

1988 No. 10

POLICE

Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988

Made 15th January 1988

Coming into operation 29th February 1988

To be laid before Parliament

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement
2. Revocation and transitional provisions
3. Interpretation and application
4. Disciplinary offences

PART II

DISCIPLINE AND INTERNAL APPEALS: RANKS OF AND BELOW CHIEF SUPERINTENDENT

5. Investigation procedure
6. Personal explanation
7. Formulation of charges
8. Withdrawal of charges
9. Documents to be supplied to accused
10. Representation at disciplinary proceedings
11. Questions in the discipline form to be answered by accused
12. Election to be legally represented
13. Hearing
14. Remission of cases
15. Delegation of functions by chief constable
16. Disciplinary tribunal cases
17. Procedure at hearing
18. Statements in lieu of oral evidence
19. Adjournment of hearing

20. Procedure in absence of accused
21. Attendance of complainant at hearing
22. Finding
23. Punishment
24. Limitations on punishments
25. Internal appeals
26. Suspension
27. Effect of successful appeal against criminal conviction
28. Discipline book

PART III

DISCIPLINE: SENIOR OFFICERS

29. Investigating officers
30. Initial personal explanation
31. Personal explanation following investigation
32. Punishment without hearing charges
33. Formulation of charges
34. Withdrawal of charges
35. Documents to be supplied to accused
36. Hearing by tribunal
37. Procedure at hearing
38. Statements in lieu of oral evidence
39. Adjournment of hearing
40. Hearing in absence of accused
41. Attendance of complainant at hearing
42. Tribunal's report
43. Decision of Police Authority
44. Punishment
45. Copy of report and decision to be sent to the Secretary of State
46. Expenses of hearing
47. Suspension — ordinary procedure
48. Suspension — urgent cases

PART IV

APPEALS TO THE SECRETARY OF STATE

49. Disciplinary appeal
50. Notice of appeal
51. Respondent
52. Statement by respondent
53. Inquiries

54. Decision of the Secretary of State
55. Notice and effect of orders
56. Costs and expenses of appeal
57. Documents to be sent to appeal tribunal
58. Withdrawal and amendment of notice of appeal etc.
59. Form of inquiry
60. Oral representations
61. Procedure at hearing
62. Representation at hearing
63. Hearing to be in private
64. Evidence at hearing
65. Statements in lieu of oral evidence
66. Attendance of complainant at hearing
67. Report of appeal tribunal
68. Further investigation by appeal tribunal
69. Service of documents
70. Determination of questions

SCHEDULES

- SCHEDULE 1: Discipline Code
- SCHEDULE 2: Discipline Form — ranks of and below chief superintendent
- SCHEDULE 3: Discipline Form — senior officers
- SCHEDULE 4: Disciplinary hearings and internal appeals — ranks of and below chief superintendent
- SCHEDULE 5: Form of notice of appeal to the Secretary of State

The Secretary of State, in pursuance of sections 25 and 26 of the Police Act (Northern Ireland) 1970(a) and Article 14(3), (4), (5) and (6) of the Police (Northern Ireland) Order 1987(b), and after consulting the Police Authority and the Police Association in accordance with section 34(2) of that Act, hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988 and shall come into operation on 29th February 1988.

(a) 1970 c. 9 (N.I.) as amended by S.I. 1977/53 (N.I. 2) and S.I. 1987/938 (N.I. 10) and modified by S.I. 1973/2163

(b) S.I. 1987/938 (N.I. 10)

Revocation and transitional provisions

2.—(1) Subject to the following provisions of this regulation, the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1977(a) (hereinafter referred to as the Regulations of 1977) are hereby revoked.

(2) In relation to a charge preferred before 29th February 1988 against a member or to an appeal, written notice of which was received by the Secretary of State under regulation 44(1) of the Regulations of 1977 before 29th February 1988—

- (a) nothing in these regulations shall apply, and
- (b) the Regulations of 1977 shall, so far as applicable, continue to have effect

except that, in relation to an internal appeal where the notice of appeal is received by the chief constable on or after 29th February 1988, these regulations shall apply notwithstanding that the charge to which the appeal relates was preferred before that date.

(3) Where in the case of a member—

- (a) in whose case anything has been done before 29th February 1988 for the purpose of any provision of the Regulations of 1977; but
- (b) who has not been charged with an offence before that date under those regulations,

anything done, before 29th February 1988 for the purpose of any provision of the Regulations of 1977 shall have effect, on and after that date, as if it had been done for the corresponding provision of these regulations, and in particular where a member is immediately before 29th February 1988 suspended under the Regulations of 1977 he shall be treated on and after that date as if he had been suspended under these regulations.

(4) Without prejudice to paragraph (2), where a member has been charged with an offence, before 29th February 1988, under the Regulations of 1977, in connection with the charge and offence in question the provisions of the Regulations of 1977 relating to suspension from duty and to punishment shall continue to have effect.

Interpretation and application

3.—(1) The following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Act of 1970” means the Police Act (Northern Ireland) 1970;

in Part IV “appeal tribunal” means the person or persons appointed under regulation 53(1) or (5);

in Part IV “appellant” has the same meaning as in regulation 49;

“assistant chief constable” includes senior assistant chief constable;

“chairman” in relation to an inquiry means—

(a) the barrister or solicitor referred to in regulation 53(3)(a),

(b) the person appointed under regulation 53(5) whom the Secretary of State has designated chairman, or

- (c) if only one person has been appointed under the said regulation 53(5), that person;
- “chief constable” shall be construed as including a reference to a person discharging the functions of the chief constable;
- “Commission” means the Independent Commission for Police Complaints for Northern Ireland established by Article 3 of the Order of 1987;
- “complaint” means a complaint to which the Order of 1987 applies;
- “complaints matter” means, in a case where the report of an investigation into a complaint is sent to the Commission under Article 9(7) or 10(9) of the Order of 1987, the matter or matters dealt with in the report;
- “conclusion of hearing” does not include the termination of a hearing on a case being remitted under regulation 14 or paragraph 7 of Schedule 4;
- “discipline code” means the code of offences contained in Schedule 1; except that in relation to conduct occurring before 29th February 1988 it means the code of offences contained in Schedule 1 to the Regulations of 1977;
- “discipline form” means such a form as is mentioned in regulation 7(3) or 33(4) as the case may be;
- “the former discipline provisions” means the provisions relating to the determination of questions whether an offence against discipline has been committed by a member, and for the imposition of punishment in respect thereof, in operation immediately before 29th February 1988;
- “force” means the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;
- in Part IV “hearing” has the meaning assigned thereto by regulation 61;
- “home police force” has the same meaning as in the Police Act 1969(a);
- in Part IV “inquiry” means an inquiry held in pursuance of regulation 53(1) or 53(5);
- “inspector” includes chief inspector;
- “internal appeal” means such an appeal as is mentioned in regulation 25;
- “investigating officer” means an officer appointed under Article 5(3) or 6(3) of the Order of 1987 or under regulation 5 or regulation 29 to investigate a complaint or other matter relating to the conduct of a member;
- “member” means a member of the Royal Ulster Constabulary; or a member of the Royal Ulster Constabulary Reserve appointed on a full-time basis in accordance with regulations made under section 26 of the Act of 1970;
- “member subject to investigation” has the meaning assigned thereto by regulation 5(1);
- “offence or disciplinary offence” means an offence set out in the discipline code;

“officer conducting the hearing” has the meaning assigned thereto by regulation 13;

“Order of 1987” means the Police (Northern Ireland) Order 1987;

in Part IV “original hearing” means the hearing at the conclusion of which the appellant was found guilty of the charge as respects which the appeal is brought;

“Police Regulations” means the regulations from time to time in operation under section 25 and section 26 of the Act of 1970 other than these regulations;

“referred matter” means a matter referred to the Commission under Article 8 of the Order of 1987 and supervised by the Commission under Article 9 of that Order;

“Regulations of 1977” has the meaning assigned thereto by regulation 2(1);

“representative” means in relation to a member other than a senior officer, the member of a police force or other person conducting his case or appeal in pursuance of regulation 17(7), or 25(9); and, in relation to a senior officer, counsel, a solicitor or a member of a police force selected by him in pursuance of regulation 37(6);

in Part IV “respondent” has the same meaning as in regulation 51;

“senior officer” means an officer above the rank of chief superintendent;

“superintendent” includes chief superintendent;

in Part IV “supporting statement” has the meaning assigned thereto by regulation 50(3); and, accordingly, means such a written statement as is mentioned in paragraphs 5, 6 and 7 of the notice of appeal set out in Schedule 5;

in Part III “tribunal” means such a tribunal as is mentioned in regulation 36.

(2) Part II shall apply only to a member of or below the rank of chief superintendent, and Part III shall apply only to a senior officer.

(3) The “appropriate disciplinary authority” referred to in subsection (3) of section 25 and subsection (2A) of section 26 of the Act of 1970 shall, subject to Article 14 of the Order of 1987 and to regulation 14 be—

(a) in relation to a senior officer, the Police Authority;

(b) in relation to any other member—

(i) in a case to which Schedule 4 applies, a disciplinary board as defined in paragraph 2 of that Schedule, or the officer referred to in paragraph 3, 4(a) or 5(a) of that Schedule, as the case may be;

(ii) in any other case, the chief constable.

Disciplinary offences

4. A member commits an offence against discipline if he commits an offence set out in the discipline code.

DISCIPLINE AND INTERNAL APPEALS: RANKS OF AND BELOW CHIEF SUPERINTENDENT

Investigation procedure

5.—(1) Where a report, allegation or complaint is received from which it appears that an offence may have been committed by a member of or below the rank of chief superintendent (hereinafter referred to as “member subject to investigation”), the following provisions of this regulation shall have effect for the purpose of investigating the matter.

(2) The provisions of paragraphs (3) and (4) shall have effect—

(a) in relation to a case arising otherwise than from a complaint to which Part II of the Order of 1987 applies; and

(b) in relation to cases arising from such complaints where the requirements of the said Order are dispensed with by or under regulations made thereunder.

(3) Unless the chief constable decides that no disciplinary proceedings need be taken, the matter shall be referred to an investigating officer who shall cause it to be investigated.

(4) The investigating officer shall be—

(a) a member, or if the chief officer of a home police force is requested and agrees to provide an investigating officer he shall be a member of that other force;

(b) of at least two ranks above that of the member subject to investigation, where that member is the rank of chief inspector or below; or

(c) of at least one rank above that of the member subject to investigation, where that member is of the rank of superintendent.

(5) Neither—

(a) the chief constable;

(b) the deputy chief constable; nor

(c) any member serving in the same sub-division or branch as the member subject to investigation,

shall be appointed as the investigating officer for the purpose of paragraph (3) or Article 5 of the Order of 1987 (formal investigation of a complaint).

(6) The provisions of this regulation are without prejudice to the powers of the Commission with regard to the approval of the investigating officer under Article 9(5)(a) and (b) of the Order of 1987 (which provides for approval by the Commission of officers appointed to conduct an investigation) where the investigation is to be supervised by the Commission.

Personal explanation

6. The investigating officer shall, as soon as is practicable (without prejudicing his or any other investigation of the matter), in writing inform the member subject to investigation of the report, allegation or complaint and give him a written notice—

- (a) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires make a written or oral statement concerning the matter to the investigating officer or to the chief constable; and
- (b) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

Formulation of charges

7.—(1) The decision whether or not the member subject to investigation should be charged with an offence shall (subject, as respects a complaints matter or referred matter, to Articles 9(12), 10(6) and 13(1) and (3) of the Order of 1987) be taken by the chief constable after considering the report of the investigating officer and any statement made under regulation 6.

(2) Where the chief constable decides (or as respects a complaints matter or referred matter, the Commission directs under Article 13(3) of the Order of 1987) that a charge be preferred, the chief constable shall, as soon as possible, cause—

- (a) to be entered on a discipline form the offence in question together with such particulars as will leave the member subject to investigation in no doubt as to the precise offence alleged, and
 - (b) the member subject to investigation to be charged by being served with a copy of the discipline form.
- (3) A discipline form shall be in the form set out in Schedule 2.

Withdrawal of charges

8.—(1) At any time before the beginning of the hearing of a charge, the chief constable may (subject, as respects a complaints matter or a referred matter, to the leave of the Commission under Article 13(6) of the Order of 1987) direct that the charge be withdrawn.

(2) Where the chief constable so directs he shall, as soon as possible, cause—

- (a) his direction to be noted in the discipline form, and
- (b) the member subject to investigation to be served with written notice of his direction.

Documents to be supplied to accused

9.—(1) Subject to paragraphs (2) and (3), where a member is charged with an offence, he shall not less than 21 days before the date of the hearing, be supplied with copies—

- (a) of any statement he may have made under regulation 6;
- (b) of the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report of the investigating officer) notwithstanding that they may be confidential;
- (c) of any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address;

- (d) of any statement relating to the charge made by any person, other than a witness to be called in support of the charge, to the investigating officer or to anybody on his behalf, together with the person's name and address; and
- (e) of any statement made by a witness to be called by the presenting officer, in pursuance of regulation 23(6), for the purpose of assisting the person conducting the hearing or the chief constable in determining, in the event of a finding of guilt, the punishment to be imposed or recommended.

(2) In a case to which this paragraph applies the hearing of a charge against a member may, if the chief constable considers it appropriate in the circumstances, take place before the expiry of the period of 21 days referred to in paragraph (1).

(3) Paragraph (2) applies where a member charged with an offence—

- (a) at the time he is so charged, is detained in pursuance of the sentence of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953(a) applies, or has received a suspended sentence of imprisonment, and
- (b) having been supplied under paragraph (1) with the documents therein mentioned, does not elect under regulation 12 to be legally represented at the hearing.

(4) The officer conducting the hearing may, with the consent of the accused, allow any document to be adduced in evidence during the hearing notwithstanding that a copy thereof has not been supplied to the accused in accordance with the foregoing provisions of this regulation.

(5) Where the charge is founded on a report, allegation or complaint and a statement arising therefrom made by the same person, the reference in paragraph (1)(b) to the report, allegation or complaint shall, without prejudice to paragraph (1)(c) or (d), be construed as including a reference to that statement.

(6) In this regulation any reference to a copy of a statement, report, allegation or complaint shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

Representation at disciplinary proceedings

10.—(1) On the hearing of a disciplinary charge against a member to which this part applies (of the rank of chief superintendent or below) any such punishment as is mentioned in sub-paragraphs (a), (b) and (c) of regulation 23(1) may not be awarded unless the member has been given an opportunity to elect to be legally represented at the hearing.

(2) Where such a member so elects, he may be represented at the hearing, at his option, either by counsel or by a solicitor.

(3) Except in a case where such an officer has been given an opportunity to be legally represented and has so elected, he may only be represented at the hearing of a disciplinary charge by a member or a member of a home police force.

(a) 1953 c. 18 as modified by S.I. 1973/2163

(4) If a member—

- (a) fails without reasonable cause to give notice in accordance with regulation 11(1)(b) that he wishes to be legally represented; or
- (b) gives notice in accordance with that regulation that he does not wish to be legally represented,

any such punishment as is mentioned in paragraph (1) may be awarded without his being legally represented.

(5) If an officer has given notice in accordance with regulation 11(1)(b) that he wishes to be legally represented, the case against him may be presented by counsel or a solicitor whether or not he is actually so represented.

Questions in the discipline form to be answered by accused

11.—(1) The accused shall be invited to state in writing on the discipline form, within 14 days from the date on which it was served on him (or 14 days from the date on which the last of the documents required by regulation 9(1) to be supplied to him is so supplied, if later),—

- (a) whether he admits or denies the charge;
- (b) in a case where regulation 12 applies, whether he wishes to be legally represented at the hearing; and
- (c) whether he proposes to call any witnesses to relevant facts at the hearing and the names and addresses of any such witnesses whose attendance he wishes the chief constable to take steps to secure.

(2) Any witness whose attendance he wishes the chief constable to take steps to secure who is a member shall be ordered to attend at the hearing of the case, and the chief constable, where so requested, shall cause any other such witnesses to be given due notice that their attendance is desired and of the time and place of the hearing.

(3) Nothing in this regulation shall require a hearing to be adjourned where a document is adduced in evidence with the consent of the accused under regulation 9(4).

Election to be legally represented

12. Where the officer responsible for formulating charges against a member in pursuance of regulation 7 is of the opinion that there should, on a finding of guilt, be available any such punishment as is mentioned in sub-paragraphs (a), (b) and (c) of regulation 23(1), he shall, on the copy of the discipline form served on the member, give the member an opportunity to elect, in the manner prescribed therein, to be legally represented at the hearing.

Hearing

13.—(1) Subject to paragraph (2) a charge against a member shall be heard as provided in paragraph 3, 4, 5, or 7 of Schedule 4 by—

- (a) such an officer as is mentioned in the paragraph in question; or
- (b) as the case may be by such a disciplinary board as is mentioned in paragraph 2 of that Schedule, the provisions whereof shall apply;

except that where a case has been remitted by the chief constable under regulation 14 the charge shall be heard by the chief officer to whom it has been

so remitted; and any reference in these regulations to the officer conducting the hearing shall be construed as a reference to that officer, board or chief officer.

(2) Paragraph (1) shall not apply where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing, and in such case, any reference to the officer conducting the hearing shall be construed as a reference to the tribunal mentioned in that Article.

Remission of cases

14.—(1) The case of a member charged with an offence—

(a) shall, in the circumstances mentioned in paragraph (2), or

(b) may, in the circumstances mentioned in paragraph (4)

be remitted by the chief constable to such a chief officer of a home police force who, at his request, has agreed to act in the matter.

(2) A case shall be so remitted if—

(a) the chief constable is interested in the case otherwise than in his capacity as such; or

(b) he is a material witness; or

(c) there would not, because the accused was not given an opportunity under regulation 12 to elect to be legally represented at the hearing, be available on a finding of guilt any of the punishments referred to in that regulation, and it appears to the chief constable that those punishments ought to be available and that accordingly it would be desirable for there to be a hearing before another chief officer at which the accused could, if he so wished, be so represented.

(3) Where a case is remitted to a chief officer of a home police force under paragraph (2)(c), a notice in writing shall be sent to the accused inviting him to elect within 14 days of the receipt thereof, to be legally represented at the hearing before that chief officer.

(4) A case not falling within paragraph (2) may be so remitted as described in paragraph (1) if, either before or during the hearing, the chief constable considers remission appropriate and directs that the function of determining whether the accused has committed an offence against discipline should be determined by another chief officer.

(5) The remission of cases by officers other than the chief constable shall be made in accordance with paragraph 7 of Schedule 4.

Delegation of functions by chief constable

15.—(1) Subject to paragraph (3) the chief constable may delegate to such member as is mentioned in paragraph (2) the duty of deciding under regulation 7 whether a member should be charged with an offence, and where he does so delegate that duty any reference in regulation 5(3), 6, 7, or 8 to the chief constable shall be taken as a reference to the officer to whom that duty is delegated.

(2) The said duty may be delegated to an officer of the force not below the rank of assistant chief constable.

(3) A member who has acted as investigating officer in a case, or a member appointed to deal with a case by way of informal resolution under

Article 5(4) of the Order of 1987, shall not, as respects that case, exercise any duty or function in pursuance of a delegation under paragraph (1).

Disciplinary tribunal cases

16.—(1) This regulation shall apply where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing of a case.

(2) Where this regulation applies and the chief constable remits the case to another chief officer under regulation 14 he shall inform the Commission that he has done so, and that the other chief officer will, in pursuance of Article 14 of the Order of 1987, be the chairman of the tribunal.

(3) Where this regulation applies and the Commission, in pursuance of Article 14 of the Order of 1987, nominates two members of the Commission to be members of the tribunal, it shall inform the chief constable of its nominations and, if the chief constable will not be the chairman of the tribunal, shall similarly inform the officer who will be the chairman.

Procedure at hearing

17.—(1) The accused shall be ordered to attend at the hearing of the case.

(2) The hearing shall be in private:

Provided that it shall be within the discretion of the officer conducting the hearing to allow any member of the Commission, any solicitor or any such member or members as he considers desirable to attend the whole or such part of the hearing as he may think fit, subject to the accused or his representatives not objecting to the attendance of the person or persons in question.

(3) The case against the accused shall, unless by virtue of regulation 10 it may be presented by counsel or a solicitor, be presented by a member not being the chief constable nor the officer on whom, by virtue of regulation 15, fell the duty of deciding whether the member in question should be charged with an offence.

(4) The person presenting the case and the representative of the accused may be assisted at the hearing by a serving member, or a serving member of a home police force; and where the case against the accused is presented by counsel or a solicitor, the officer conducting the hearing may be assisted at the hearing by counsel or a solicitor.

(5) If the accused does not admit the charge the hearing shall proceed as though he denied the charge.

(6) Before the case against the accused is presented, the accused may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the officer conducting the hearing, if he upholds that submission, shall dismiss the charge to which the submission relates.

(7) The accused may conduct his case in person, or by a member or by a member of a home police force selected by him, or where he has so elected in accordance with regulation 12, by counsel or a solicitor:

Provided that if the accused is represented by a member or by a member of a home police force, the accused, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(8) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the officer conducting the hearing.

(9) Where any decision falls to be taken under these regulations or otherwise for the purpose of the hearing by such a tribunal as is mentioned in Article 14 of the Order of 1987, the decision may be a majority decision but it shall not be indicated whether it was taken unanimously or by a majority.

(10) Where a decision as to whether a charge is found proved falls to be taken by such a disciplinary board as is mentioned in paragraph 2 of Schedule 4, the charge shall be dismissed unless the board is unanimous in finding that the charge is proved.

(11) A verbatim record of the proceedings at the hearing of the case shall be taken, and if the charge is found proved and the accused contemplates an appeal (whether to the Secretary of State or an internal appeal), then, at his request made within the period during which notice of appeal may be given, a transcription of the record shall be made and a copy thereof supplied to him.

Statements in lieu of oral evidence

18.—(1) Subject to the provisions of this regulation, the officer conducting the hearing may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible hereunder if it would not have been admissible had it been given orally.

(2) For the purposes hereof, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(3) Subject to paragraph (4), if either the accused or the presenting officer (in this regulation referred to as “the parties”) proposes to adduce written evidence, in pursuance of this regulation, at a hearing, he shall give the other party a copy of the statement at least 21 days before the date of that hearing and invite that party to agree or object, in writing, to the admission of the statement in evidence without the maker thereof being called as a witness and being available for cross-examination and, if that party within 14 days from the receipt by him of the copy of the statement has so objected, the statement shall only be admitted in evidence if the maker thereof is called and is available as aforesaid:

Provided that if the parties in writing so agree in the case of a particular statement, this paragraph shall have effect in relation to that statement as though—

- (a) the reference to a period of 21 days were a reference to such shorter period as they may agree;
- (b) the reference to a period of 14 days were a reference to such shorter period, expiring before the date of the hearing, as they may agree.

(4) Notwithstanding paragraph (3), if at the hearing either of the parties wishes to adduce in evidence a written statement without the maker thereof being called and available as aforesaid, without a copy of the statement having been made available to the other party in accordance with that paragraph, the officer conducting the hearing may, with the agreement of the other party, allow the statement to be so adduced.

(5) Where, notwithstanding that a written statement has been admitted in evidence under the foregoing provisions of this regulation without the maker thereof being called and being available as aforesaid, the officer conducting the hearing is of the opinion that oral evidence should be given, he may request that the maker be called as a witness and, in such case, unless the maker gives oral evidence, the officer conducting the hearing shall be entitled to disregard the written evidence.

(6) Nothing in this regulation shall prejudice the admission of written evidence which would be admissible apart from the provisions thereof.

Adjournment of hearing

19. The officer conducting the hearing of a case, may from time to time adjourn the hearing if it appears to him necessary or expedient so to do for the due hearing of the case.

Procedure in absence of accused

20.—(1) If the accused does not attend the hearing of the case, the hearing may be proceeded with and concluded in his absence:

Provided that—

- (a) if the accused is detained in pursuance of the sentence of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953 applies and desires to make representations in person at the hearing, the hearing shall not be concluded until the accused has been enabled to make such representations;
- (b) if good reason is given to the officer conducting the hearing by, or on behalf of, the accused why the accused is unable to attend the hearing, other than that the accused is detained as aforesaid, the hearing shall be postponed or adjourned, as the case may be.

(2) Where, owing to the absence of the accused, it is impossible to comply with any of the procedure described in regulations 6, 7, 9, 11 and 17(1), that procedure shall be dispensed with.

Attendance of complainant at hearing

21.—(1) This regulation shall apply in relation to the hearing of a charge against a member where the charge is in respect of a complaints matter.

(2) Notwithstanding anything in regulation 17(2) but subject to paragraph (4), the officer conducting the hearing shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if he considers it appropriate so to do on account of the age of the complainant or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing:

Provided that—

- (a) where the complainant is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and

(b) where it appears to the officer conducting the hearing that a witness may, in giving evidence, disclose information which, in the public interest, ought not be disclosed to a member of the public, he shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(3) Where the accused gives evidence, then, after the presenting officer has had an opportunity of cross-examining him, the officer conducting the hearing shall put to him any questions which the complainant requests should be so put and might have been properly so put by the presenting officer or, at his discretion, may allow the complainant himself to put such questions to the accused.

(4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the hearing; and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the officer conducting the hearing may exclude him from the remainder of the hearing.

(5) In this regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was transmitted to the chief constable by some other person or by the Commission or by some other body.

Finding

22.—(1) The officer conducting the hearing of a charge shall, at its conclusion, dismiss the charge or find it proved.

(2) A charge shall not be found proved unless it is—

(a) admitted by the accused; or

(b) proved by the officer presenting the case to the officer conducting the hearing beyond reasonable doubt.

(3) The said decision shall, as soon as possible, be recorded on the discipline form and notified in writing to the accused.

Punishment

23.—(1) Subject to regulations 10 and 24, where a charge is found to be proved one of the following punishments shall be imposed, namely:—

(a) dismissal from the force;

(b) requirement to resign from the force as an alternative to dismissal, taking effect (subject where applicable, to paragraph (9)) either forthwith or on such date as may be specified in the decision;

(c) reduction in rank;

(d) reduction in the accused's rate of pay for such period, not exceeding 12 months, as shall be specified in the decision;

(e) fine;

(f) reprimand;

(g) caution;

and separate punishments shall be imposed for separate offences.

(2) Subject to paragraphs (3) and (4), the punishment shall be imposed by the officer conducting the hearing.

(3) Paragraph (2) shall not apply where—

- (a) the case has been remitted by the chief constable under regulation 14, and
- (b) the chief constable is neither interested in the case otherwise than in his capacity as such nor is a material witness

but, subject to paragraph (4), the officer conducting the hearing shall recommend to the chief constable the punishment which, in his opinion, should be imposed.

(4) Paragraphs (2) and (3) shall not apply where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing and, in pursuance thereof, it falls to the chief constable as chairman of the tribunal, after consulting the other members thereof, to impose the punishment or, in the circumstances mentioned in paragraph (3) it falls to the chairman, after so consulting, to recommend punishment.

(5) Where a chief officer to whom a case has been remitted under regulation 14, or the chairman of a tribunal not being the chief constable, recommends a punishment in pursuance of paragraph (3), or of Article 14 of the Order of 1987, he shall send a report to the chief constable and a copy thereof to the accused, which report shall in addition to the recommendation include—

- (a) a statement as to the charge found proved;
- (b) a statement of the facts admitted or found to be proved, so far as they appear to him material to the question of punishment, and
- (c) any other matter arising out of the hearing which appears to him so material;

and, after considering the report, the chief constable shall impose a punishment.

(6) Where the question of the punishment to be imposed or recommended is being considered by the officer conducting a hearing or by the chief constable or the chairman of the disciplinary tribunal—

- (a) he shall have regard to the accused's record of police service as shown on his personal record and may receive evidence from any witness whose evidence would, in his opinion, assist him in determining the question, and
- (b) the accused, or his representative, shall be afforded an opportunity to make oral or, if he thinks fit, written representations as respects the question or to adduce evidence relevant thereto.

(7) Any proceedings at which such evidence as is referred to in paragraph (6)(a) or (b) or such oral representations as are referred to in paragraph (6)(b) is given or are made shall be treated for the purposes of regulation 17(11) as proceedings at the hearing.

(8) As soon as possible after a decision to impose a punishment has been taken that decision shall be recorded on the discipline form and notified in writing to the accused.

(9) Where an officer, other than the chief constable, conducting a hearing in pursuance of regulation 13 and Schedule 4 imposes a punishment, then without prejudice to the accused giving notice of appeal under regulation 25,

that punishment shall not take effect unless and until the period for giving such notice under regulation 25(3) has expired or, where such notice is given, the appeal has been determined.

Limitations on punishment

24.—(1) The punishment of a reduction in the accused's rate of pay or of a fine shall not be imposed for the offence set out in paragraph 17 of the discipline code.

(2) The punishment of a reduction in the accused's rate of pay shall not be such as to reduce the accused's rate of pay below the minimum of the scale of pay for his rank in the force.

(3) A fine imposed in respect of any one offence, shall be such that, if it were recovered by way of deductions from the accused's pay during the period of thirteen weeks following the imposition of the punishment, in pursuance of the Police Regulations, the aggregate sum which might be so deducted in respect of any one week (whether on account of one or more fines) would not exceed a seventh of his weekly pay.

(4) Where a charge against a member is heard by such a disciplinary board as is defined in paragraph 2 of Schedule 4 consisting of two assistant chief constables, or by such an officer as is mentioned in paragraph 4(a) or 5(a) of that Schedule, that board's or officer's powers of punishment shall be restricted as mentioned in paragraph 6 thereof.

Internal appeals

25.—(1) Where, in the case of a hearing conducted by an officer other than the chief constable in pursuance of regulation 13 and Schedule 4 a charge has been found proved and a punishment imposed, the accused may appeal in accordance with this regulation against—

- (a) both the finding and the punishment, or
- (b) the punishment only.

(2) The appeal shall be instituted by the appellant giving written notice of appeal to the chief constable specifying whether he is appealing as mentioned in sub-paragraph (1)(a) or (1)(b).

(3) The notice of the appeal shall be given within the 14 days following the day on which the accused was notified of the punishment in accordance with regulation 23(8) and, within the 21 days following the day on which—

- (a) he receives the transcription of the record of the proceedings at the hearing at which the charge was found proved ("the original hearing"), where he has requested under regulation 17(11) to be supplied with such a transcription, or
- (b) he gave the notice of appeal, where he has not so requested,

he shall furnish the chief constable with a statement setting out the grounds of his appeal:

Provided that, where the chief constable is satisfied that by reason of the special circumstances of the case it is just and right so to do, he may extend either or both of the periods mentioned in this paragraph and, in such case, this paragraph shall have effect as if for the period in question there were substituted such extended period as he may specify.

(4) The appeal shall be considered by the chief constable or if he so directs by a deputy chief constable appointed for the purpose by him:

Provided that the deputy chief constable shall not have been—

(a) the officer who conducted, or, as the case may be,

(b) a member of the disciplinary board which conducted,

the hearing out of which the appeal rose.

(5) The appellant shall be given reasonable notice of the time and place for the consideration of the appeal (“the appellate proceedings”).

(6) An officer who in relation to a case—

(a) has acted as investigating officer;

(b) has performed any duty or function in pursuance of a delegation under regulation 15; or

(c) was appointed to deal with it by way of informal resolution under Article 5(4) of the Order of 1987

shall not, as respects that case conduct appellate proceedings.

(7) Without prejudice to paragraph (9) an appellant shall, if he was entitled to elect to be legally represented at the original hearing (and whether he did or did not so elect) be given an opportunity to elect to be so represented in the appellate proceedings, and the respondent may be so represented in those proceedings—

(a) if he was so represented at the original hearing; or

(b) if the appellant has given notice that he wishes to be so represented in the appellate proceedings, whether or not he is actually so represented.

(8) Except in a case where such an appellant as is mentioned in paragraph (7) has been given an opportunity to be legally represented and has so elected, he may only be represented at the appellate proceedings by a member or a member of a home police force.

(9) The appellant may attend the appellate proceedings and conduct his appeal either in person, or by a member or a member of a home police force selected by him, or where he has so elected in pursuance of paragraph (7), by counsel or a solicitor; but the provisions of regulation 20(1) relating to a hearing in the absence of the accused shall have effect, subject to any necessary modifications, in relation to appellate proceedings in the absence of the appellant.

(10) The appellant or his representative may make oral or written representations in support of the appeal but may only adduce evidence which could not have been adduced, or which was not adduced for reasons which satisfy the person considering the appeal at the hearing at which the charge was found proved; and where evidence is adduced in support of the appeal the officer who was the presenting officer at the original hearing or an officer acting in his place (“the presenting officer”) may adduce evidence in rebuttal.

(11) Notwithstanding anything in paragraph (10), where the person considering the appeal is considering the question of punishment, he may receive evidence from any witness whose evidence would, in his opinion, assist him in determining the question.

(12) A witness giving oral evidence may be cross-examined by the presenting officer or, as the case may be, by the representative of the appellant:

Provided that if the appellant is legally represented by counsel or a solicitor or by a member or a member of a home police force, the appellant, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(13) The person considering the appeal may, in his discretion, admit written evidence which would not be admissible but for this paragraph, but which would have been admissible if given orally.

(14) As soon as possible after the conclusion of the appellate proceedings the decision shall be recorded on the discipline form and notified in writing to the appellant; and a decision to allow an appeal against the finding at the original hearing or vary the punishment imposed shall have effect from the date of the decision appealed against except that, where the punishment as varied is such as is specified in regulation 23(1)(b) or (c), that punishment shall have effect from a date not earlier than, or from the date of, the decision in the appellate proceedings.

(15) A verbatim record of the appellate proceedings shall be taken and, if the appellant is dissatisfied with the decision and contemplates an appeal to the Secretary of State, then at his request made within the period during which notice of appeal may be given, a transcription of the record shall be made and a copy thereof supplied to him.

(16) On an internal appeal, the officer conducting the appeal shall not have power to award a punishment greater than the punishment awarded at the original hearing.

Suspension

26.—(1) Where a report, allegation or complaint is received from which it appears that a member may have committed a disciplinary or criminal offence, the chief constable may suspend that member from duty, whether or not the matter has been investigated.

(2) The chief constable may exercise the power to suspend a member under this regulation at any time from the time of receipt of the report, allegation or complaint until—

- (a) it is decided that the member shall not be charged with a disciplinary offence;
- (b) the member has been so charged and either all the charges have been dismissed, or, subject to sub-paragraph (c), punishments have been imposed; or
- (c) where a punishment has been imposed and an appeal lies to the chief constable the period for giving notice of appeal under paragraph (3) of regulation 25 has expired, or the appeal has been determined.

(3) Where a member is suspended under this regulation, he shall be suspended until there occurs any of the events mentioned in sub-paragraph (a) to (c) of paragraph (2), or the chief constable decides that he shall cease to be so suspended, whichever first occurs.

(4) The chief constable may delegate his powers under this regulation to any officer to whom under regulation 15, he has delegated or could delegate the duty there mentioned, and where he does so, any reference in the foregoing provisions of this regulation to the chief constable shall be taken as a reference to the officer to whom the powers are delegated.

Effect of successful appeal against criminal conviction

27.—(1) This regulation applies where a member who has been found guilty by a court of law of a criminal offence (“his criminal conviction”)—

- (a) is charged with and found guilty of the offence of criminal conduct under paragraph 17 of Schedule 1 in respect thereof (“his disciplinary conviction”); and
- (b) subsequently successfully appeals against his criminal conviction.

(2) Where this regulation applies (and whether or not the member has actually appealed against his disciplinary conviction)—

- (a) the decision allowing his appeal against his criminal conviction shall, in relation to his disciplinary conviction have effect as if it were an order or decision under Part IV of these regulations allowing an appeal by him against his disciplinary conviction; but
- (b) subject to Article 22 of the Order of 1987 (which relates to double jeopardy) nothing in sub-paragraph (a) shall prevent the chief constable from instituting disciplinary proceedings against him in respect of some other disciplinary offence.

(3) For the purpose of this regulation a member found guilty of a criminal offence and subsequently pardoned shall be treated as if he had successfully appealed against his criminal conviction.

Discipline book

28. The chief constable shall cause a discipline book to be kept in which shall be entered every charge made against a member, together with the decision thereon and a record of the decision in any further disciplinary proceedings in connection therewith.

PART III

DISCIPLINE: SENIOR OFFICERS

Investigating officers

29.—(1) Where a report, allegation or complaint is received from which it appears that an offence may have been committed by a senior officer, the following provisions of this regulation shall have effect for the purpose of investigating the matter.

(2) The provisions of paragraphs (3) and (4) shall have effect—

- (a) in relation to cases arising otherwise than from a complaint to which the Order of 1987(a) applies; and

(b) in relation to cases arising from such complaints where the requirements of the said Order are dispensed with by or under regulations made thereunder.

(3) Unless the Police Authority decide that no disciplinary proceedings need be taken, the matter shall be referred to an investigating officer who shall cause it to be investigated.

(4) The investigating officer shall be—

(a) a member, or

(b) if the chief officer of a home police force is requested and agrees to provide an investigating officer, a member of that force,

and of at least the rank of the senior officer under investigation.

(5) Neither—

(a) the chief constable, nor

(b) any member serving in the same sub-division or branch as the senior officer under investigation,

shall be appointed as the investigating officer for the purposes of paragraph (3) or Article 6(3) of the Order of 1987.

(6) The provisions of this regulation are without prejudice to the powers of the Commission under Article 9(5)(a) and (b) of the Order of 1987 (which provides for approval by the Commission of investigating officers) where an investigation is to be supervised by the Commission.

Initial personal explanation

30. The investigating officer shall, as soon as practicable (without prejudicing his or any other investigation of the matter), in writing inform the senior officer subject to investigation of the report, allegation or complaint and give him a written notice—

(a) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires, make a written or oral statement concerning the matter to the investigating officer or to the Police Authority, and

(b) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

Personal explanation following investigation

31.—(1) Where, following the investigation of a report, allegation or complaint, it appears that a senior officer may have committed an offence, the Police Authority shall consider whether disciplinary proceedings need be taken.

(2) Unless the Police Authority decide that no disciplinary proceedings need be taken, the Police Authority shall inform the senior officer in writing of the report, allegation or complaint and give him a written notice—

(a) asking him whether or not he admits that he has committed an offence;

(b) informing him that he is not obliged to say anything concerning the matter but that he may, if he so desires, make a written or oral statement concerning the matter to the Police Authority; and

(c) containing such a warning as is mentioned in regulation 30(b).

(3) If the Police Authority decide that no disciplinary proceedings need be taken, they shall so inform the senior officer in writing forthwith.

Punishment without hearing charges

32.—(1) If the senior officer admits that he has committed an offence, the Police Authority may impose a punishment in accordance with regulation 44 without the case being dealt with in accordance with regulations 33 to 43.

(2) Notwithstanding that the senior officer admits that he has committed an offence, the Police Authority may, after considering the report of the investigation, deal with the matter according to the Authority's discretion if satisfied that it does not justify the imposition of any punishment under these regulations.

Formulation of charges

33.—(1) This regulation shall apply where the senior officer—

(a) admits that he has committed an offence but the Police Authority do not proceed as mentioned in regulation 32(1) or (2); or

(b) does not admit that he has committed an offence but the Police Authority, after taking into account any statement he may have made under regulation 31, are not satisfied that he has not committed an offence.

(2) Subject to paragraph (5), where this regulation applies the Police Authority shall—

(a) instruct an independent solicitor to draw up, and enter on a discipline form, the offence with which the senior officer is to be charged together with such particulars as will leave him in no doubt as to the precise offence alleged, and

(b) cause the senior officer to be charged with that offence by being served with a copy of the discipline form.

(3) The reference in paragraph (2) to an independent solicitor is a reference to a solicitor who is not a member, officer or servant of the Police Authority or a Crown servant.

(4) A discipline form shall be in the form set out in Schedule 3.

(5) Notwithstanding that a case is one to which paragraph (1)(b) applies, if, after considering the report of the investigation, the Police Authority are satisfied that the offence in question, even if proved, would not justify the imposition of any punishment under these regulations, the steps mentioned in paragraph (2) need not be taken and the matter may be dealt with according to the Police Authority's discretion.

Withdrawal of charges

34. At any time before the beginning of the hearing of a charge, the Police Authority may direct that the charge be withdrawn; and, where they so direct, they shall as soon as possible, cause—

(a) their direction to be noted on the discipline form, and

(b) the senior officer to be served with a written notice of their direction.

Documents to be supplied to accused

35.—(1) Where a senior officer is charged with an offence, he shall, at least 21 days before the date of the hearing of the charge, be supplied with copies—

- (a) of any statements he may have made under regulations 30 and 31;
- (b) of the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report arising out of the investigation referred to in regulation 31) notwithstanding that they may be confidential;
- (c) of any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address; and
- (d) of any statement relating to the charge made by any person, other than a witness to be called in support of the charge, in the course of the investigation referred to in regulation 31, to the Police Authority or to anybody acting on their behalf, together with the person's name and address.

(2) Where the charge is founded on a report, allegation or complaint and a statement arising therefrom made by the same person, the reference in paragraph (1)(b) to the report, allegation or complaint shall, without prejudice to paragraph (1)(c) or (d), be construed as including a reference to that statement.

(3) In this regulation any reference to a copy of a statement, report, allegation or complaint shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

Hearing by tribunal

36.—(1) A charge against a senior officer shall be heard by a tribunal consisting of a single person selected and appointed by the Police Authority with the approval of the Secretary of State.

(2) To assist the tribunal on matters pertaining to the police there shall also be appointed by the Police Authority one or more assessors selected by that Authority with the approval of the tribunal one at least of whom shall be a person engaged or experienced in police administration, so, however, that there shall not be so appointed—

- (a) a person who is one of Her Majesty's inspectors of constabulary;
- (b) the chief constable; or
- (c) a member, officer or servant of the Police Authority or a Crown servant.

Procedure at hearing

37.—(1) The hearing shall be in private.

(2) The case against the accused shall be presented—

- (a) by the independent solicitor mentioned in regulation 33(2)(a); or
- (b) by some other independent solicitor.

(3) In paragraph (2)(b) "independent solicitor" has the same meaning as in regulation 33.

(4) If the accused does not admit the charge, the hearing shall proceed as though he denied the charge.

(5) Before the case against the accused is presented, the accused may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the tribunal, if it upholds that submission, shall determine that the charge to which the submission relates should be dismissed.

(6) The accused may conduct his case either in person or by a representative who may be counsel, a solicitor, a member or a member of a home police force selected by him:

Provided that if the accused is represented by a member or a member of a home police force the accused, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(7) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the tribunal.

(8) A verbatim record of the proceedings before the tribunal shall be taken and the transcription of the record shall be made and sent to the Police Authority and, if a punishment is imposed by that Authority and the accused contemplates an appeal to the Secretary of State, at his request made within the period during which notice of appeal may be given, a copy thereof shall be supplied to him.

Statements in lieu of oral evidence

38.—(1) Subject to the provisions of this regulation, the tribunal may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible hereunder if it would not have been admissible had it been given orally.

(2) For the purposes hereof, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(3) If either the accused or the person presenting the case against him (in this regulation referred to as "the parties") proposes to adduce written evidence in pursuance of this regulation at a hearing, he shall give the other party a copy of the statement at least 21 days before the date of that hearing and invite that party to agree or object, in writing, to the admission of the statement in evidence without the maker thereof being called as a witness and being available for cross-examination, and, if that party within 14 days from the receipt by him of the copy of the statement has so objected, a statement shall only be admitted in evidence if the maker thereof is called and is available as aforesaid:

Provided that if the parties in writing so agree in the case of a particular statement, this paragraph shall have effect in relation to that statement as though—

(a) the reference to a period of 21 days were a reference to such shorter period as they may agree:

(b) the reference to a period of 14 days were a reference to such shorter period, expiring before the date of the hearing, as they may agree.

(4) Where, notwithstanding that the other party has not so objected and a written statement has been admitted in evidence without the maker thereof being called and being available as aforesaid, the tribunal is of the opinion that oral evidence should be given, it may request that the maker be called as a witness and, in such case, unless the maker gives oral evidence, the tribunal shall be entitled to disregard the written evidence.

(5) Nothing in this regulation shall prejudice the admission of written evidence which would be admissible apart from the provisions thereof.

Adjournment of hearing

39. The tribunal may from time to time adjourn the hearing if it considers it necessary or expedient so to do for the due hearing of the case.

Hearing in absence of accused

40.—(1) It shall be within the discretion of the tribunal to proceed with the hearing of the case in the absence of the accused if it appears just and proper so to do.

(2) Where, owing to the absence of the accused, it is impossible to comply with any of the procedure described in regulations 30, 31, 33 and 35 that procedure shall be dispensed with.

Attendance of complainant at hearing

41.—(1) This regulation shall apply in relation to the hearing of a charge against a senior officer where the charge is in respect of a matter or matters complained of in a complaint against him received from a member of the public.

(2) Notwithstanding anything in regulation 37(1) but subject to paragraph (4), the tribunal shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing:

Provided that—

(a) where the complainant is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and

(b) where it appears to the tribunal that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(3) Where the accused gives evidence, then, after the person presenting the case against him has had an opportunity of cross-examining him, the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at its discretion, may allow the complainant himself to put such questions to the accused.

(4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the hearing; and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the tribunal may exclude him from the remainder of the hearing.

(5) In this regulation a reference to the complainant is a reference to the person by or on behalf of whom the complaint was made.

Tribunal's report

42.—(1) The tribunal shall, as soon as possible after the hearing, submit a report to the Police Authority setting out—

- (a) a statement of the facts admitted or found to be proved so far as they are material to the case;
- (b) a statement as to the charges found to be proved or not to be proved;
- (c) if any charges are found to be proved, a recommendation as to any punishment which, subject to regulation 43, in its opinion should be imposed therefor;
- (d) any other matter arising out of the hearing which it desires to bring to the notice of the Police Authority.

(2) For the purposes of this regulation, a charge shall not be regarded as being proved unless it is—

- (a) admitted by the accused; or
- (b) proved, by the person presenting the case to the tribunal hearing the case, beyond reasonable doubt.

(3) The tribunal shall send the accused a copy of the report.

Decision of Police Authority

43.—(1) On receipt of the report of the tribunal the Police Authority shall decide either to dismiss the case or—

- (a) to record a finding of guilt but to take no further action thereon, or
- (b) to record a finding of guilt and impose a punishment.

(2) As soon as possible after the Police Authority have taken their decision in the case that decision shall be recorded on the discipline form and notified in writing to the accused.

Punishment

44.—(1) For the purposes of regulation 32, 42(1)(c) or 43(1), the punishments which may be recommended or imposed shall be—

- (a) dismissal from the force;
- (b) requirement to resign from the force as an alternative to dismissal, either forthwith or on such date as may be specified in the recommendation or decision;
- (c) reprimand.

(2) Where the question of the punishment to be imposed is being considered by the Police Authority under regulation 32 or 43(1)—

- (a) they shall have regard to the accused's record of police service and may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question, and
- (b) the accused, or his representative, shall be afforded an opportunity to make oral, or if he thinks fit, written representations as respects the question or to adduce evidence relevant thereto.

(3) Regulation 37(7) shall apply to proceedings at which such evidence as is referred to in paragraph (2)(a) or (b) or such oral representations as are referred to in paragraph (2)(b) is given or are made as it applies to the proceedings before the tribunal.

Copy of report and decision to be sent to the Secretary of State

45. A copy of the report of the tribunal together with the decision of the Police Authority shall be sent by the Police Authority to the Secretary of State.

Expenses of hearing

46.—(1) All the expenses of a hearing under this Part, including the costs of the accused, shall be defrayed by the Police Authority.

(2) Any costs payable under this regulation shall be subject to taxation in such manner as the Secretary of State may direct.

Suspension — ordinary procedure

47.—(1) Where it appears to the Police Authority, on receiving a report, allegation or complaint from which it appears that a senior officer may have committed a disciplinary or criminal offence, that the senior officer concerned ought to be suspended from duty, the Police Authority may, subject to the following provisions of this regulation, so suspend him.

(2) The Police Authority shall not so suspend a senior officer unless it appears to them that either of the following conditions ("the suspension conditions") is satisfied, namely—

- (a) that the effective investigation of the matter may be prejudiced unless the senior officer concerned is so suspended;
- (b) that the public interest, having regard to the nature of the report, allegation or complaint, and any other relevant considerations, requires that he should be so suspended.

(3) If the Police Authority determine that a senior officer ought to be suspended under this regulation, they shall forthwith notify the Commission of their decision and of the suspension condition appearing to them to justify their decision.

(4) If, upon being so notified of the decision of the Police Authority, the Commission is satisfied that the suspension condition in question is fulfilled, it shall as soon as practicable notify its approval of the suspension of the senior officer concerned to the Police Authority; and the suspension of the officer shall not have effect unless the approval of the Commission is so given.

(5) Where the Commission gives its approval to the suspension of a senior officer, his suspension shall take effect from the time he receives notice of the Commission's approval thereof from the Police Authority, and he shall be suspended until—

- (a) the Commission decides otherwise; or
- (b) the Police Authority decide otherwise; or
- (c) it is decided that the officer shall not be charged with a disciplinary offence; or
- (d) he has been so charged and—
 - (i) all the charges have been dropped; or
 - (ii) a finding of guilt has been recorded but no further action has been taken thereon; or
 - (iii) a punishment has been imposed,
 whichever first occurs.

Suspension — urgent cases

48.—(1) Subject to paragraph (2), in cases of urgency, the like power of suspension as under regulation 47 may be exercised with immediate effect—

- (a) in relation to the chief constable or a person for the time being discharging his functions, by the Police Authority, and
- (b) in any other case, by the chief constable.

(2) Where a senior officer has been suspended under paragraph (1), the Police Authority shall notify the Commission forthwith.

(3) Without prejudice to regulation 47(5), the suspension of a senior officer under this regulation shall cease to have effect at the expiry of 24 hours from the imposition thereof unless within that period the Commission has notified the Police Authority of its approval thereof.

PART IV

APPEALS TO THE SECRETARY OF STATE

Disciplinary appeal

49. A member (in this Part referred to as “the appellant”) who is dealt with for an offence against discipline may appeal to the Secretary of State—

- (a) against the decision on the disciplinary charge which was preferred against him;
- (b) against any punishment awarded,

except where he has a right of appeal to some other person and in that case he may appeal to the Secretary of State from any decision of that other person.

Notice of appeal

50.—(1) An appeal under this Part shall be instituted by the appellant giving the Secretary of State written notice of appeal, in the form set out in Schedule 5.

(2) The notice of appeal shall be given within the period of 22 days beginning with the day on which the appellant was notified in writing of the relevant decision.

In this and the next following paragraph the expression "relevant decision" means the decision as to finding or punishment or both, as the case may be, in relation to the disciplinary charge which was preferred against the appellant, except that where there is a right of appeal from such decision to some other person it means the decision of that other person.

(3) If the appellant does not annex to the notice of appeal all the written statements mentioned in paragraphs 5, 6 and 7 thereof (hereinafter referred to as "the supporting statements"), he shall supply the Secretary of State with the statements not annexed to the notice of appeal within the period of 60 days beginning with the day on which he was notified in writing of the relevant decision; and, if he fails to do so, the Secretary of State shall be entitled to treat the notice of appeal as having been withdrawn and no further action in connection with the appeal shall be taken.

(4) The appellant shall send copies of the notice of appeal and of the supporting statements—

- (a) within the period within which the notice falls to be given under paragraph (2) or, as the case may be, within which the statements fall to be supplied under paragraph (3), to the chief constable; and
- (b) if and when so required by the Secretary of State, to such other person as is the respondent to the appeal by virtue of a direction given under regulation 51(2),

except that, where the appellant is a senior officer, sub-paragraph (b) shall not apply and sub-paragraph (a) shall have effect as if the reference therein to the chief constable were a reference to the Police Authority.

(5) Where the Secretary of State is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and right so to do, he may extend either or both of the periods mentioned in paragraphs (2) and (3) and, in such case, this regulation shall have effect as if for the period in question there were substituted such extended period as he may specify.

Respondent

51.—(1) On any appeal under this Part against the decision of the Police Authority, the respondent shall be that Authority.

(2) On any other appeal under this Part the respondent shall be the chief constable or such other person as the Secretary of State may direct; and the Secretary of State may direct any respondent under this sub-paragraph to act in relation to the appeal in consultation with such other person or persons as the Secretary of State may specify.

Statement by respondent

52.—(1) The respondent, when so required by the Secretary of State, shall send him a written statement as to whether or not he desires to oppose the appeal and, where he desires to oppose it, as to—

- (a) the facts and contentions on which he relies and the documentary or other evidence, if any, which he desires to submit;
- (b) whether, in the event of an appeal tribunal being appointed and evidence heard, he desires to appear by a legal or other representative; and

(c) whether (unless the appeal is against punishment only), in such event, the hearing would be one to which regulation 66 applies and, if so, the name and address of the complainant within the meaning of that regulation.

(2) The respondent, if so required by the Secretary of State, shall also send him such number of copies as he may require of—

(a) the statement referred to in paragraph (1); and

(b) such papers, reports, records and other documents as the Secretary of State may specify.

(3) The respondent shall send to the appellant—

(a) a copy of the statement referred to in paragraph (1); and

(b) a list of the documents, copies of which have been sent to the Secretary of State in accordance with paragraph (2)(b) together with copies of all such documents save in so far as they have previously been given to the appellant.

(4) Following receipt of such statement or other documents as are required to be sent to him in accordance with paragraphs (1) and (2) above, the Secretary of State shall send written notice to the appellant inviting him to make within 14 days of the issue of such notice any written representations as the appellant may so wish; and the Secretary of State shall not proceed to conduct the appeal unless such written notice has been sent to the appellant:

Provided that where the appellant does not, within the period specified above, provide any written representations or indicate in writing that he does not wish to do so, the Secretary of State may proceed to conduct the appeal in accordance with the provisions of this Part.

Inquiries

53.—(1) The Secretary of State may appoint 3 persons to hold an inquiry into and report to him on any appeal under this Part other than an appeal from a decision of the Police Authority and, subject to paragraph (2) shall do so where—

(a) it appears to him that the appeal cannot be properly determined without taking evidence; or

(b) the appellant has been punished by way of dismissal, requirement to resign or reduction in rank and has requested that such persons be appointed.

(2) The Secretary of State need not make an appointment under paragraph (1) if he is satisfied that there are sufficient grounds for allowing the appeal without an inquiry.

(3) The persons appointed under paragraph (1) shall be—

(a) a barrister or solicitor, who shall be chairman;

(b) a serving or retired inspector of constabulary or a retired chief officer; and

(c) a retired officer of appropriate rank within the meaning of paragraph (4).

(4) A retired officer of appropriate rank means—

- (a) where the appellant was, immediately before the disciplinary proceedings, of the rank of chief superintendent or superintendent, a retired police officer who at the time of his retirement was either of those ranks; and
- (b) in any other case, a retired police officer who at the time of his retirement was of the rank of chief inspector or below.
- (5) The Secretary of State may appoint one or more persons to hold an inquiry into and report to him on an appeal under this Part from a decision of the Police Authority.
- (6) The Secretary of State may require persons appointed under this regulation to deal in their report with any particular matter specified by him.
- (7) Paragraphs 3 to 5 of Schedule 8 of the Health and Personal Social Services Order 1972(a) shall apply to any inquiry under this regulation as they apply to an inquiry under that Schedule.
- (8) The Secretary of State may require persons appointed under this regulation to hold a hearing.
- (9) Persons so appointed shall hold a hearing in any case where they are not required to do so under paragraph (8) unless it appears to them that it is unnecessary to do so.
- (10) A decision whether to hold a hearing shall not be taken under paragraph (9) unless both the appellant and the respondent have been afforded an opportunity to make written or, if either so requests, oral representations and any such representations have been considered.
- (11) Before making an order under regulation 54, the Secretary of State shall consider any report made to him under this regulation, as well as the notice of appeal and any other documents submitted to him by the appellant and the respondent in accordance with the provisions of this Part.
- (12) The Secretary of State may, before making an order under regulation 54, remit the case for further investigation by the person or persons who held the inquiry or, if he thinks fit, for further consideration by the person or persons whose decision is the subject of the appeal.

Decision of the Secretary of State

54.—(1) On an appeal the Secretary of State may make an order allowing or dismissing the appeal.

(2) Subject to sub-section (3) below, in any case where it appears to him that it is appropriate to do so, he may substitute some other punishment.

(3) The Secretary of State may not substitute another punishment unless it appears to him—

- (a) that the person or tribunal who heard the disciplinary charge could have awarded it; and
- (b) that it is less severe than the punishment awarded by that person or tribunal.

Notice and effect of orders

55.—(1) A copy of any order made by the Secretary of State, together with a written statement of his reasons for making it, shall as soon as made be sent to the appellant and the respondent together with, if an inquiry was held, a copy of the report of the person or persons who held the inquiry; and the order shall be final and binding upon all parties.

(2) Where an appeal is allowed or the punishment is varied by the Secretary of State, the order shall take effect by way of substitution for the decision appealed from, and as from the date of that decision; and where the effect of the order is to reinstate the appellant in the force or in his rank, he shall, for the purpose of reckoning service for pension, and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in that rank, as the case may be, continuously from the date of the decision to the date of his reinstatement and, if he were suspended for a period immediately preceding the date of the decision, the order shall deal with the suspension.

Costs and expenses of appeal

56.—(1) The Secretary of State may direct an appellant to pay the whole or any part of his own costs; but subject to any such direction, all the costs and expenses of an appeal under this Part, including the costs of the parties, shall be defrayed by the Police Authority.

(2) Any costs payable under this Part shall be subject to taxation in such manner as the Secretary of State may direct.

Documents to be sent to appeal tribunal

57.—(1) Where the Secretary of State appoints an appeal tribunal to hold an inquiry he shall send to each member thereof—

- (a) copies of the notice of appeal and of the supporting statements; and
- (b) subject to paragraph (2), a copy of the respondent's statement referred to in regulation 52(1) and of each document a copy of which has been sent to the Secretary of State in accordance with regulation 52(2)(b).

(2) Where, as respects a particular charge, the appeal is against both finding and punishment, the Secretary of State shall, so far as is practicable, withhold so much of the statement and documents mentioned in paragraph (1)(b) as appears to him to relate to the appellant's general character and record of police service until the appeal tribunal has reached a decision as to the finding and is about to consider the question of punishment.

Withdrawal and amendment of notice of appeal etc.

58.—(1) At any time before an appeal is decided by the Secretary of State he may, on written application in that behalf, allow the appellant to withdraw his notice of appeal and, accordingly, where he so allows no further action in connection with the appeal shall be taken.

(2) Regulation 50(4) shall apply in relation to a written application made for the purposes of paragraph (1) as it applies in relation to a notice of appeal and where the Secretary of State has appointed an appeal tribunal to hold an inquiry and it has not, to the knowledge of the appellant, reported to the Secretary of State the appellant shall also send to the chairman of the tribunal a copy of the written application.

(3) Subject to paragraph (4), at any time before an appeal is decided by the Secretary of State he may, in his discretion and subject to such conditions, if any, as he thinks fit, allow—

- (a) the appellant to amend his notice of appeal or any of the supporting statements;
- (b) the respondent to amend his statement under regulation 52(1) or the documentary material sent to the Secretary of State in accordance with regulation 52(2)(b).

(4) Where the Secretary of State has appointed an appeal tribunal to hold an inquiry and it has not reported to him, the powers conferred by paragraph (3) shall not be exercisable by him but shall be exercisable by the chairman of the tribunal.

Form of inquiry

59. Where, as respects a particular charge, the appeal is against both finding and punishment, then, as respects that charge, a hearing held under regulation 53(8) or (9) shall be by way of a rehearing of that charge at the discretion of the tribunal or if the Secretary of State so directs.

Oral representations

60.—(1) So far as applicable, and subject to any necessary modifications, the provisions of regulations 61, 62 and 63 shall apply in relation to the hearing of any oral representations under regulation 53(10) as they apply in relation to a hearing held under regulation 53(8) or (9).

(2) The appellant and the respondent shall be entitled to be represented at the hearing of such oral representations as if it were a hearing held under regulation 53(8) or (9).

Procedure at hearing

61.—(1) This regulation and regulations 62 to 67 shall apply where the Secretary of State appoints an appeal tribunal to hold an inquiry and, under regulation 53(8) or (9), a hearing falls to be held (hereinafter referred to as “the hearing”).

(2) After consulting the chairman of the tribunal, the Secretary of State shall fix the day for the opening of the hearing and shall cause notice thereof to be sent to the appellant and the respondent not less than 28 days before the day in question so, however, that with the agreement of the parties shorter notice may be given.

(3) It shall be within the discretion of the tribunal to proceed with the hearing in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn it from time to time as may appear necessary for the due hearing of the case.

(4) Subject to these regulations, the procedure at a hearing shall be determined by the tribunal.

Representation at hearing

62. Where a hearing is held in the course of an inquiry—

- (a) the appellant shall have the right to appear at the hearing in person, by a serving member or a serving member of a home police force or by counsel or a solicitor; and

- (b) the respondent shall have the right to appear at the hearing by a serving member or by counsel or a solicitor or by the secretary or other officer of the Police Authority.

Hearing to be in private

63.—(1) Unless the Secretary of State otherwise directs, the hearing shall be held in private:

Provided that it shall be within the discretion of the appeal tribunal to allow such person or persons as it considers desirable to attend the whole or such part of the hearing as it may think fit.

(2) Notwithstanding that the Secretary of State has directed that a hearing should be held in public or that the appeal tribunal has allowed a person to attend the hearing, where it appears to the tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed publicly, the tribunal shall require any member of the public present to withdraw while that evidence is given.

Evidence at hearing

64.—(1) Unless the tribunal otherwise determines, the evidence adduced by the respondent shall be given first.

(2) All oral evidence given at the hearing shall be given on oath.

(3) All witnesses giving evidence at the hearing shall be subject to examination and cross-examination.

(4) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the appeal tribunal.

(5) A verbatim record of the evidence given at the hearing shall be taken and kept for a period of not less than 3 years from the date of the end of the hearing unless either the Secretary of State or the chairman of the tribunal requests that a transcription of the record be made.

Statements in lieu of oral evidence

65.—(1) Subject to the provisions of this regulation, the appeal tribunal may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible hereunder if it would not have been admissible had it been given orally.

(2) For the purposes hereof, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(3) If either the appellant or the respondent (in this regulation referred to as "the parties") proposes to adduce written evidence in pursuance of this regulation at a hearing, he shall give the other party a copy of the statement at least 21 days before the date of that hearing and invite that party to agree or object, in writing, to the admission of the statement in evidence without the maker thereof being called as a witness and being available for cross-examination and, if that party within 14 days from the receipt by him of the copy of the statement has so objected, the statement shall only be admitted in evidence if the maker thereof is called and is available as aforesaid:

Provided that if the parties in writing so agree in the case of a particular statement, this paragraph shall have effect in relation to that statement as though—

- (a) the reference to a period of 21 days were a reference to such shorter period as they may agree;
- (b) the reference to a period of 14 days were a reference to such shorter period, expiring before the date of the hearing, as they may agree.

(4) Where, notwithstanding that the other party has not so objected and a written statement has been admitted in evidence without the maker thereof being called and being available as aforesaid, the appeal tribunal is of the opinion that oral evidence should be given, it may request that the maker be called as a witness and, in such case, unless the maker gives oral evidence, the tribunal shall be entitled to disregard the written evidence.

(5) Nothing in this regulation shall prejudice the admission of written evidence which would be admissible apart from the provisions thereof.

Attendance of complainant at hearing

66.—(1) This regulation shall apply in relation to a hearing where the charge as respects which the appeal is brought is in respect of a complaint or referred matter and the appeal is not against punishment only.

(2) The Secretary of State shall cause notice of the opening of the hearing to be sent to the complainant, at the same time as such notice is sent to the respondent in pursuance of regulation 61(2).

(3) Notwithstanding anything in regulation 63(1) but subject to paragraph (5), the appeal tribunal shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the inquiry:

Provided that—

- (a) where the complainant is to be called as a witness at the hearing he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence; and
- (b) where it appears to the appeal tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(4) Where the appellant gives evidence then, after the person representing the respondent has had an opportunity of cross-examining him, the chairman of the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at his discretion, may allow the complainant himself to put such questions to the accused.

(5) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt the hearing; and if he or such a person should behave in a disorderly or abusive manner, or

otherwise misconduct himself, the chairman of the tribunal may exclude him from the remainder of the hearing.

Report of appeal tribunal

67.—(1) The appeal tribunal shall draw up and submit to the Secretary of State, as soon as may be after the completion of the inquiry, a report, in triplicate, of its findings, setting out—

- (a) a statement of the facts (so far as material to the case) found to be admitted or proved, either in the course of a hearing or the consideration by the tribunal of the documents sent to it in accordance with regulation 57;
- (b) except when the appeal is against punishment only, a statement as to the charge or charges so found to be proved;
- (c) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any and if so what, punishment should, in its opinion, be substituted therefor; and
- (d) its observations on any matter with which the Secretary of State required it to deal under regulation 53(6) and on any other matter which it desires to bring to his notice.

(2) The appeal tribunal shall send to the Secretary of State, with its report—

- (a) the documents sent to it in accordance with regulation 57 and any other documents furnished in connection with the inquiry; and
- (b) where there has been a hearing—
 - (i) where the chairman of the tribunal has requested that it be made, the transcription thereof; and (without prejudice to subparagraph (a));
 - (ii) the documents, if any, produced at the hearing.

Further investigation by appeal tribunal

68. Where the Secretary of State remits a case for further investigation by an appeal tribunal, in accordance with regulation 53(12) this Part shall apply in relation to that further investigation, subject to any necessary modifications, as they apply in relation to an inquiry.

Service of documents

69. Where any notice or other document is required by this Part to be submitted or sent by or to the Secretary of State or any other person or authority, it shall be a sufficient compliance with this Part if such notice or other document is sent, by registered letter post or the recorded delivery service, within such time, if any, as is prescribed by this Part, in a letter directed to the person or authority for whom it is intended at his or its usual office or other ordinary address or, in the case of a notice or other document intended for the Secretary of State, to the Secretary of State at his official address in Northern Ireland.

Determination of questions

70. If any question arises as to the proper compliance with any provision of this Part, it shall be determined by the Secretary of State whose decision shall be final.

Northern Ireland Office
15th January 1988

Tom King
One of Her Majesty's Principal
Secretaries of State

DISCIPLINE CODE.

1. *Discreditable conduct*, which offence is committed where a member acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the force or of the police service.

2. *Misconduct towards a member*, which offence is committed where—

(a) the conduct of a member towards another member of the force is oppressive or abusive; or

(b) a member assaults another member of the force.

3. *Disobedience to orders*, which offence is committed where a member, without good and sufficient cause—

(a) disobeys or neglects to carry out any lawful order, written or otherwise; or

(b) contravenes any provision of the Police Regulations containing restrictions on the private lives of members, or requiring him to notify the chief constable that he, or a relation included in his family, has a business interest within the meaning of those regulations.

4. *Neglect of duty*, which offence is committed where a member without good and sufficient cause—

(a) neglects or omits to attend to or carry out with due promptitude and diligence anything which it is his duty as a member to attend to or carry out; or

(b) fails to work his beat in accordance with orders, or leaves the place of duty to which he has been ordered, or having left his place of duty for an authorised purpose fails to return thereto without undue delay; or

(c) is absent without leave from, or is late for, any duty; or

(d) fails properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.

5. *Wilful or careless falsehood*, which offence is committed where a member—

(a) knowingly or through neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for police purposes; or

(b) either wilfully and without proper authority or through lack of due care destroys or mutilates any record or document made, kept or required for police purposes; or

(c) without good and sufficient cause alters or erases or adds to any entry in such a record or document; or

(d) has knowingly or through neglect made any false, misleading or inaccurate statement in connection with his appointment to the force.

6. *Improper disclosure of information*, which offence is committed where a member—

(a) without proper authority communicates to any person, any information which he has in his possession as a member; or

(b) makes any anonymous communication to the Police Authority, or any member of the force; or

(c) without proper authority, makes representations to the Police Authority with regard to any matters concerning the force; or

(d) canvasses any member of that Authority with regard to any such matter.

7. *Corrupt practice*, which offence is committed where a member—

- (a) in his capacity as a member and without the consent of the chief constable or the Police Authority, directly or indirectly solicits or accepts any gratuity, present or subscription; or
- (b) places himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a member; or
- (c) improperly uses, or attempts so to use, his position as a member for his private advantage.

8. *Improper practice*, which offence is committed where a member in his capacity as such and without the consent of the chief constable, writes, signs or gives a testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind.

9. *Abuse of authority*, which offence is committed where a member treats any person with whom he may be brought into contact in the execution of his duty in an oppressive manner and, without prejudice to the foregoing, in particular where he—

- (a) without good and sufficient cause conducts a search, or requires a person to submit to any test or procedure, or makes an arrest; or
- (b) uses any unnecessary violence towards any prisoner or any other person with whom he may be brought into contact in the execution of his duty, or improperly threatens any such person with violence; or
- (c) is abusive or uncivil to any member of the public.

10. *Discriminatory behaviour*, which offence is committed without prejudice to the commission of any other offence where a member—

- (a) while on duty, on the grounds of another person's colour, race, nationality or religious belief, acts towards that other person in any such way as is mentioned in paragraph 9 (abuse of authority); or
- (b) in any other way, on any of those grounds, treats improperly a person with whom he may be brought into contact while on duty.

11. *Neglect of health*, which offence is committed where a member, without good and sufficient cause, neglects to carry out any instructions of a medical officer appointed by the Police Authority or, while absent from duty on account of sickness, commits any act or adopts any conduct calculated to retard his return to duty.

12. *Improper dress or untidiness*, which offence is committed where without good and sufficient cause a member while on duty, or while off duty but wearing uniform in a public place, is improperly dressed or is untidy in his appearance.

13. *Damage to police property*, which offence is committed where a member—

- (a) wilfully or through lack of due care causes any waste, loss or damage to police property; or
- (b) fails to report as soon as is reasonably practicable any loss of or damage to any such property issued to, or used by him, or entrusted to his care.

14. *Drunkenness or drug taking*, which offence is committed where a member renders himself unfit through drink or drugs or a combination thereof for duties which he is or will be required to perform or which he may reasonably foresee having to perform.

15. *Drinking on duty or soliciting drink*, which offence is committed where a member, while on duty—

- (a) without proper authority, drinks, or receives from any other person, any intoxicating liquor; or
- (b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor.

16. *Entering licensed premises*, which offence is committed where a member—

- (a) while on duty; or
- (b) while off duty but wearing uniform,

without good and sufficient cause, enters any premises in respect of which a licence or permit has been granted in pursuance of the law relating to liquor licensing or betting and gaming or regulating places of entertainment.

17. *Criminal conduct*, which offence is committed where a member has been found guilty by a court of law of a criminal offence.

18. *Being an accessory to a disciplinary offence*, which offence is committed where a member incites, connives at or is knowingly an accessory to any offence against discipline.

DISCIPLINE FORM: RANKS OF AND BELOW CHIEF SUPERINTENDENT

CHARGE[S] AGAINST Name

No. Rank Rate of Pay

Particulars of Service

Charge[s]

| <i>Offence(s) of which member is accused</i> | <i>Particulars of alleged offence(s) including time, date and place</i> | <i>Names and addresses of witnesses in support of charge(s) and whose statements are attached</i> |
|--|---|---|
| (1) | (1) | (1) (a) (b) |
| (2) | (2) | (2) (a) (b) |
| (3) | (3) | (3) (a) (b) |

[Where applicable. The charge[s] numbered has/have been brought on the direction of the Independent Commission for Police Complaints for Northern Ireland in accordance with Article 13(3) of the Police (Northern Ireland) Order 1987.]

PART I

QUESTIONS WHICH THE ACCUSED IS INVITED TO ANSWER

- 1. Do you admit or deny the charge[s]? (1)
 (give a separate answer as respects each charge.) (2)
 (3)

- 2. Do you wish—
 (a) to select a member of the RUC or a member of a home police force to assist you in presenting your case? If so, give his name, rank and police force or indicate that this information will be given later.

Yes/No.

(particulars of friend)

.....

- (b) the chief constable to take steps with a view to securing the attendance of any witnesses for you at the hearing of the case? If so, give their names and addresses or indicate that the information will be given later. If not, write "No".

.....

.....

.....

Date Signature of accused

- 3. Do you intend to make your own arrangements for other witnesses (not being members of a police force) to attend?

Yes/No.

- 4. If the answer to question 3 is "Yes", it would assist in the preparation of the hearing if you would indicate the number of other witnesses you intend to call.

[.....] (indicate number)

Date Signature of the accused

[You are reminded that the information requested in questions 1 to 4 above must be provided within 14 days from the service of this form.]

DATE OF DISCIPLINARY HEARING

- 5. You will be notified as soon as possible of the date of the hearing and be told at that time whether it will be conducted by a senior officer, chief superintendent, or disciplinary board, or by a tribunal or by the chief officer of another force. This notification which will be in writing will be given to you at least 21 days before the date set for the hearing of your case.

LEGAL REPRESENTATION [IF APPROPRIATE]

- 6. If you are found guilty of [any of] the above offence[s] the officer or disciplinary board or tribunal conducting the hearing will wish to have available the full range of penalties including reduction in rank, requirement to resign and dismissal. You are, therefore, entitled to be legally represented at the hearing. You should indicate below whether or not you intend to be so represented. If you elect to be legally represented you may also have a "friend" present at the hearing.

I do/I do not intend to be legally represented at the disciplinary hearing (delete where appropriate).

Date Signature of the accused

You are reminded that you may forfeit your right to legal representation if without reasonable cause you fail to state your intention on this matter, in writing, within 14 days from the service of the documents and statements that are referred to in regulation 9(1) of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988. If you forfeit your right to legal representation the full range of penalties will remain available to the officer or tribunal conducting the hearing should you be found guilty.

*Documents and statements attached.

*Documents and statements to follow.

(*Delete as necessary)

PART II

HEARING

Date Time Place

and by adjournment on

Date Time Place

Hearing to be conducted by [the chief constable, deputy chief constable, senior assistant chief constable, assistant chief constable or chief superintendent] [a disciplinary board comprising

.....]

[the chief constable of police force to whom the case has been remitted under regulation 14 of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988] [a tribunal constituted as provided in Article 14 of the Police (Northern Ireland) Order 1987 and comprising

.....]

Above information notified to accused on (date)
..... Initials (date)

[Where applicable. Particulars of any subsequent hearing before the chief constable solely on punishment.]

Date Time Place

Subsequent hearing notified to accused.

..... Initials

..... Date]

DECISIONS ON FINDING AND PUNISHMENT

Finding

The finding(s) as respects the disciplinary offence(s) specified below, with which the accused has been charged, is/are as specified opposite thereto.

Signature [chief constable, deputy chief constable, senior assistant chief constable, assistant chief constable, chief superintendent] [chairman of disciplinary board] [chief constable of police force] [chairman of the tribunal]

Date

Punishment

I have referred to and taken note of the personal record of the accused. The punishment(s) imposed as respects the disciplinary offence(s) specified below, with which the accused has been charged and of which he has been found guilty, is/are as specified opposite thereto.

Signature [chief constable, deputy chief constable, senior assistant chief constable, assistant chief constable, chief superintendent] [chairman of disciplinary board] [chief constable of police force] [chairman of the tribunal]

Date

Decisions referred to above

| <i>Offence(s) charged</i> | <i>Finding</i> | <i>Punishment imposed where accused has been found guilty</i> |
|---------------------------|-------------------|---|
| (1) | Guilty/Not guilty | |
| (2) | Guilty/Not guilty | |
| (3) | Guilty/Not guilty | |

Decisions on finding and punishment notified to accused.

I have been notified of the decisions above.

Signature of accused

Date

PART III

INTERNAL APPEAL (WHERE APPROPRIATE)

Particulars of date and outcome of internal appeal hearing.

Decisions on appeal notified to accused.

I have been notified of the decisions above.

Signature of accused

Date

PART IV

FOR OFFICE USE ONLY

1. Copy of discipline form served on accused.

Initials

Date form served

2. Accused officer notified of the nature of the hearing with full explanation of what this entails.

Initials

Date so notified

3. Date on which accused provided with copies of documents listed in regulation 9(1) of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988: (insert date)

Initials

Date

4. Date on which accused officer indicated his intention to be/not to be legally represented at the hearing (if applicable): (insert date)

Initials

Date

5. Case entered in Complaints Register (if applicable): (insert date)

Initials

Date

6. Case entered in discipline book

Initials

Date

PART V

PARTICULARS OF ANY APPEAL TO THE SECRETARY OF STATE

.....

.....

.....

.....

.....

DISCIPLINE FORM: SENIOR OFFICERS

CHARGE AGAINST Name

Rank

Particulars of Service

CHARGE

| <i>Offence of which member is accused</i> | <i>Particulars of alleged offence, including time, date and place</i> | <i>Names and addresses of witnesses in support of charge(s) and whose statements are attached</i> |
|---|---|---|
| | | 1. |
| | | 2. |
| | | 3. |
| | | 4. |
| | | 5. |
| | | 6. |

DATE OF DISCIPLINARY HEARING

You will be notified as soon as possible of the date of the hearing and told where it is to be held. This notification will be given to you at least 21 days before the date set for the hearing.

EVIDENCE

You will be provided with a copy of such documents and statements as are referred to in regulation 35(1) of the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988 at least 21 days before the date set for the hearing.

POLICE AUTHORITY'S DECISIONS ON FINDING AND PUNISHMENT

The Police Authority have found the accused guilty/not guilty of the disciplinary offence with which he has been charged and have taken note of the accused's record of police service.

Punishment imposed [or decision to take no further action thereon]

.....

Date Signature

Police Authority's decisions notified to accused

I have been notified of the Police Authority's decisions.

Date Signature of accused

FOR OFFICE USE ONLY

1. Copy of discipline form served on accused

Initials

Date

2. Decisions of Police Authority notified in writing to accused

Initials

Date

PARTICULARS OF ANY APPEAL TO THE SECRETARY OF STATE

.....
.....
.....
.....
.....

SCHEDULE 4

Regulations 13, 14,
17(10) and 24(4)

DISCIPLINARY HEARINGS: RANKS OF AND BELOW CHIEF SUPERINTENDENT

1. The provisions of this Schedule shall have effect in the case of a member not being a senior officer, accused of an offence except—

- (a) where Article 14 of the Order of 1987 (disciplinary tribunals) applies to the hearing of the charge against him, or
- (b) where, in the circumstances mentioned in regulation 14, his case has been remitted by the chief constable to the chief officer of a home police force.

2. In this Schedule “disciplinary board” means a board appointed by the chief constable for the purposes of paragraph 3, 4, 5 or 7 consisting of 2 members of a rank not lower than that of assistant chief constable.

3. A charge against a superintendent shall be heard by the chief constable or a disciplinary board.

4. A charge against an inspector shall be heard—

- (a) subject to paragraph 7, by the chief constable or a member not below the rank of assistant chief constable appointed for the purpose by or on behalf of the chief constable, or
- (b) if it is so determined by or on behalf of the chief constable, by a disciplinary board.

5. A charge against a sergeant or constable shall be heard—

- (a) subject to paragraph 7, by the chief constable or a member not below the rank of chief superintendent appointed for the purpose by or on behalf of the chief constable, or
- (b) if it is so determined by or on behalf of the chief constable, by a disciplinary board.

6. The limitations, if any, on the imposition of punishments under regulation 24 shall be as follows:—

| <i>Description of officer or disciplinary board conducting the hearing</i> | <i>Punishments which may not be imposed under regulation 24</i> |
|--|---|
| (a) chief constable; disciplinary board consisting of a chairman of a rank not lower than senior assistant chief constable and one other member of a rank not lower than assistant chief constable conducting a hearing in pursuance of paragraph 3, 4(b) or 5(b); | None. |
| (b) a deputy chief constable or senior assistant chief constable conducting a hearing in pursuance of paragraph 4(a) or 5(a) hereof; disciplinary board consisting of two assistant chief constables conducting a hearing in pursuance of paragraph 3, 4(b) or 5(b); | as specified in paragraph 1(a) or (b) of regulation 23. |
| (c) an assistant chief constable conducting a hearing in pursuance of paragraph 4(a) or 5(a) hereof; | 1(a), (b) or (c) thereof; a reduction in accused's rate of pay for a period in excess of 13 weeks; or a fine in excess of 7 days' pay. |
| (d) a chief superintendent conducting a hearing in pursuance of paragraph 5(a) hereof. | as specified in paragraph 1(a), (b) or (c) thereof; a reduction in accused's rate of pay for a period in excess of 6 weeks; or a fine in excess of 3 days' pay. |

7.—(1) The case of a member charged with an offence—

- (a) shall, in the circumstances mentioned in sub-paragraph (2); or
- (b) may, in the circumstances mentioned in sub-paragraph (3) and (4),

be remitted by an officer, other than the chief constable, referred to in paragraph 4(a) or 5(a) to such a disciplinary board as is mentioned in paragraph 2.

(2) A case shall be so remitted if—

- (a) the said officer is interested in the case otherwise than in his capacity as such;
- (b) he is a material witness; or

(c) there would not because the accused was not given the opportunity under regulation 12 to be legally represented at the hearing, be available on a finding of guilt a punishment referred to in that regulation, and it appears to the officer concerned that those punishments ought to be so available and that accordingly it would be desirable for there to be a hearing before a disciplinary board at which the accused could, if he so wished, be so represented.

(3) A case may be so remitted, as described in sub-paragraph (1), if either before or during the hearing the said officer considers that, by reason of paragraph 6, his powers of punishment would be insufficient for the case if he were to find the charges proved.

(4) A case not falling within sub-paragraphs (2) and (3) may be so remitted, as described in sub-paragraph (1) if, either before or during the hearing the said officer considers remission appropriate and directs that the function of determining whether the accused has committed an offence against discipline should be discharged by a disciplinary board as is mentioned in paragraph 2.

(5) Where any case is remitted under this paragraph to a disciplinary board and it appears that there should on a finding of guilt be available any such punishment as is mentioned in sub-paragraphs (a), (b) and (c) of regulation 23(1), a notice in writing shall be served on the accused inviting him to elect within 14 days of the receipt thereof to be legally represented at the hearing before that disciplinary board.

(6) An officer remitting a case under this paragraph shall not give the disciplinary board any indication of his assessment of the case or of the punishment which might be imposed in the event of the charge being found proved.

(7) Where a case has been remitted to a disciplinary board under this paragraph the board shall proceed by way of a hearing or rehearing of the charge.

8. An officer shall not conduct a hearing under paragraph 3, 4(a) or 5(a), or be a member of a disciplinary board dealing with a case under paragraph 3, 4(b), 5(b) or 7, if in relation to that case he—

- (a) has acted as investigating officer;
- (b) has performed any duty or function in pursuance of a delegation under regulation 15;
- (c) was appointed to deal with it by way of informal resolution under Article 5(4) of the Order of 1987;
- (d) is interested in the case otherwise than in his capacity under paragraphs 3, 4, 5 or 7; or
- (e) is a material witness.

FORM OF NOTICE OF APPEAL TO THE SECRETARY OF STATE

1. I, (name and number) was, on (insert date) and while holding the rank of in the Royal Ulster Constabulary, found to have committed the disciplinary offence(s) mentioned in the first column below with which I had been charged and was punished therefor as mentioned in the second column below, [such punishment(s) being varied on appeal to the punishment(s) mentioned in the third column below]:

| <i>Offence proved</i> | <i>Punishment therefor</i> | <i>Varied on appeal to</i> |
|-----------------------|----------------------------|----------------------------|
| 1. | 1. | 1. |
| 2. | 2. | 2. |
| 3. | 3. | 3. |

*2. (a) (i) The above charge(s) were found proved and the punishment(s) indicated were imposed by (insert name and rank)/disciplinary board. The finding(s)/punishment(s) were confirmed/varied as indicated on appeal to the chief constable/deputy chief constable.

2. (a) (ii) I was notified in writing of the said punishment(s) on (insert date) and of the said confirmation/variation(s) on (insert date).

2. (b) (i) The hearing of the charge(s) was conducted and the finding(s) reached by [the chief constable of] [a tribunal within the meaning of Article 14 of the Police (Northern Ireland) Order 1987 of which the chairman was the chief constable of] [tribunal established under regulation 36(1) of Part III of these regulations].

2. (b) (ii) Punishment was imposed by [the chief constable] [the Police Authority for Northern Ireland].

2. (b) (iii) I was notified in writing of the said punishment on (insert date).

3. I desire to appeal against [the finding(s) and punishment(s) on charges numbered above] [the punishment(s) on charges numbered above but not against the relevant finding(s)].

4. I [desire] [do not desire] to submit additional evidence not taken into consideration at the original hearing of the charge(s) against me.

5. I [annex] [do not annex] a concise statement (marked A) of the grounds on which I desire to appeal.

6. I [annex] [do not annex] a statement (marked B) comprising either a list of the documents which I desire to submit in support of the appeal (other than documents produced at the original hearing) or a statement that I do not wish to submit any such documents.

* Complete either 2(a)(i) and (ii) or 2(b)(i), (ii) and (iii)

7. I [annex] [do not annex] a statement (marked C) comprising either a list of the names and addresses of the witnesses I desire to call in support of my appeal and a concise statement of the facts which each witness will prove or a statement that I do not desire to call any witnesses.

8. I understand that any such statement as is referred to in paragraphs 5, 6 and 7 which is not annexed must be supplied to the Secretary of State within the period of 60 days beginning with the date mentioned in paragraph 2(a)(ii) or 2(b)(iii).

9. At the date on which punishment was [imposed] [varied on appeal] I was in receipt of pay at the rate of £ a year.

10. [I was suspended on (insert date) and was still suspended immediately before punishment was imposed].

11. I declare that a copy of this notice of appeal and of any statement annexed thereto has been sent to the [chief constable] [Police Authority for Northern Ireland].

Signature

Address

Date 19

EXPLANATORY NOTE

(This note is not part of the regulations.)

PART I

GENERAL

These regulations replace, with amendments, the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1977 and come into operation on 29th February 1988. They take account of the new provisions made by the Police (Northern Ireland) Order 1987 for complaints by members of the public against police officers, and the creation by Article 3 of the Order of 1987 of the Independent Commission for Police Complaints for Northern Ireland (the Commission) (in place of the Police Complaints Board for Northern Ireland established under the Police (Northern Ireland) Order 1977). The principal changes are described below:

The definition of "referred matter" in regulation 3(1) takes account of the fact that it is not only a complaint (made under the Order of 1987) which may be referred to the Commission but also, under Article 8 of that Order, certain other matters which appear to indicate that an offence against discipline may have been committed.

PART II

DISCIPLINE AND INTERNAL APPEALS: RANKS OF AND BELOW CHIEF SUPERINTENDENT

Regulation 9 specifies that the documents required to be supplied to the accused should be served at least 21 days before the hearing (instead of "as soon as possible").

Regulation 10 gives an accused officer the right to be legally represented at a disciplinary hearing where the officer responsible for formulating charges considers that on a finding of guilt there should be available the punishments of dismissal, requirement to resign or reduction in rank. Regulation 14 and paragraph 7 of Schedule 4 provide for the remission of cases where it becomes apparent that these punishments should be available and the accused has not been given the opportunity under regulation 12 to be legally represented.

Regulation 13 provides that all disciplinary matters (whether arising from a complaint or otherwise) will be heard under the arrangements as set out under Schedule 4 of these regulations, except those cases which are due to be heard by a disciplinary tribunal under Article 14 of the Order of 1987.

Regulation 17(2) allows the officer conducting the hearing to admit members of the Independent Commission for Police Complaints and solicitors to the hearing. Provision is made for legal representation at the hearing by paragraphs (4) and (7) of that regulation.

Regulation 22 expressly requires that a charge must (unless it is admitted by the accused) be proved beyond reasonable doubt.

Regulation 25 provides for internal appeals within the body of the regulations rather than in Schedule 4. There is little change to the earlier provisions except that the officer hearing an internal appeal cannot impose a punishment greater than that imposed at the original hearing; and the appellant must be given the opportunity to be legally represented if he was so entitled at the first hearing.

Regulation 27 provides that a successful appeal against a criminal conviction automatically quashes a disciplinary conviction for criminal conduct based upon it, but without prejudice to the bringing of any other disciplinary charges.

A number of amendments are made to the Discipline Code (Schedule 1). The offence of abuse of authority (paragraph 9) will now cover all oppressive conduct by an officer towards those with whom he comes into contact in the execution of his duty.

Paragraph 10 creates an offence of discriminatory conduct on the grounds of religious belief or racial origin. The offence of being an accessory to a disciplinary offence (paragraph 18) will henceforth include inciting such an offence.

Paragraph 6(b) of Schedule 4 allows a senior assistant chief constable sitting alone to conduct the hearing of a charge against a member of the rank of chief inspector or below where the only penalties which may not be imposed under regulation 23 are dismissal or requirement to resign.

PART III

DISCIPLINE: SENIOR OFFICERS

Part III of these regulations takes account of the introduction by the Order of 1987 of a formal process for the investigation of complaints against senior officers (that is officers above the rank of chief superintendent).

Regulation 29 provides for the appointment of an investigating officer where it appears that an offence may have been committed. By regulation 30 an officer subject to investigation must as soon as practicable be given an opportunity to make a statement about the matter, having been advised of his right to remain silent and warned that such a statement may be used in subsequent disciplinary hearings.

Regulation 42(2) provides that a disciplinary charge must be proved beyond reasonable doubt (unless it is admitted by the accused). Regulation 43(1)(a) expressly permits the Police Authority to record a finding of guilt but to take no further action thereon. Regulation 44(2)(b) allows an officer who has admitted a charge to address the Police Authority in mitigation.

Regulation 47 requires the approval of the Commission for the suspension of a senior officer in discipline cases; regulation 48 provides a summary procedure for suspension in urgent cases subject to subsequent approval by the Commission.

PART IV

APPEALS TO THE SECRETARY OF STATE

Part IV regulates the criteria governing appeals to the Secretary of State (which were previously administrative practice) and makes certain amendments governing the composition, scope and functions of appeal tribunals.

Regulation 49 provides that a member may appeal to the Secretary of State against a decision on a disciplinary charge or against any punishment awarded except where he has the right of appeal to some other person.

Regulation 53 provides for the composition and scope of an appeal tribunal which the Secretary of State may appoint to inquire into any appeal to him.

Regulation 59 which deals with the form of inquiry omits certain provisions of the 1977 Regulations dealing with the taking of evidence which have been superseded by regulation 53(8), (9) and (10).

Regulation 60(2) provides for the appellant and the respondent to be represented for the purpose of making oral representations prior to any decision of the tribunal as to holding a hearing, in the same way as at the hearing itself.

Regulation 64(5) provides for a verbatim record of the evidence at the hearing to be kept for a period of not less than 3 years and a transcription of the record to be made if the Secretary of State or the chairman of the tribunal so requests.