



# Police Reform Act 2002

## 2002 CHAPTER 30

### PART 3

#### REMOVAL, SUSPENSION AND DISCIPLINING OF POLICE OFFICERS

##### *Removal and suspension of senior officers*

### **30 Resignation in the interests of efficiency and effectiveness**

- (1) In section 9E of the 1996 Act (removal of Commissioner and Deputy Commissioner of Police of the Metropolis)—
- (a) in subsection (1), for “to retire in the interests of efficiency or effectiveness” there shall be substituted “ in the interests of efficiency or effectiveness, to retire or to resign ”; and
  - (b) in subsection (3), for the words from “retire”, in the first place where it occurs, to “earlier date” there shall be substituted “ retire or resign under subsection (1), he shall retire or resign with effect from such date as the Metropolitan Police Authority may specify, or with effect from such earlier date ”.
- (2) In section 11 of that Act (removal of chief constables)—
- (a) in subsection (2), for “to retire in the interests of efficiency or effectiveness” there shall be substituted “ in the interests of efficiency or effectiveness, to retire or to resign ”; and
  - (b) in subsection (4), for the words from “retire”, in the first place where it occurs, to “earlier date” there shall be substituted “ retire or resign under subsection (2), shall retire or resign with effect from such date as the police authority may specify, or with effect from such earlier date ”.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, Part 3. (See end of Document for details)*

### **31 Procedural requirements for removal of senior officers**

- (1) In subsection (2) of section 9E of the 1996 Act (removal of Commissioner of Police of the Metropolis) for the words from “an opportunity” to the end there shall be substituted “—
- (a) an explanation in writing of the Authority’s grounds for calling upon him, in the interests of efficiency or effectiveness, to retire or to resign; and
  - (b) an opportunity to make representations;

and the Authority shall consider any representations made by or on behalf of the Commissioner.

The opportunity given to the Commissioner to make representations must include the opportunity to make them in person.”

- (2) In subsection (3) of section 11 of the 1996 Act (removal of chief constable), for the words from “an opportunity” to the end there shall be substituted “—
- (a) an explanation in writing of the authority’s grounds for calling upon him, in the interests of efficiency or effectiveness, to retire or to resign; and
  - (b) an opportunity to make representations;

and the authority shall consider any representations made by or on behalf of the chief officer.

The opportunity given to the chief constable to make representations must include the opportunity to make them in person.”

### **32 Suspension of senior officers**

- (1) In section 9E of the 1996 Act (removal of Commissioner and Deputy Commissioner of Police of the Metropolis), after subsection (2) there shall be inserted—

“(2A) The Metropolitan Police Authority, acting with the approval of the Secretary of State, may suspend the Commissioner of Police of the Metropolis from duty if—

- (a) it is proposing to consider whether to exercise its power under subsection (1) to call upon the Commissioner to retire or to resign and is satisfied that, in the light of the proposal, the maintenance of public confidence in the metropolitan police force requires the suspension; or
- (b) having been notified by the Secretary of State that he is proposing to consider whether to require the Authority to exercise that power, it is satisfied that, in the light of the Secretary of State’s proposal, the maintenance of public confidence in that force requires the suspension; or
- (c) it has exercised that power or been sent under section 42(2A) a copy of a notice of the Secretary of State’s intention to require it to exercise that power, but the retirement or resignation has not yet taken effect;

and it shall be the duty of the Metropolitan Police Authority (without reference to the preceding provisions of this subsection) to suspend the

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Commissioner from duty if it is required to do so by the Secretary of State under section 42(1A).”

- (2) In section 11 of that Act (appointment and removal of chief constables), after subsection (3) there shall be inserted—

“(3A) A police authority maintaining a police force under section 2, acting with the approval of the Secretary of State, may suspend from duty the chief constable of that force if—

- (a) it is proposing to consider whether to exercise its power under subsection (2) to call upon the chief constable to retire or to resign and is satisfied that, in the light of the proposal, the maintenance of public confidence in that force requires the suspension; or
- (b) having been notified by the Secretary of State that he is proposing to consider whether to require the police authority to exercise that power, it is satisfied that, in the light of the Secretary of State’s proposal, the maintenance of public confidence in that force requires the suspension; or

(c) it has exercised that power or been sent under section 42(2A) a copy of a notice of the Secretary of State’s intention to require it to exercise that power, but the retirement or resignation has not yet taken effect; and it shall be the duty of a police authority maintaining such a force (without reference to the preceding provisions of this subsection) to suspend the chief constable of that force from duty if it is required to do so by the Secretary of State under section 42(1A).”

- (3) In each of sections 9F(3), 9FA(3) and 9G(3) of that Act (application of sections 9E(1) to (3) in the case of Assistant Commissioners, Deputy Assistant Commissioners and Commanders), at the end there shall be inserted “but with the omission in subsection (2A)—

- (a) of paragraph (b);
- (b) in paragraph (c), of the words from “or been sent” to “exercise that power”; and
- (c) of the words after paragraph (c).”

- (4) In section 11A(3) of that Act (application of section 11(2) to (4) in the case of deputy chief constables), at the end there shall be inserted “but with the omission in subsection (3A)—

- (a) of paragraph (b);
- (b) in paragraph (c), of the words from “or been sent” to “exercise that power”; and
- (c) of the words after paragraph (c).”

- (5) In section 12(3) of that Act (application of section 11(2), (3) and (4) in the case of assistant chief constables)—

- (a) for “, (3) and” there shall be substituted “ to ”; and
- (b) at the end there shall be inserted “but with the omission in subsection (3A) —
  - (a) of paragraph (b);
  - (b) in paragraph (c), of the words from “or been sent” to “exercise that power”; and
  - (c) of the words after paragraph (c).”

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### **33 Removal etc. of senior officers at the instance of the Secretary of State**

(1) Section 42 of the 1996 Act (role of the Secretary of State as respects removal of chief constables etc.) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted—

“(1) The Secretary of State may—

- (a) require the Metropolitan Police Authority to exercise its power under section 9E to call upon the Commissioner or Deputy Commissioner, in the interests of efficiency or effectiveness, to retire or to resign; or
- (b) require a police authority maintaining a police force under section 2 to exercise its power under section 11 to call upon the chief constable of that force, in the interests of efficiency or effectiveness, to retire or to resign.

(1A) The Secretary of State may also, in any case falling within subsection (1B) in which he considers that it is necessary for the maintenance of public confidence in the force in question—

- (a) require the Metropolitan Police Authority to suspend the Commissioner or Deputy Commissioner from duty; or
- (b) require a police authority maintaining a police force under section 2 to suspend the chief constable of that force from duty.

(1B) The cases falling within this subsection are—

- (a) where the Secretary of State is proposing to exercise his power under subsection (1) in relation to the Metropolitan Police Authority or, as the case may be, the other police authority in question, or is proposing to consider so exercising that power;
- (b) where the Metropolitan Police Authority or the other police authority in question is itself proposing to exercise its power to call upon the Commissioner or Deputy Commissioner or, as the case may be, the chief constable of the force in question to retire or to resign, or is proposing to consider so exercising that power; and
- (c) where the power mentioned in paragraph (a) or (b) has been exercised but the retirement or resignation has not yet taken effect.

(2) Before requiring the exercise by the Metropolitan Police Authority or any other police authority of its power to call upon the Commissioner or Deputy Commissioner or the chief constable of the force in question to retire or to resign, the Secretary of State shall—

- (a) give the officer concerned a notice in writing—
  - (i) informing him of the Secretary of State’s intention to require the exercise of that power; and
  - (ii) explaining the Secretary of State’s grounds for requiring the exercise of that power; and
- (b) give that officer an opportunity to make representations to the Secretary of State.

(2A) Where the Secretary of State gives a notice under subsection (2)(a), he shall send a copy of the notice to the Metropolitan Police Authority or other police authority concerned.

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- (2B) The Secretary of State shall consider any representations made to him under subsection (2).”
- (3) In subsection (3) (inquiries), for the words from the beginning to “subsection (1)” there shall be substituted—
- “(3) Where the Secretary of State proposes to require the exercise of a power mentioned in subsection (1), he”.
- (4) After subsection (3) there shall be inserted—
- “(3A) At an inquiry held under subsection (3)—
- (a) the Commissioner, Deputy Commissioner or, as the case may be, the chief constable in question shall be entitled, in accordance with any regulations under section 42A, to make representations to the inquiry;
  - (b) the Metropolitan Police Authority or, as the case may be, the police authority concerned shall be entitled, in accordance with any regulations made under section 42A, to make representations to the inquiry.
- (3B) The entitlement of the Commissioner, Deputy Commissioner or, as the case may be, the chief constable in question to make representations shall include the entitlement to make them in person.”
- (5) In subsection (4) (expenses of inquiry), for the words “a chief constable, deputy chief constable or assistant chief constable” there shall be substituted “ the Commissioner, the Deputy Commissioner or a chief constable ”.
- (6) After subsection (4) there shall be inserted—
- “(4A) If the Secretary of State exercises the power conferred by subsection (1) in relation to the Commissioner or the Deputy Commissioner or a chief constable, the Metropolitan Police Authority or other police authority concerned—
- (a) shall not be required to seek the Secretary of State’s approval before calling upon the Commissioner or Deputy Commissioner or chief constable in question, in the interests of efficiency or effectiveness, to retire or to resign; and
  - (b) shall not be required to give the Commissioner, the Deputy Commissioner or the chief constable a written explanation of the authority’s grounds for calling upon him to retire or to resign, to give him an opportunity to make representations to it or to consider any representations made by him.
- (4B) In this section “the Commissioner” means the Commissioner of Police of the Metropolis and “the Deputy Commissioner” means the Deputy Commissioner of Police of the Metropolis.
- (4C) In this section a reference to the police authority concerned, in relation to a chief constable, is to the police authority which maintains the police force of which he is chief constable.”
- (7) Subsection (5) (application to senior officers in the metropolitan police) shall cease to have effect.

*Status: Point in time view as at 31/03/2015.*

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### **34 Regulations concerning procedure for removal of senior officers**

After section 42 of the 1996 Act, there shall be inserted—

#### **“42A Procedure in relation to removal of senior officers**

- (1) The Secretary of State may by regulations make provision as to the procedure to be followed in the exercise of any power conferred or duty imposed by section 9E, 11 or 42.
- (2) Before making any regulations under this section, the Secretary of State shall consult with—
  - (a) persons whom he considers to represent the interests of police authorities;
  - (b) persons whom he considers to represent the interests of chief officers of police; and
  - (c) such other persons as he thinks fit.
- (3) Regulations under this section may make different provision for different cases and circumstances.
- (4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### *Disciplinary proceedings and protected disclosures*

### **35 Disciplinary regulations for special constables**

In section 51 of the 1996 Act (regulations for special constables), in subsection (2), after paragraph (b) there shall be inserted—

“(ba) the conduct of special constables and the maintenance of discipline;”.

### **36 Conduct of disciplinary proceedings**

- (1) Without prejudice to the generality of any of the powers conferred by sections 50 and 51 of the 1996 Act (regulations for police forces and for special constables), regulations under each of those sections may make provision—
  - (a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;
  - (b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations; and
  - (c) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.
- (2) In this section “disciplinary proceedings” means any proceedings under any regulations made under section 50 or, as the case may be, section 51 of 1996 Act which are identified as disciplinary proceedings by those regulations.

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### **37 Protected disclosures by police officers**

(1) After section 43K of the Employment Rights Act 1996 (c. 18), there shall be inserted—

#### **“43KA Application of this Part and related provisions to police**

(1) For the purposes of—

- (a) this Part,
- (b) section 47B and sections 48 and 49 so far as relating to that section, and
- (c) section 103A and the other provisions of Part 10 so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of section 103A,

a person who holds, otherwise than under a contract of employment, the office of constable or an appointment as a police cadet shall be treated as an employee employed by the relevant officer under a contract of employment; and any reference to a worker being “employed” and to his “employer” shall be construed accordingly.

(2) In this section “the relevant officer” means—

- (a) in relation to a member of a police force or a special constable appointed for a police area, the chief officer of police;
- (b) in relation to a person appointed as a police member of the NCIS, the Director General of NCIS;
- (c) in relation to a person appointed as a police member of the NCS, the Director General of NCS;
- (d) in relation to any other person holding the office of constable or an appointment as police cadet, the person who has the direction and control of the body of constables or cadets in question.”

(2) In section 200(1) of that Act (provisions which do not apply to persons engaged in police service under a contract of employment)—

- (a) the words “, Part IVA” and “, 47B” shall be omitted;
- (b) after “sections 100” there shall be inserted “, 103A ”; and
- (c) after “section 100” there shall be inserted “ or 103A ”.

(3) Section 13 of the Public Interest Disclosure Act 1998 (c. 23) (exclusion of police service from provisions about protected disclosures) shall cease to have effect.

**Status:**

Point in time view as at 31/03/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Police Reform Act 2002, Part 3.