officers (SOCOs).
 - Secondly, as part of the drive to tackle crime more effectively, it is the Government’s intention to enable forces to employ specialist investigating officers to provide expertise in combating specialist crime involving areas such as finance and Information Technology. The Act enables such investigators to be granted the powers necessary to enable them to do their job effectively.

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- Thirdly, it is designed to provide additional capacity to combat low level disorder, and thereby help reduce the public's fear of crime. The Act enables chief officers to appoint suitable support staff ('community support officers') to roles providing a visible presence in the community, with powers sufficient to deal with minor issues. Such staff would be under the formal direction and control of the chief officer. The Government also wants to harness the commitment of those already involved in crime reduction activities, such as traffic wardens, neighbourhood and street wardens and security staff, through an extended police family. The Act makes provision for community safety accreditation schemes and a railway safety accreditation scheme and, in certain circumstances, the granting of limited powers to accredited members of those schemes.

Part 5: The Ministry of Defence Police

26. The Ministry of Defence Police (MDP) is a civilian police force exercising full constabulary powers within its jurisdiction. This jurisdiction is defined in the Ministry of Defence Police Act 1987, which is the principal legislation governing the force, its powers and procedures. In July 2000, the Home Office issued a consultation document, *Ministry of Defence Police: Proposals for Extension of Jurisdiction and Amendments to Powers*. The Armed Forces Bill 2001 contained various MDP provisions, including extending its jurisdiction, but these clauses were dropped before the Bill obtained Royal Assent. Changes to the jurisdiction of the MDP were subsequently enacted in section 98 of the Anti-terrorism, Crime and Security Act 2001. Part 5 of this Act makes a number of other alterations to the legislation applying to the MDP that were originally included in the Armed Forces Bill. The first main change is to provide for MDP officers seconded to other police forces to be under the direction and control of the chief officer of the receiving force and to have the full powers of constables of that force. The other main changes are to enable the MDP's disciplinary procedures to be aligned with those of the Home Office police forces, and to make the MDP subject to statutory inspection by Her Majesty's Inspectors of Constabulary.