



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 2

#### POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

#### CHAPTER 4

##### POLICE DISCIPLINE

### **29 Disciplinary proceedings: former members of police forces and former special constables**

- (1) The Police Act 1996 is amended as follows.
- (2) In section 50 (regulations for police forces), after subsection (3) (regulations concerning disciplinary proceedings) insert—

“(3A) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (3) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Independent Police Complaints Commission,
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of a police force, and
- (c) condition A, B or C is satisfied in relation to the person.

(3B) Condition A is that the person ceases to be a member of a police force after the allegation first comes to the attention of a person mentioned in subsection (3A) (a).

(3C) Condition B is that the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in

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subsection (3A)(a) but the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) does not exceed the period specified in regulations under this section.

(3D) Condition C is that—

- (a) the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in subsection (3A)(a),
- (b) the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) exceeds the period specified for the purposes of condition B, and
- (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of a police force.

(3E) Regulations made by virtue of subsection (3A) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—

- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
- (b) the impact of the allegation on public confidence in the police, and
- (c) the public interest.

(3F) Regulations made by virtue of subsection (3A) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (3E)(a) to (c).

(3G) Regulations made by virtue of subsection (3A) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or under the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a member of a police force.”

(3) In section 51 (regulations for special constables), after subsection (2A) (regulations concerning disciplinary proceedings) insert—

“(2B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (2A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Independent Police Complaints Commission,

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- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a special constable, and
  - (c) condition A, B or C is satisfied in relation to the person.
- (2C) Condition A is that the person ceases to be a special constable after the allegation first comes to the attention of a person mentioned in subsection (2B)(a).
- (2D) Condition B is that the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in subsection (2B)(a) but the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in subsection (2B)(a) does not exceed the period specified in regulations under this section.
- (2E) Condition C is that—
  - (a) the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in subsection (2B)(a),
  - (b) the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in subsection (2B)(a) exceeds the period specified for the purposes of condition B, and
  - (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a special constable.
- (2F) Regulations made by virtue of subsection (2B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—
  - (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
  - (b) the impact of the allegation on public confidence in the police, and
  - (c) the public interest.
- (2G) Regulations made by virtue of subsection (2B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (2F)(a) to (c).
- (2H) Regulations made by virtue of subsection (2B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or under the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a special constable.”

- (4) In section 84 (representation etc at disciplinary and other proceedings)—

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- (a) in subsection (1)—
    - (i) after “50(3)” insert “ or (3A) ”;
    - (ii) after “51(2A)” insert “ or (2B) ”;
  - (b) in subsection (4)—
    - (i) in the definition of “the officer concerned”, after “constable” insert “ or, as the case may be, the former member of a police force or the former special constable, ”;
    - (ii) in the definition of “relevant authority”, after “authority” insert “ , in relation to proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A), ”;
    - (iii) after the definition of “relevant authority” insert—
      - ““relevant authority”, in relation to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), means—
      - (a) where the officer concerned is a former member of a police force (other than a former chief officer of police), or a former special constable, the chief officer of police of the police force of which the officer was last a member, or for which the officer was last appointed as a special constable;
      - (b) where the officer concerned is a former chief officer of police, the local policing body for the police force of which the officer was last a member;”.
- (5) In section 85 (appeals against dismissal etc), in subsection (1), after “constable” insert “ , or a former member of a police force or a former special constable, ”.
- (6) In Schedule 6 (appeals to Police Appeals Tribunals), in paragraph 10—
- (a) in paragraph (b), before “means” insert “ , except in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), ”;
  - (b) after paragraph (b) insert—
    - “(ba) the relevant local policing body”, in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), means the local policing body which maintains—
      - (i) the police force of which the appellant was last a member, or
      - (ii) the police force for the area for which the appellant was last appointed as a special constable,
 as the case may be.”
- (7) Regulations made in pursuance of section 50(3A) or 51(2B) of the Police Act 1996 (as inserted by subsections (2) and (3))—
- (a) may not make provision in relation to a person who ceases to be a member of a police force or a special constable (as the case may be) before the coming into force of subsections (2) and (3);
  - (b) may make provision in relation to a person who ceases to be a member of a police force or a special constable (as the case may be) after the coming

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into force of this section even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of subsections (2) and (3), but only if the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of a police force or a special constable.

- (8) Schedule 7 makes amendments of the Ministry of Defence Police Act 1987, the Railways and Transport Safety Act 2003 and the Energy Act 2004 which produce an equivalent effect to the amendments made by this section.

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**Commencement Information**

- II** [S. 29](#) in force for specified purposes at Royal Assent, see [s. 183](#)

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