



Police and Magistrates' Courts Act 1994

1994 CHAPTER 29

PART II

POLICE (SCOTLAND)

47 Constitution of police force

(1) For section 3 of the 1967 Act there shall be substituted—

“3 Establishments of police forces

(1) A police force shall consist of a chief constable, regular constables and special constables.

(2) In subsection (1) above—

“regular constables” means constables (including probationary constables) to whom both pay and allowances are, by virtue of section 26 of this Act, payable; and “special constables” means constables to whom allowances only are so payable.”.

(2) In section 7 of that Act (assignment of ranks)—

(a) in subsection (1)—

(i) the words “, deputy chief constable” and “, chief superintendent and” shall be omitted; and

(ii) after the word “superintendent” there shall be inserted the words “, chief inspector, inspector, sergeant and constable.”; and

(b) subsection (2) shall be omitted.

(3) In section 8(1) (appointment of police cadets), the words “and subject to the approval of the police authority and the Secretary of State as to numbers” shall be omitted.

(4) In section 14(1) (extra policing of locality where works are being constructed), the words “(whether by the appointment of temporary constables or otherwise)” shall be omitted.

- (5) In section 26(2)(d) (regulations as to retirement of certain constables), the words “or temporary” shall be omitted.

48 Deputy and assistant chief constables

For sections 5 and 5A of the 1967 Act there shall be substituted—

“5 Assistant chief constables

- (1) The ranks that may be held in a police force maintained under section 1 of this Act shall include that of assistant chief constable (but not that of deputy chief constable); and in every such police force there shall be at least one person holding that rank.
- (2) Appointments and promotions to the rank of assistant chief constable shall be made, in accordance with regulations under Part II of this Act, by the police authority after consultation with the chief constable and subject to the approval of the Secretary of State.
- (3) Subsections (4) to (7) of section 4 of this Act shall apply to an assistant chief constable as they apply to a chief constable.
- (4) A chief constable shall, after consulting the police authority for the area for which his force is maintained, designate a person holding the rank of assistant chief constable to exercise all the powers and duties of the chief constable—
 - (a) during any absence, incapacity or suspension from duty of the chief constable, or
 - (b) during any vacancy in the office of chief constable.
- (5) No more than one person shall be authorised to act by virtue of a designation under subsection (4) of this section at any one time; and a person so authorised shall not have power to act by virtue of that subsection for a continuous period exceeding three months except with the consent of the Secretary of State.
- (6) The provisions of subsection (4) of this section shall be in addition to, and not in substitution for, any other enactment which makes provision for the exercise by any other person of powers conferred on a chief constable.”.

49 Civilian employees

For section 9 of the 1967 Act there shall be substituted—

“9 Civilian employees

- (1) A police authority may employ for the assistance of the constables of a police force maintained for their area, or otherwise to enable the authority to discharge their functions, officers who are not constables.
- (2) The police authority shall exercise their powers under section 56 (and section 63) of the Local Government (Scotland) Act 1973 so as to secure that, subject to subsection (3) below, any person employed by the authority under subsection (1) above is under the direction and control of the chief constable of the police force.

- (3) Subsection (2) above shall not apply to such of the persons employed by the authority as may be agreed between the chief constable and the authority or, in the absence of agreement, as may be determined by the Secretary of State.
- (4) The powers of direction and control referred to in subsection (2) above include the powers of engagement and dismissal.”.

50 Provision of advice and assistance to international organisations etc

After section 12 of the 1967 Act there shall be inserted—

“12A Provision of advice and assistance to international organisations etc

- (1) Subject to the provisions of this section, a police authority may provide advice and assistance—
 - (a) to an international organisation or institution, or
 - (b) to any other person or body which is engaged outside the United Kingdom in the carrying on of activities similar to any carried on by the authority or the chief constable of a force maintained by it.
- (2) The power conferred on a police authority by subsection (1) of this section includes a power to make arrangements under which a constable of the force maintained for the area of the authority is engaged for a period of temporary service with a person or body within paragraph (a) or (b) of that subsection.
- (3) The power conferred by subsection (1) of this section shall not be exercised except with the consent of the Secretary of State or in accordance with a general authorisation given by him.
- (4) A consent or authorisation under subsection (3) above may be given subject to such conditions as the Secretary of State thinks fit.
- (5) Nothing in this section authorises a police authority to provide any financial assistance by—
 - (a) making a grant or loan,
 - (b) giving a guarantee or indemnity, or
 - (c) investing by acquiring share or loan capital.
- (6) A police authority may make charges for advice and assistance provided by it under this section.
- (7) The provisions of this section are without prejudice to the Police (Overseas Service) Act 1945 and section 10 of the Overseas Development and Co-operation Act 1980.”.

51 Chief constables' annual reports

In section 15(1) of the 1967 Act (submission of general report by chief constable on policing)—

- (a) for the word “May” there shall be substituted the word “July”;
- (b) for the words “general report in writing on” there shall be substituted the words “report in writing on such matters as the Secretary of State may prescribe as respects, and generally as respects,”; and

- (c) for the words “year ended on 31st December last preceding” there shall be substituted the words “twelve months ending on 31st March in that year”.

52 Regulations for police forces

- (1) Section 26 of the 1967 Act (regulations as to government and administration of police forces) shall be amended as follows.

- (2) In subsection (2) (which lists certain matters with respect to which regulations may be made), for paragraph (e) there shall be substituted—

“(e) the conduct and efficiency of constables;”.

- (3) After that subsection there shall be inserted—

“(2A) Without prejudice to the powers conferred by this section, regulations under this section shall—

- (a) establish, or make provision for the establishment of, procedures for cases in which a constable may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution; and

- (b) make provision for securing that any case in which a constable who holds a rank above that of superintendent may be dismissed, or dealt with in any of the other ways mentioned in paragraph (a) above, is decided by the police authority of the area for which the force is maintained.

(2B) In relation to any matter as to which provision may be made by regulations under this section, the regulations may, subject to subsection (2A)(b) above—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief constables or other persons; or

- (b) authorise or require the delegation by any person of functions conferred on him by or under the regulations.

(2C) Without prejudice to the generality of subsection (2A)(a) above, regulations under this section shall specify the circumstances in which, for the purposes of section 40A(2) of this Act, proceedings by virtue of that subsection are to be taken to have commenced.”.

- (4) Subsection (7) shall be omitted.

53 Fixed term appointments etc

- (1) Section 26 of the 1967 Act shall be further amended—

- (a) by inserting, after the words “administration of” in subsection (1), the words “, and the conditions of service in,”; and

- (b) by inserting after subsection (5)—

“(5A) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.”.

- (2) Section 23 of the 1967 Act (chief constables affected by amalgamations or local government reorganisation) shall be amended as follows—

- (a) in subsection (2), for the word “deputy” there shall be substituted “assistant”;
- (b) in subsection (3), after the word “Act” there shall be inserted “and to subsection (3A) below”; and
- (c) after subsection (3) there shall be inserted—

“(3A) If a chief constable was appointed for a term which expires within three months of his becoming a constable of a police force by virtue of this section, subsection (3) above shall have effect as if the reference in it to three months were a reference to that term.”.

54 Power of Secretary of State to give directions to police authorities

After section 26 of the 1967 Act there shall be inserted—

“26A Power to give directions to police authority after adverse report

- (1) The Secretary of State may at any time require the inspectors of constabulary to carry out, for the purposes of this section, an inspection under section 33(3) of this Act of any police force maintained under section 1 of this Act.
- (2) Where a report made to the Secretary of State on an inspection carried out for the purposes of this section states—
 - (a) that, in the opinion of the person making the report, the force inspected is not efficient; or
 - (b) that in his opinion, unless remedial measures are taken, the force will cease to be efficient,

the Secretary of State may direct the police authority or joint police committee for the area for which the force is maintained to take such measures as may be specified in the direction.

26B Police efficiency: allocation of funds

Without prejudice to the generality of subsection (2) of section 26A of this Act, the Secretary of State may under that subsection direct a police authority or joint police committee to allocate from their income, to the purpose of ensuring that a police force is efficient, such amounts as he shall specify.

26C Duty of compliance

It shall be the duty of a police authority or joint police committee to comply with any direction given to them under section 26A or 26B of this Act.”.

55 Appeals against dismissal etc

- (1) For section 30 of the 1967 Act there shall be substituted—

“30 Appeals against dismissal etc

- (1) A constable who is dismissed, required to resign or reduced in rank by a decision taken in proceedings under regulations made in accordance with subsection (2A) of section 26 of this Act may appeal to a police appeals

tribunal against the decision except where he has a right of appeal to some other person; and in that case he may appeal to such a tribunal from any decision of that other person as a result of which he is dismissed, required to resign or reduced in rank.

- (2) Where a police appeals tribunal allows an appeal it may, if it considers that it is appropriate to do so, make an order dealing with the appellant in a way—
 - (a) which appears to the tribunal to be less severe than the way in which he was dealt with by the decision appealed against; and
 - (b) in which he could have been dealt with by the person who made that decision.
 - (3) The Secretary of State may make rules as to the procedure on appeals under this section to a police appeals tribunal.
 - (4) Rules made under this section may make provision for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents and may, in particular, apply subsections (4) and (5) of section 210 of the Local Government (Scotland) Act 1973 with such modifications as may be set out in the rules.
 - (5) Schedule 3 to this Act shall have effect in relation to appeals under this section.
 - (6) Rules made under this section may make such supplementary and transitional provision as the Secretary of State thinks necessary or expedient in consequence of the coming into operation of an amalgamation scheme, amending scheme or revoking scheme while an appeal under this section is pending; and without prejudice to the generality of this subsection, such provision may in particular include modifications to Schedule 3 to this Act in that Schedule's application to any case affected by the making of such a scheme.”
- (2) For Schedule 3 to the 1967 Act there shall be substituted the Schedule set out in Schedule 6 to this Act.

56 Expenditure in safeguarding national security

After section 32 of the 1967 Act there shall be inserted—

“32A Grants for expenditure on safeguarding national security

- (1) The Secretary of State may make grants in respect of expenditure incurred (or to be incurred) by a police authority or joint police committee in connection with safeguarding national security.
- (2) Grants under this section may be made either unconditionally or subject to conditions.
- (3) The Secretary of State shall exercise his powers under this section only with the approval of the Treasury.”

57 Duty of inspectors of constabulary

For subsection (3) of section 33 of the 1967 Act (inspectors of constabulary), there shall be substituted—

“(3) It shall be the duty of the inspectors of constabulary, on being directed to do so by the Secretary of State, to visit and inquire into any matter concerning or relating to the operation of a police force or of police forces generally; and, without prejudice to the generality of this subsection, such matters may include the state and efficiency of, and of the buildings and equipment used by, the force or forces.”.

58 Assistant inspectors of constabulary and staff officers to inspectors of constabulary

In section 34 of the 1967 Act, for subsection (1) (appointment of assistant inspectors of constabulary and their staff officers) there shall be substituted—

“(1) The Secretary of State may appoint assistant inspectors of constabulary.

(1A) Constables may be appointed under subsection (1) above or to be staff officers to inspectors of constabulary.”.

59 Common services

For section 36 of the 1967 Act there shall be substituted—

“36 Common services

- (1) After consulting the Joint Central Committee and such bodies or associations as appear to the Secretary of State to be representative of police authorities or of chief constables or superintendents (such consultation being in the following provisions of this section referred to as “relevant consultation”), he may, either directly or indirectly, provide and maintain such facilities and services, or establish and maintain such institutions and organisations, as he considers necessary or expedient for promoting the efficiency of the police.
- (2) The Secretary of State may, after relevant consultation, by regulations make provision for requiring all police forces in Scotland to use specified facilities or services, or facilities or services of a specified description, (whether or not provided under subsection (1) above) if he considers that it would be in the interests of the efficiency of the police for them to do so.
- (3) The Secretary of State may, after relevant consultation, by order determine the charges to be payable for facilities and services provided under or by virtue of subsection (1) above, make provision as regards their payment and make provision for the recovery, other than by such charges, of expenses incurred by him in providing the facilities and services.
- (4) A statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any expenses falling on a police authority or joint police committee by virtue of subsection (3) above shall be defrayed in like manner as other expenses incurred for the purposes of this Act by the authority or committee.
- (6) The Secretary of State may, after relevant consultation, in any order under subsection (3) above apply that order, or any provision of that order, to other

expenses specified in the order, being expenses incurred by him for the purposes of police forces generally.”.

60 Constables engaged on service outside their force

After section 38 of the 1967 Act there shall be inserted—

“38A Constables engaged on service outside their force

- (1) For the purposes of this section “relevant service” means—
 - (a) temporary service on which a person is engaged in accordance with arrangements made under section 12A(2) of this Act,
 - (b) central service (as defined by section 38(5) of this Act) on which a person is engaged with the consent of the appropriate authority,
 - (c) service the expenses of which are payable under section 1(1) of the Police (Overseas Service) Act 1945, on which a person is engaged with the consent of the appropriate authority,
 - (d) service in the Royal Ulster Constabulary, on which a person is engaged with the consent of the Secretary of State and the appropriate authority, or
 - (e) service pursuant to an appointment under section 10 of the Overseas Development and Co-operation Act 1980, on which a person is engaged with the consent of the appropriate authority.
- (2) In subsection (1) of this section “appropriate authority” has the same meaning as in section 38 of this Act.
- (3) Subject to subsections (4) to (7) of this section, a constable of a police force engaged on relevant service shall be treated as if he were not a constable of that force during that service; but except where a pension, allowance or gratuity becomes payable to him out of money provided by Parliament by virtue of regulations made under the Police Pensions Act 1976—
 - (a) he shall be entitled at the end of the period of relevant service to revert to his police force in the rank in which he was serving immediately before the period began, and
 - (b) he shall be treated as if he had been serving in that force during the period of relevant service for the purposes of any scale prescribed by or under regulations made under section 26 of this Act fixing his rate of pay by reference to his length of service.
- (4) In the case of relevant service to which subsection (1)(c) of this section refers, the reference in subsection (3) of this section to regulations made under the Police Pensions Act 1976 shall be read as including a reference to regulations made under section 1 of the Police (Overseas Service) Act 1945.
- (5) A person may, when engaged on relevant service, be promoted in his police force as if he were serving in that force; and in any such case—
 - (a) the reference in paragraph (a) of subsection (3) of this section to the rank in which he was serving immediately before the period of relevant service began shall be construed as a reference to the rank to which he is promoted, and

Status: This is the original version (as it was originally enacted).

- (b) for the purposes mentioned in paragraph (b) of that subsection he shall be treated as having served in that rank from the time of his promotion.
- (6) A constable who—
- (a) has completed a period of relevant service within paragraph (a), (b) or (e) of subsection (1) of this section,
 - (b) while engaged on relevant service within paragraph (c) of that subsection, is dismissed from that service by the disciplinary authority established by regulations under section 1 of the Police (Overseas Service) Act 1945 or is required to resign as an alternative to dismissal, or
 - (c) while engaged on relevant service within paragraph (d) of that subsection, is dismissed from that service or required to resign as an alternative to dismissal,
- may be dealt with under regulations made in accordance with subsection (2A) of section 26 of this Act for anything done or omitted while he was engaged on that service as if that service had been service in his police force; and section 30 of this Act shall apply accordingly.
- (7) For the purposes of subsection (6) of this section a certificate certifying that a person has been dismissed, or required to resign as an alternative to dismissal, shall be evidence of the fact so certified, if—
- (a) in a case within paragraph (b) of that subsection, it is given by the disciplinary authority referred to in that paragraph, or
 - (b) in a case within paragraph (c) of that subsection it is given by or on behalf of the Chief Constable of the Royal Ulster Constabulary, or such person or authority as may be designated for the purposes of this subsection by order of the Secretary of State.”.

61 Examination of handling of complaints against constables

After section 40 of the 1967 Act there shall be inserted—

“40A Examination of handling of complaints against constables

- (1) Where a member of the public has made a complaint to the chief constable of a police force against a constable of that force the inspectors of constabulary may, at the request of the member of the public, examine the manner in which the chief constable has dealt with the complaint.
- (2) Where the inspectors of constabulary have carried out an examination under subsection (1) above, they shall report their findings to the person who made the complaint and send a copy of that report to the chief constable and to the constable against whom the complaint was made; and they may direct the chief constable to reconsider the complaint and may instruct him to have regard, in doing so, to such further information as may have become available (whether or not as a result of the examination) after he dealt with the complaint; but no such direction shall be given as respects so much of the complaint as has been, or is, the subject of proceedings against the constable by virtue of section 26(2A) (a) of this Act.
- (3) On making a direction under subsection (2) above, the inspectors of constabulary shall notify the constable against whom the complaint was made

and the person who made it that they have done so; and the outcome of any reconsideration carried out by virtue of that subsection shall be communicated forthwith to the inspectors of constabulary, who shall—

- (a) report the outcome, and their own findings as regards the outcome, to that constable and to that person; and
- (b) communicate those findings to the chief constable.

(4) Where an examination has been carried out under subsection (1) above—

- (a) the Secretary of State may require the inspectors of constabulary to submit to him, and
- (b) the police authority for the area for which the police force in question is maintained may require the inspectors of constabulary to submit to them,

a written report concerning that examination and a copy of any report under subsection (3)(a) above consequent on that examination.”.

62 Transmission of criminal statistics

In section 47 of the 1967 Act (criminal statistics)—

- (a) in subsection (1), for the words “the year to 31st December last preceding” there shall be substituted the words “such period as the Secretary of State may specify in the direction”; and
- (b) for subsection (2) there shall be substituted—

“(2) The Secretary of State shall prepare such reports as he considers appropriate from such statements as he receives by virtue of subsection (1) above; and he shall lay any such report before Parliament and send a copy of it to each police authority.”.

63 Other amendments of 1967 Act

- (1) The 1967 Act shall be amended in accordance with this section.
- (2) In section 6(2) (application of certain provisions of 1967 Act to constables below rank of assistant chief constable) the words “a deputy chief constable” shall be omitted.
- (3) In section 7(3) (assignment of lower rank), for the words from “as to” to the end there shall be substituted the words “made in accordance with section 26(2A) of this Act”.
- (4) In section 24 (effect of amalgamation scheme on constables engaged in service other than with their own force)—
 - (a) in subsection (1) for the words from “either” to “transferred force” there shall be substituted the words “a person is engaged in relevant service within the meaning of section 38A of this Act”;
 - (b) in subsection (2) for the word “overseas” in each of the three places where it occurs there shall be substituted the word “relevant”; and
 - (c) in subsection (3), the words from “and the expression” onwards shall be omitted.
- (5) In section 31 (requirement for chief constable to retire in interests of efficiency)—
 - (a) in subsection (2)—

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- (i) for the words “a deputy or” there shall be substituted the word “an”;
and
 - (ii) the words “or deputy” shall be omitted; and
 - (b) in subsection (4), the words “or deputy” shall be omitted.
- (6) In section 32(1) (payment towards expenses of police authorities and joint police committees) after the words “19(6)” there shall be inserted the words “, section 32A”.
- (7) In section 38—
- (a) in subsection (4), for the words “subsection (1) above” there shall be substituted the words “section 38A(3) of this Act”; and
 - (b) in subsection (5) (interpretation), in the definition of “central service” for the words “service as a staff officer to the inspectors of constabulary” there shall be substituted the words “temporary service under section 34 of this Act”.
- (8) In section 42(1) (offence of causing disaffection amongst constables), the words “or to commit breaches of discipline” shall be omitted.
- (9) In section 51 (interpretation)—
- (a) in subsection (1), the definitions of “regular constable”, “special constable” and “temporary constable” shall be omitted; and
 - (b) after subsection (3) there shall be inserted—
 - “(3A) Any reference in this Act to efficiency or to being efficient shall be construed, except where the context otherwise requires, as including, respectively, a reference to effectiveness or to being effective.”.
- (10) In Schedule 2 (transitory provisions for purposes of amalgamation schemes), paragraph 2 shall be omitted.

64 Delegation of functions of Scottish police authority

In section 63 of the Local Government (Scotland) Act 1973 (arrangements as to police authority functions etc.), after subsection (2) there shall be inserted—

“(2A) The officers who may discharge functions of a police authority in pursuance of arrangements under section 56(1) or (2) of this Act shall include the chief constable of the police force.

(2B)

Where, pursuant to arrangements made by virtue of subsection (2A) above, a chief constable may discharge functions of a police authority, he may himself arrange for the discharge of any of the functions in question by a constable of the police force or by a person who is employed by the authority but is not under their direction and control.”.

65 Interpretation of Part II

In this Part of this Act “the 1967 Act” means the Police (Scotland) Act 1967.