



# Police Reform Act 2002

## 2002 CHAPTER 30

### PART 2

#### COMPLAINTS AND MISCONDUCT

##### Modifications etc. (not altering text)

- C1** Pt. 2 (ss. 9-29) applied (with modifications) (1.4.2004) by [The Police \(Complaints and Misconduct\) Regulations 2004 \(S.I. 2004/643\)](#), [regs. 21, 29, 30](#)
- C2** Pt. 2 (ss. 9-29) applied (1.4.2004) by [The Police \(Complaints and Misconduct\) Regulations 2004 \(S.I. 2004/643\)](#), [reg. 28](#)
- C3** Pt. 2 (ss. 9-29) excluded (1.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) Order 2004 \(S.I. 2004/671\)](#), [arts. 2\(2\), 3](#)
- C4** Pt. 2 (ss. 9-29) excluded (E.W.) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [regs. 3\(7\), 8, 9](#)
- C5** Pt. 2 (ss. 9-29): power to apply conferred (7.4.2005 at 5.45 p.m.) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), [ss. 28\(2\)\(a\), 53](#); [S.I. 2005/1126](#), [art. 2](#)

#### *The Independent Police Complaints Commission*

### **9 The Independent Police Complaints Commission**

- (1) There shall be a body corporate to be known as the Independent Police Complaints Commission (in this Part referred to as “the Commission”).
- (2) The Commission shall consist of—
  - (a) a chairman appointed by Her Majesty; and
  - (b) not less than ten other members appointed by the Secretary of State.
- (3) A person shall not be appointed as the chairman of the Commission, or as another member of the Commission, if—
  - (a) he holds or has held office as a constable in any part of the United Kingdom;

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- (b) he is or has been under the direction and control of a chief officer or of any person holding an equivalent office in Scotland or Northern Ireland;
  - (c) he is a person in relation to whom a designation under section 39 is or has been in force;
  - (d) he is a person in relation to whom an accreditation under section 41 is or has been in force;
  - (e) he is or has been a member of the National Criminal Intelligence Service or the National Crime Squad; or
  - (f) he is or has at any time been a member of a body of constables which at the time of his membership is or was a body of constables in relation to which any procedures are or were in force by virtue of an agreement or order under—
    - (i) section 26 of this Act; or
    - (ii) section 78 of the 1996 Act or section 96 of the 1984 Act (which made provision corresponding to that made by section 26 of this Act).
- (4) An appointment made in contravention of subsection (3) shall have no effect.
- (5) The Commission shall not—
- (a) be regarded as the servant or agent of the Crown; or
  - (b) enjoy any status, privilege or immunity of the Crown;
- and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.
- (6) Schedule 2 (which makes further provision in relation to the Commission) shall have effect.
- (7) The Police Complaints Authority shall cease to exist on such day as the Secretary of State may by order appoint.

**Modifications etc. (not altering text)**

- C6** S. 9 applied (with modifications) (E.W.) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(2)(6)**, Sch. 1

**Commencement Information**

- II** S. 9 wholly in force at 1.4.2003; s. 9 not in force at Royal Assent, see s. 108(2); s. 9(2)-(4)(6) in force for certain purposes at 1.10.2002 by [S.I. 2002/2306](#), {art. 2(b)(i)}; s. 9 in force in so far as not already in force at 1.4.2003 by [S.I. 2003/808](#), **art. 2(a)**

VALID FROM 01/04/2004

**10 General functions of the Commission**

- (1) The functions of the Commission shall be—
- (a) to secure the maintenance by the Commission itself, and by police authorities and chief officers, of suitable arrangements with respect to the matters mentioned in subsection (2);
  - (b) to keep under review all arrangements maintained with respect to those matters;

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- (c) to secure that arrangements maintained with respect to those matters comply with the requirements of the following provisions of this Part, are efficient and effective and contain and manifest an appropriate degree of independence;
  - (d) to secure that public confidence is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters;
  - (e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of police practice in relation to other matters, as appear, from the carrying out by the Commission of its other functions, to be necessary or desirable; and
  - (f) to such extent as it may be required to do so by regulations made by the Secretary of State, to carry out functions in relation to the National Criminal Intelligence Service, the National Crime Squad and bodies of constables maintained otherwise than by police authorities which broadly correspond to those conferred on the Commission in relation to police forces by the preceding paragraphs of this subsection.
- (2) Those matters are—
- (a) the handling of complaints made about the conduct of persons serving with the police;
  - (b) the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;
  - (c) the manner in which any such complaints or any such matters as are mentioned in paragraph (b) are investigated or otherwise handled and dealt with.
- (3) The Commission shall also have the functions which are conferred on it by—
- (a) any regulations under section 39 or 83 of the 1997 Act (complaints etc. against members of NCIS and NCS);
  - (b) any agreement or order under section 26 of this Act (other bodies of constables);
  - (c) any regulations under section 39 of this Act (police powers for contracted-out staff); or
  - (d) any regulations or arrangements relating to disciplinary or similar proceedings against persons serving with the police, or against members of the National Criminal Intelligence Service, the National Crime Squad or any body of constables maintained otherwise than by a police authority.
- (4) It shall be the duty of the Commission—
- (a) to exercise the powers and perform the duties conferred on it by the following provisions of this Part in the manner that it considers best calculated for the purpose of securing the proper carrying out of its functions under subsections (1) and (3); and
  - (b) to secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the Commission has functions.
- (5) It shall also be the duty of the Commission—

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- (a) to enter into arrangements with the chief inspector of constabulary for the purpose of securing co-operation, in the carrying out of their respective functions, between the Commission and the inspectors of constabulary; and
  - (b) to provide those inspectors with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Commission to be appropriate, for facilitating the carrying out by those inspectors of their functions.
- (6) Subject to the other provisions of this Part, the Commission may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.
- (7) The Commission may, in connection with the making of any recommendation or the giving of any advice to any person for the purpose of carrying out—
- (a) its function under subsection (1)(e), or
  - (b) any corresponding function conferred on it by virtue of subsection (1)(f),
- impose any such charge on that person for anything done by the Commission for the purposes of, or in connection with, the carrying out of that function as it thinks fit.
- (8) Nothing in this Part shall confer any function on the Commission in relation to so much of any complaint or conduct matter as relates to the direction and control of a police force by—
- (a) the chief officer of police of that force; or
  - (b) a person for the time being carrying out the functions of the chief officer of police of that force.

VALID FROM 01/04/2004

## **11 Reports to the Secretary of State**

- (1) As soon as practicable after the end of each of its financial years, the Commission shall make a report to the Secretary of State on the carrying out of its functions during that year.
- (2) The Commission shall also make such reports to the Secretary of State about matters relating generally to the carrying out of its functions as he may, from time to time, require.
- (3) The Commission may, from time to time, make such other reports to the Secretary of State as it considers appropriate for drawing his attention to matters which—
- (a) have come to the Commission's notice; and
  - (b) are matters that it considers should be drawn to his attention by reason of their gravity or of other exceptional circumstances.
- (4) The Commission shall prepare such reports containing advice and recommendations as it thinks appropriate for the purpose of carrying out—
- (a) its function under subsection (1)(e) of section 10; or
  - (b) any corresponding function conferred on it by virtue of subsection (1)(f) of that section.
- (5) Where the Secretary of State receives any report under this section, he shall—

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- (a) in the case of every annual report under subsection (1), and
  - (b) in the case of any other report, if and to the extent that he considers it appropriate to do so,
- lay a copy of the report before Parliament and cause the report to be published.
- (6) The Commission shall send a copy of every annual report under subsection (1)—
- (a) to every police authority;
  - (b) to the Service Authority for the National Criminal Intelligence Service;
  - (c) to the Service Authority for the National Crime Squad;
  - (d) to every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section.
- (7) The Commission shall send a copy of every report under subsection (3)—
- (a) to any police authority that appears to the Commission to be concerned; and
  - (b) to the chief officer of police of any police force that appears to it to be concerned.
- (8) Where a report under subsection (3) relates to the National Criminal Intelligence Service or the National Crime Squad, the Commission shall send a copy of that report—
- (a) to the Service Authority for that Service or Squad; and
  - (b) to its Director General.
- (9) Where a report under subsection (3) relates to a body of constables maintained by an authority other than a police authority, the Commission shall send a copy of that report—
- (a) to that authority; and
  - (b) to the person having the direction and control of that body of constables.
- (10) The Commission shall send a copy of every report under subsection (4) to—
- (a) the Secretary of State;
  - (b) every police authority;
  - (c) every chief officer;
  - (d) the Service Authority for the National Criminal Intelligence Service and the Director General of that Service;
  - (e) the Service Authority for the National Crime Squad and the Director General of that Squad;
  - (f) every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section; and
  - (g) every person who has the direction and control of such a body of constables.
- (11) The Commission shall send a copy of every report made or prepared by it under subsection (3) or (4) to such of the persons (in addition to those specified in the preceding subsections) who—
- (a) are referred to in the report, or
  - (b) appear to the Commission otherwise to have a particular interest in its contents,

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as the Commission thinks fit.

**Modifications etc. (not altering text)**

C7 S. 11 applied (with modifications) (E.W.) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

*Application of Part 2*

VALID FROM 01/04/2004

**12 Complaints, matters and persons to which Part 2 applies**

- (1) In this Part references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by—
  - (a) a member of the public who claims to be the person in relation to whom the conduct took place;
  - (b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
  - (c) a member of the public who claims to have witnessed the conduct;
  - (d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).
- (2) In this Part “conduct matter” means (subject to the following provisions of this section, paragraph 2(4) of Schedule 3 and any regulations made by virtue of section 23(2)(d)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have—
  - (a) committed a criminal offence; or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings.
- (3) The complaints that are complaints for the purposes of this Part by virtue of subsection (1)(b) do not, except in a case falling within subsection (4), include any made by or on behalf of a person who claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.
- (4) A case falls within this subsection if—
  - (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or
  - (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.
- (5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if—



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- (a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
  - (b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.
- (6) For the purposes of this Part a person falling within subsection 1(a) to (c) to shall not be taken to have authorised another person to act on his behalf unless—
- (a) that other person is for the time being designated for the purposes of this Part by the Commission as a person through whom complaints may be made, or he is of a description of persons so designated; or
  - (b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.
- (7) For the purposes of this Part, a person is serving with the police if—
- (a) he is a member of a police force;
  - (b) he is an employee of a police authority who is under the direction and control of a chief officer; or
  - (c) he is a special constable who is under the direction and control of a chief officer.

#### *Handling of complaints and conduct matters etc.*

### **13 Handling of complaints and conduct matters etc.**

Schedule 3 (which makes provision for the handling of complaints and conduct matters and for the carrying out of investigations) shall have effect subject to section 14(1).

#### **Commencement Information**

- 12** S. 13 wholly in force at 1.4.2004; s. 13 not in force at Royal Assent; see s. 108(2); s. 13 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), arts. {2(b)(iii)}, 4(e); s. 13 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(a\)](#)

### **14 Direction and control matters**

- (1) Nothing in Schedule 3 shall have effect with respect to so much of any complaint as relates to the direction and control of a police force by—
- (a) the chief officer of police of that force; or
  - (b) a person for the time being carrying out the functions of the chief officer of police of that force.
- (2) The Secretary of State may issue guidance to chief officers and to police authorities about the handling of so much of any complaint as relates to the direction and control of a police force by such a person as is mentioned in subsection (1).
- (3) It shall be the duty of a chief officer and of a police authority when handling any complaint relating to such a matter to have regard to any guidance issued under subsection (2).

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**Modifications etc. (not altering text)**

- C8** S. 14 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(2)(6)**, Sch. 1

**Commencement Information**

- I3** S. 14 wholly in force at 1.4.2004; s. 14 not in force at Royal Assent, see s. 108(2); s. 14(2)(3) in force at 1.10.2002 by [S.I. 2002/2306](#), {art. 2(b)(iv)}; s. 14 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), **art. 2(a)**

*Co-operation, assistance and information*

VALID FROM 01/04/2004

**15 General duties of police authorities, chief officers and inspectors**

- (1) It shall be the duty of—
- (a) every police authority maintaining a police force,
  - (b) the chief officer of police of every police force, and
  - (c) every inspector of constabulary carrying out any of his functions in relation to a police force,
- to ensure that it or he is kept informed, in relation to that force, about all matters falling within subsection (2).
- (2) Those matters are—
- (a) matters with respect to which any provision of this Part has effect;
  - (b) anything which is done under or for the purposes of any such provision; and
  - (c) any obligations to act or refrain from acting that have arisen by or under this Part but have not yet been complied with, or have been contravened.
- (3) Where—
- (a) a police authority maintaining any police force requires the chief officer of that force or of any other force to provide a member of his force for appointment under paragraph 16, 17 or 18 of Schedule 3,
  - (b) the chief officer of police of any police force requires the chief officer of police of any other police force to provide a member of that other force for appointment under any of those paragraphs, or
  - (c) a police authority or chief officer requires the Director General of the National Criminal Intelligence Service or the Director General of the National Crime Squad to provide a member of that Service or Squad for appointment under any of those paragraphs,
- it shall be the duty of the chief officer or Director General to whom the requirement is addressed to comply with it.
- (4) It shall be the duty of—
- (a) every police authority maintaining a police force,
  - (b) the chief officer of police of every police force,



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(c) the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad, and

(d) the Directors General of that Service and of that Squad,

to provide the Commission and every member of the Commission's staff with all such assistance as the Commission or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Commission under this Part.

(5) It shall be the duty of—

(a) every police authority maintaining a police force,

(b) the chief officer of every police force,

(c) the Service Authorities for the National Criminal Intelligence Service and of the National Crime Squad, and

(d) the Directors General of that Service and of that Squad,

to ensure that a person appointed under paragraph 16, 17 or 18 of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require

(6) The duties imposed by subsections (4) and (5) on a police authority maintaining a police force and on the chief officer of such a force and on the Directors General of the National Criminal Intelligence Service and of the National Crime Squad have effect—

(a) irrespective of whether the investigation relates to the conduct of a person who is or has been a member of that force or of that Service or Squad; and

(b) irrespective of who has the person appointed to carry out the investigation under his direction and control;

but a chief officer of a third force may be required to give assistance and co-operation under subsection (5) only with the approval of the chief officer of the force to which the person who requires it belongs or, as the case may be, of the Director General of the Service or Squad to which that person belongs.

(7) In subsection (6) “third force”, in relation to an investigation, means a police force other than—

(a) the force to which the person carrying out the investigation belongs; or

(b) the force to which the person whose conduct is under investigation belonged at the time of the conduct;

and in this subsection references to a police force include references to the National Criminal Intelligence Service and the National Crime Squad.

**Modifications etc. (not altering text)**

**C9** S. 15 applied (with modifications) (E.W.) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

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VALID FROM 01/04/2004

## **16 Payment for assistance with investigations**

- (1) This section applies where—
  - (a) one police force is required to provide assistance to another in connection with an investigation under this Part; or
  - (b) a police force is required to provide assistance in such a connection to the Commission.
- (2) For the purposes of this section—
  - (a) assistance is required to be provided by one police force to another in connection with an investigation under this Part if the chief officer of the first force (“the assisting force”) complies with a requirement under section 15 (3) or (5) that is made in connection with an investigation relating to the conduct of a person who, at the time of the conduct, was a member of the other force; and
  - (b) assistance is required to be provided in such a connection by a police force (“the assisting force”) to the Commission if the chief officer of that force complies with a requirement under section 15(4) that is made in connection with an investigation relating to the conduct of a person who, at the time of the conduct, was not a member of that force.
- (3) Where the assistance is required to be provided by one police force to another, the police authority maintaining that other police force shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance—
  - (a) as may be agreed between them; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by police authorities generally; and
    - (ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, by one police force to another; or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (4) Where the assistance is required to be provided by a police force to the Commission, the Commission shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance—
  - (a) as may be agreed between the Commission and that authority; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by police authorities generally and by the Commission; and
    - (ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, to the Commission; or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.

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- (5) In this section (subject to subsection (6))—
- (a) references to a police force include references to the National Criminal Intelligence Service and to the National Crime Squad; and
  - (b) in relation to that Service or Squad, references to the police authority maintaining it and to the chief officer are references, respectively, to the Service Authority and to the Director General.
- (6) This section shall have effect in relation to cases in which assistance is required to be provided by the National Criminal Intelligence Service or National Crime Squad as if—
- (a) the reference in subsection (3)(b) to police authorities generally included a reference to the Service Authority for that Service or, as the case may be, for that Squad; and
  - (b) the reference in subsection (4)(b) to police authorities generally were a reference to the Service Authority for that Service or, as the case may be, for that Squad.
- (7) This section is without prejudice to the application of section 24 of the 1996 Act (assistance given voluntarily by one force to another) in a case in which assistance is provided, otherwise than in pursuance of any duty imposed by section 15 of this Act, in connection with an investigation under this Part.

VALID FROM 01/04/2007

#### **[<sup>F1</sup>16A Investigations: National Policing Improvement Agency involvement**

- (1) Where a police authority or chief officer requires the NPIA and its chief executive to provide a member of the NPIA's staff who is a constable for appointment under paragraph 16, 17 or 18 of Schedule 3, it shall be the duty of the NPIA and its chief executive to comply with the requirement.
- (2) It shall be the duty of the NPIA and its chief executive to ensure that a person appointed under paragraph 16, 17 or 18 of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying-out of that investigation as that person may reasonably require.
- (3) It shall be the duty of the NPIA and its chief executive to provide the Commission and every member of the Commission's staff with all such assistance as the Commission or that member of staff may reasonably require for the purposes of, or in connection with, the carrying-out of any investigation by the Commission under this Part.
- (4) Where the person who requires assistance and co-operation under subsection (2) is a person serving with the police, the NPIA and its chief executive may be required to give that assistance and co-operation only with the approval of the chief officer of the force to which that person belongs.
- (5) Where the person who requires assistance and co-operation under subsection (2) is a member of the staff of the Serious Organised Crime Agency, the NPIA and its chief executive may be required to give that assistance and co-operation only with the approval of the Director General of the Serious Organised Crime Agency.

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- (6) Subsection (7) applies where the NPIA and its chief executive comply with a requirement under subsection (1) or (2) that is made in connection with—
- (a) an investigation relating to the conduct of a person who, at the time of the conduct, was a member of a police force; or
  - (b) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, a member of a police force.
- (7) The police authority maintaining the police force mentioned in subsection (6)(a) or (b) shall pay to the NPIA such contribution (if any) towards the costs of compliance with the requirement—
- (a) as may be agreed between them; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by police authorities generally and by the NPIA, and
    - (ii) are for the time being in force with respect to the making of contributions towards the costs of compliance by the NPIA and its chief executive with requirements of the kind mentioned in subsection (6); or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (8) Where the NPIA and its chief executive comply with a requirement under subsection (3), the Commission shall pay to the NPIA such contribution (if any) towards the costs of compliance with the requirement—
- (a) as may be agreed between the Commission and the NPIA; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by the Agency and by the Commission, and
    - (ii) are for the time being in force with respect to the making of contributions towards the costs of compliance by the NPIA and its chief executive with requirements under subsection (3); or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (9) In this section “the NPIA” means the National Policing Improvement Agency.]

#### Textual Amendments

- F1** S. 16A inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 1, 53, [Sch. 1 para. 85](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to [arts. 6, 7](#))

## 17 Provision of information to the Commission

- (1) It shall be the duty of—
- (a) every police authority, and
  - (b) every chief officer,
- at such times, in such circumstances and in accordance with such other requirements as may be set out in regulations made by the Secretary of State, to provide the

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Commission with all such information and documents as may be specified or described in regulations so made.

- (2) It shall also be the duty of every police authority and of every chief officer—
- (a) to provide the Commission with all such other information and documents specified or described in a notification given by the Commission to that authority or chief officer, and
  - (b) to produce or deliver up to the Commission all such evidence and other things so specified or described,
- as appear to the Commission to be required by it for the purposes of the carrying out of any of its functions.
- (3) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under subsection (2) must be provided, produced or delivered up in such form, in such manner and within such period as may be specified in—
- (a) the notification imposing the requirement; or
  - (b) in any subsequent notification given by the Commission to that person for the purposes of this subsection.
- (4) Nothing in this section shall require a police authority or chief officer—
- (a) to provide the Commission with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for that authority or chief officer to do so; or
  - (b) to provide, produce or deliver up anything at all in a case in which it never becomes practicable for that authority or chief officer to do so.
- (5) A requirement imposed by any regulations or notification under this section may authorise or require information or documents to which it relates to be provided to the Commission electronically.

**Modifications etc. (not altering text)**

**C10** S. 17 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

**Commencement Information**

**I4** S. 17 wholly in force at 1.4.2004; s. 17 not in force at Royal Assent, see s. 108(2); s. 17(1)(5) in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(a\)](#); s. 17 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(a\)](#)

VALID FROM 01/04/2004

**18 Inspections of police premises on behalf of the Commission**

- (1) Where—
- (a) the Commission requires—
    - (i) a police authority maintaining any police force, or
    - (ii) the chief officer of police of any such force,

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to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purposes of that force and to documents and other things on those premises, and

- (b) the requirement is imposed for any of the purposes mentioned in subsection (2),

it shall be the duty of the authority or, as the case may be, of the chief officer to secure that the required access is allowed to the nominated person.

- (2) Those purposes are—

- (a) the purposes of any examination by the Commission of the efficiency and effectiveness of the arrangements made by the force in question for handling complaints or dealing with recordable conduct matters;
- (b) the purposes of any investigation by the Commission under this Part or of any investigation carried out under its supervision or management.

- (3) A requirement imposed under this section for the purposes mentioned in subsection (2)(a) must be notified to the authority or chief officer at least 48 hours before the time at which access is required.

- (4) Where—

- (a) a requirement imposed under this section for the purposes mentioned in subsection (2)(a) requires access to any premises, document or thing to be allowed to any person, but
- (b) there are reasonable grounds for not allowing that person to have the required access at the time at which he seeks to have it,

the obligation to secure that the required access is allowed shall have effect as an obligation to secure that the access is allowed to that person at the earliest practicable time after there cease to be any such grounds as that person may specify.

- (5) The provisions of this section are in addition to, and without prejudice to—

- (a) the rights of entry, search and seizure that are or may be conferred on—
  - (i) a person designated for the purposes of paragraph 19 of Schedule 3, or
  - (ii) any person who otherwise acts on behalf of the Commission, in his capacity as a constable or as a person with the powers and privileges of a constable; or
- (b) the obligations of police authorities and chief officers under sections 15 and 17.

## **19 Use of investigatory powers by or on behalf of the Commission**

- (1) The Secretary of State may by order make such provision as he thinks appropriate for the purpose of authorising—

- (a) the use of directed and intrusive surveillance, and
- (b) the conduct and use of covert human intelligence sources,

for the purposes of, or for purposes connected with, the carrying out of the Commission's functions.

- (2) An order under this section may, for the purposes of or in connection with any such provision as is mentioned in subsection (1), provide for—



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- (a) Parts 2 and 4 the Regulation of Investigatory Powers Act 2000 (c. 23) (surveillance and covert human intelligence sources and scrutiny of investigatory powers), and
  - (b) Part 3 of the 1997 Act (authorisations in respect of property),
- to have effect with such modifications as may be specified in the order.
- (3) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by this section unless a draft of that order has been laid before Parliament and approved by a resolution of each House.
  - (4) Expressions used in this section and in Part 2 of the Regulation of Investigatory Powers Act 2000 have the same meanings in this section as in that Part.

#### **Modifications etc. (not altering text)**

- C11** S. 19 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1
- C12** S. 19 applied (with modifications) (5.8.2009) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2009 \(S.I. 2009/2133\)](#), [reg. 4](#)
- C13** S. 19 applied (with modifications) (7.4.2010) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2010 \(S.I. 2010/782\)](#), [reg. 4](#)
- C14** S. 19 applied (with modifications) (5.8.2010) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2010 \(S.I. 2010/1813\)](#), [reg. 5](#) (with reg. 11)

## **20 Duty to keep the complainant informed**

- (1) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3—
  - (a) by the Commission, or
  - (b) under its management,it shall be the duty of the Commission to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).
- (2) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3—
  - (a) by the appropriate authority on its own behalf, or
  - (b) under the supervision of the Commission,it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).
- (3) Where subsection (2) applies, it shall be the duty of the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.
- (4) The matters of which the complainant must be kept properly informed are—
  - (a) the progress of the investigation;
  - (b) any provisional findings of the person carrying out the investigation;
  - (c) whether any report has been submitted under paragraph 22 of Schedule 3;



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- (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
  - (e) the outcome of any such action.
- (5) The duties imposed by this section on the Commission and the appropriate authority in relation to any complaint shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.
- (6) The Secretary of State shall not by regulations provide for any exceptions from the duties imposed by this section except so far as he considers it necessary to do so for the purpose of—
- (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
  - (b) preventing the disclosure of information in any circumstances in which it has been determined in accordance with the regulations that its non-disclosure—
    - (i) is in the interests of national security;
    - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
    - (iii) is required on proportionality grounds; or
    - (iv) is otherwise necessary in the public interest.
- (7) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.
- (8) Regulations under this section may include provision framed by reference to the opinion of, or a determination by, the Commission or any police authority or chief officer.
- (9) It shall be the duty of a person appointed to carry out an investigation under this Part to provide the Commission or, as the case may be, the appropriate authority with all such information as the Commission or that authority may reasonably require for the purpose of performing its duty under this section.

**Modifications etc. (not altering text)**

**C15** S. 20 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

**Commencement Information**

**I5** S. 20 wholly in force at 1.4.2004; s. 20 not in force at Royal Assent, see s. 108(2); s. 20(5)-(8) in force for certain purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(b\)](#); s. 20 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(a\)](#)

## 21 Duty to provide information for other persons

- (1) A person has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if—
- (a) it appears to the Commission or to an appropriate authority that he is a person falling within subsection (2); and

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- (b) that person has indicated that he consents to the provision of information to him in accordance with this section and that consent has not been withdrawn.
- (2) A person falls within this subsection if—
- (a) he is a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter relates;
  - (b) he is a relative of a person whose serious injury is the alleged result from that conduct and that person is incapable of making a complaint;
  - (c) he himself has suffered serious injury as the alleged result of that conduct.
- (3) A person who does not fall within subsection (2) has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if—
- (a) the Commission or an appropriate authority considers that he has an interest in the handling of the complaint or recordable conduct matter which is sufficient to make it appropriate for information to be provided to him in accordance with this section; and
  - (b) he has indicated that he consents to the provision of information to him in accordance with this section.
- (4) In relation to a complaint, this section confers no rights on the complainant.
- (5) A person who has an interest in being kept properly informed about the handling of a complaint or conduct matter is referred to in this section as an “interested person”.
- (6) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of Schedule 3—
- (a) by the Commission, or
  - (b) under its management,
- it shall be the duty of the Commission to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).
- (7) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of Schedule 3—
- (a) by the appropriate authority on its own behalf, or
  - (b) under the supervision of the Commission,
- it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).
- (8) Where subsection (7) applies, it shall be the duty of the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.
- (9) The matters of which the interested person must be kept properly informed are—
- (a) the progress of the investigation;
  - (b) any provisional findings of the person carrying out the investigation;
  - (c) whether any report has been submitted under paragraph 22 of Schedule 3;
  - (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
  - (e) the outcome of any such action.

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- (10) The duties imposed by this section on the Commission and the appropriate authority in relation to any complaint or recordable conduct matter shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.
- (11) Subsections (6) to (9) of section 20 apply for the purposes of this section as they apply for the purposes of that section.
- (12) In this section “relative” means a person of a description prescribed in regulations made by the Secretary of State.

#### **Commencement Information**

- I6** S. 21 wholly in force at 1.4.2004; s. 21 not in force at Royal Assent, see s. 108(2); s. 21(10)-(12) in force for certain purposes at 1.10.2002 by S.I. 2002/2306, {art. 4(c)}; s. 21 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(a)**

### *Guidance and regulations*

VALID FROM 01/04/2004

#### **22 Power of the Commission to issue guidance**

- (1) The Commission may issue guidance—
  - (a) to police authorities,
  - (b) to chief officers, and
  - (c) to persons who are serving with the police otherwise than as chief officers, concerning the exercise or performance, by the persons to whom the guidance is issued, of any of the powers or duties specified in subsection (2).
- (2) Those powers and duties are—
  - (a) those that are conferred or imposed by or under this Part; and
  - (b) those that are otherwise conferred or imposed but relate to—
    - (i) the handling of complaints;
    - (ii) the means by which recordable conduct matters are dealt with; or
    - (iii) the detection or deterrence of misconduct by persons serving with the police.
- (3) Before issuing any guidance under this section, the Commission shall consult with—
  - (a) persons whom it considers to represent the interests of police authorities;
  - (b) persons whom it considers to represent the interests of chief officers of police; and
  - (c) such other persons as it thinks fit.
- (4) The approval of the Secretary of State shall be required for the issue by the Commission of any guidance under this section.
- (5) Without prejudice to the generality of the preceding provisions of this section, the guidance that may be issued under this section includes—

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- (a) guidance about the handling of complaints which have not yet been recorded and about dealing with recordable conduct matters that have not been recorded;
  - (b) guidance about the procedure to be followed by the appropriate authority when recording a complaint or any recordable conduct matter;
  - (c) guidance about—
    - (i) how to decide whether a complaint is suitable for being subjected to local resolution; and
    - (ii) about the information to be provided to a person before his consent to such resolution is given;
  - (d) guidance about how to protect the scene of an incident or alleged incident which—
    - (i) is or may become the subject-matter of a complaint; or
    - (ii) is or may involve a recordable conduct matter;
  - (e) guidance about the circumstances in which it is appropriate (where it is lawful to do so)—
    - (i) to disclose to any person, or to publish, any information about an investigation of a complaint or conduct matter; or
    - (ii) to provide any person with, or to publish, any report or other document relating to such an investigation;
  - (f) guidance about the matters to be included in a memorandum under paragraph 23 or 25 of Schedule 3 and about the manner in which, and the place at which, such a memorandum is to be delivered to the Commission.
- (6) Nothing in this section shall authorise the issuing of any guidance about a particular case.
- (7) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in exercising or performing the powers and duties to which the guidance relates.
- (8) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

## 23 Regulations

- (1) The Secretary of State may make regulations as to the procedure to be followed under any provision of this Part.
- (2) Without prejudice to the generality of the power conferred by subsection (1) or of any other power to make regulations conferred by any provision of this Part, the Secretary of State may also by regulations provide—
  - (a) for the appropriate authority, in the case of a complaint against any person, to be required, in accordance with procedures provided for in the regulations—
    - (i) to supply the person complained against with a copy of the complaint; and
    - (ii) to supply the complainant with a copy of the record made of that complaint;

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- (b) for the matters to be taken into account in making any determination as to which procedure to adopt for handling complaints and dealing with recordable conduct matters;
- (c) for any procedure for the purposes of this Part to be discontinued where—
  - (i) a complaint is withdrawn;
  - (ii) the complainant indicates that he does not wish any further steps to be taken; or
  - (iii) the whole or part of the investigation of the complaint has been postponed until the conclusion of criminal proceedings and the complainant fails to indicate after the conclusion of those proceedings that he wishes the investigation to be resumed;
 and for the manner in which any such withdrawal or indication is to be effected or given, and for the circumstances in which it is to be taken as effected or given;
- (d) for requiring the subject-matter of a complaint that has been withdrawn to be treated for the purposes of this Part, in the cases and to the extent specified in the regulations, as a recordable conduct matter;
- (e) for the manner in which any procedure for the purposes of this Part is to be discontinued in a case where it is discontinued in accordance with the regulations, and for the consequences of any such discontinuance;
- (f) for the circumstances in which any investigation or other procedure under this Part may be or must be suspended to allow any other investigation or proceedings to continue, and for the consequences of such a suspension;
- (g) for the regulation of the appointment of persons to carry out investigations under this Part or to assist with the carrying out of such investigations, for limiting the persons who may be appointed and for the regulation of the carrying out of any such investigation;
- (h) for combining into a single investigation—
  - (i) the investigations of different complaints (whether relating to the same or different conduct),
  - (ii) the investigations of different conduct matters, and
  - (iii) the investigation or investigations of any one or more complaints and the investigation or investigations of any one or more conduct matters,
 and for splitting a single investigation into two or more separate investigations;
- (i) for the procedure to be followed in cases in which the Commission relinquishes the supervision or management of any investigation and for the consequences of its doing so;
- (j) for the manner in which any reference of a complaint or conduct matter to the Commission is to be made;
- (k) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or recordable conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct;
- (l) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or conduct matter relates to the conduct of a person—
  - (i) whose identity is unascertained at the time at which a complaint is made or a conduct matter is recorded;

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- (ii) whose identity is not ascertained during, or subsequent to, the investigation of a complaint or recordable conduct matter;
- (m) for the Commission—
  - (i) to be required to notify actions and decisions it takes in consequence of the receipt of a memorandum under paragraph 23 or 25 of Schedule 3; and
  - (ii) to be authorised to provide information in relation to the matters notified;
- (n) for the records to be kept by police authorities and chief officers—
  - (i) with respect to complaints and purported complaints;
  - (ii) with respect to recordable conduct matters; and
  - (iii) with respect to the exercise and performance of their powers and duties under this Part;
- (o) for the Commission to be required to establish and maintain a register of such information provided to it in accordance with this Part as may be of a description specified in the regulations and for regulating the extent to which information stored on that register may be published or otherwise disclosed to any person by the Commission;
- (p) for chief officers to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part;
- (q) for the manner in which any notification for the purposes of any provision of this Part is to be given and the time at which, or period within which, any such notification must be given.

## 24 Consultation on regulations

Before making any regulations under this Part, the Secretary of State shall consult with—

- (a) the Commission;
- (b) persons whom he considers to represent the interests of police authorities;
- (c) persons whom he considers to represent the interests of chief officers of police; and
- (d) such other persons as he thinks fit.

### Modifications etc. (not altering text)

**C16** S. 24 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

### Commencement Information

**I7** S. 24 wholly in force at 15.11.2003; s. 24 not in force at Royal Assent, see s. 108(2); s. 24 in force except for paragraph (a) at 1.10.2002 by [S.I. 2002/2306](#), {art. 2(b)(vi)}; s. 24 in force in so far as not already in force at 15.11.2003 by [S.I. 2003/2593](#), [art. 2\(a\)](#)

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### *Conduct of persons in other forms of police service*

## **25 NCIS and NCS**

(1) For subsection (1) of section 39 of the 1997 Act (complaints about members of NCIS) there shall be substituted—

- “(1) The Secretary of State may by regulations make provision about—
- (a) the handling of complaints about the conduct of members of NCIS;
  - (b) the recording of matters from which it appears there may have been misconduct by members of NCIS; and
  - (c) the investigation of such complaints and matters.”

(2) In subsection (2) of that section—

- (a) for “shall” there shall be substituted “ may ”; and
- (b) for paragraph (c) there shall be substituted—
  - “(c) for applying, with such modifications as he may think fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 30) (complaints and misconduct).”

(3) After that subsection there shall be inserted—

- “(2ZA) Regulations under subsection (1) may provide—
- (a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and
  - (b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified.”

(4) Subsection (3) of that section (guidance by the Secretary of State after consultation with the Scottish Ministers) shall cease to have effect.

(5) For subsections (1) to (3) of section 83 of that Act (complaints about members of NCS and guidance by the Secretary of State) there shall be substituted—

- “(1) The Secretary of State may by regulations make provision about—
- (a) the handling of complaints about the conduct of members of National Crime Squad;
  - (b) the recording of matters from which it appears there may have been misconduct by members of the National Crime Squad; and
  - (c) the investigation of such complaints and matters.

(2) Regulations under this section may make such provision as the Secretary of State thinks desirable for applying, with such modifications as he thinks fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 30) (complaints and misconduct).

(2A) Regulations under this section may provide—

- (a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and
- (b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions,



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to any guidance given by such persons and in such manner as may be so specified.”

**Modifications etc. (not altering text)**

**C17** S. 25 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

**Commencement Information**

**I8** S. 25 wholly in force at 1.4.2004; s. 25 not in force at Royal Assent, see [s. 108\(2\)](#); s. 25 in force except for paragraph (4) at 1.10.2002 by [S.I. 2002/2306](#), [art. 2\(b\)\(vii\)](#); s. 25 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(a\)](#)

VALID FROM 01/04/2004

**26 Forces maintained otherwise than by police authorities**

- (1) Notwithstanding any provision made by or under any enactment passed or made before this Act—
- (a) the Commission, and
  - (b) an authority other than a police authority which maintains a body of constables,
- shall each have power to enter into an agreement with the other for the establishment and maintenance in relation to that body of constables of procedures corresponding or similar to any of those provided for by or under this Part.
- (2) If it appears to the Secretary of State appropriate to do so in relation to any body of constables maintained otherwise than by a police authority to establish any such corresponding or similar procedures, he may by order—
- (a) provide for the establishment and maintenance of such procedures in relation to that body of constables; and
  - (b) in a case in which procedures in relation to that body of constables have effect by virtue of subsection (9) or have previously been established by virtue of this section—
    - (i) provide for those procedures to be superseded by the provision made by the order; and
    - (ii) make transitional provision in connection with the replacement of the superseded procedures.
- (3) It shall be the duty of the Secretary of State to secure that procedures are established and maintained under subsection (2) in relation to each of the following—
- (a) the Ministry of Defence Police; and
  - (b) the British Transport Police Force.
- (4) An agreement under this section shall not be made, varied or terminated except with the approval of the Secretary of State.
- (5) An agreement or order under this section in relation to any body of constables may contain provision for enabling the Commission to bring and conduct, or otherwise

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participate or intervene in, any proceedings which are identified by the agreement or order as disciplinary proceedings in relation to members of that body of constables.

- (6) An agreement or order under this section in relation to any body of constables may provide for the application of procedures in relation to persons who are not themselves constables but are employed for the purposes of that body of constables and in relation to the conduct of such persons, as well as in relation to members of that body of constables and their conduct.
- (7) Before making an order under this section the Secretary of State shall consult with both—
  - (a) the Commission; and
  - (b) the authority maintaining the body of constables to whom the order relates.
- (8) Procedures established in accordance with any agreement or order under this section shall have no effect in relation to anything done outside England and Wales by any constable or any person employed for the purposes of a body of constables.
- (9) Where, immediately before the coming into force of this section, any procedures have effect in relation to any body of constables by virtue of—
  - (a) section 78 of the 1996 Act (which made provisions similar to that made by this section), or
  - (b) paragraph 13 of Schedule 8 to that Act (transitional provisions),
 those procedures shall continue to have effect thereafter (notwithstanding the repeal by this Act of Chapter 1 of Part 4 of the 1996 Act and of that paragraph) until superseded by procedures established by virtue of any agreement or order under this section.
- (10) Subsection (9) has effect subject to the provisions of any order made under section 28.

**Modifications etc. (not altering text)**

- C18** S. 26 amended (1.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 73, 120, **Sch. 5 para. 4** (with s. 72); [S.I. 2004/1572](#), **art. 3(jjj)**
- C19** S. 26 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(2)(6)**, Sch. 1

VALID FROM 01/03/2006

**[<sup>F2</sup>26A Serious Organised Crime Agency**

- (1) The Commission and the Serious Organised Crime Agency must enter into an agreement for the establishment and maintenance in relation to members of the Agency's staff of procedures corresponding or similar to those provided for by or under this Part.
- (2) An agreement under this section—
  - (a) must not be made or varied except with the approval of the Secretary of State; and
  - (b) must not be terminated unless—
    - (i) it is replaced by another such agreement, and

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(ii) the Secretary of State approves.

- (3) An agreement under this section may contain provision for enabling the Commission to bring and conduct, or otherwise participate or intervene in, any proceedings which are identified by the agreement as disciplinary proceedings in relation to members of the Agency's staff.
- (4) An agreement under this section must not confer any function on the Commission in relation to so much of any complaint or conduct matter as relates to the direction and control of the Agency by the Director General or other members of the Agency.
- (5) Procedures established in accordance with an agreement under this section shall have no effect in relation to anything done outside England and Wales by any member of the staff of the Agency.]

#### Textual Amendments

- F2** S. 26A inserted (1.3.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 55, 178, [Sch. 2 para. 8](#); [S.I. 2006/378](#), [art. 3\(1\)\(2\)\(c\)\(e\)](#) (with [art. 3\(3\)\(4\)](#))

VALID FROM 01/04/2007

#### [<sup>F3</sup>26B National Policing Improvement Agency

- (1) The Commission and the National Policing Improvement Agency must enter into an agreement for the establishment in relation to members of the Agency's staff of procedures corresponding or similar to those provided for by or under this Part.
- (2) An agreement under this section—
  - (a) must not be made or varied except with the approval of the Secretary of State; and
  - (b) must not be terminated unless—
    - (i) it is replaced by another such agreement, and
    - (ii) the Secretary of State approves.
- (3) An agreement under this section may contain provision for enabling the Commission to bring and conduct, or otherwise participate or intervene in, any proceedings which are identified by the agreement as disciplinary hearings in relation to members of the Agency's staff.
- (4) An agreement under this section must not confer any function on the Commission in relation to so much of any complaint or conduct matter as relates to the direction and control of the Agency by the Agency's chief executive or by other members of the Agency.
- (5) Procedures established in accordance with an agreement under this section shall have no effect in relation to anything done outside England and Wales by any member of the Agency's staff.]

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### Textual Amendments

- F3** S. 26B inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 1, 53, [Sch. 1 para. 87](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to [arts. 6, 7](#))

VALID FROM 01/04/2004

### 27 Conduct of the Commission's staff

- (1) The Secretary of State shall by regulations make provision for the manner in which the following cases are to be handled or dealt with—
  - (a) cases in which allegations of misconduct are made against members of the Commission's staff; and
  - (b) cases in which there is otherwise an indication that there may have been misconduct by a member of the Commission's staff.
- (2) Regulations under this section may apply, with such modifications as the Secretary of State thinks fit, any provision made by or under this Part.
- (3) Regulations under this section may provide for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be specified in the regulations.
- (4) Before making any regulations under this section the Secretary of State shall consult with the Commission.

### Modifications etc. (not altering text)

- C20** S. 27 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1
- C21** S. 27 applied (with modifications) (5.8.2009) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2009 \(S.I. 2009/2133\)](#), [reg. 4](#)
- C22** S. 27 applied (with modifications) (7.4.2010) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2010 \(S.I. 2010/782\)](#), [reg. 4](#)
- C23** S. 27 applied (with modifications) (5.8.2010) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2010 \(S.I. 2010/1813\)](#), [reg. 5](#) (with [reg. 11](#))

### *Transitional provisions*

### 28 Transitional arrangements connected with establishing the Commission etc.

- (1) The Secretary of State may, in connection with the coming into force of any provision of this Part, by order make such transitional provision and savings (including provision modifying this Part) as he thinks fit.
- (2) The Secretary of State may, for the purpose of facilitating the carrying out by the Commission of its functions, or in connection with the coming into force of any provision of this Part, by order make such provision as he thinks fit—

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- (a) for the transfer and apportionment of property; and
  - (b) for the transfer, apportionment and creation of rights and liabilities.
- (3) The provision that may be made by an order under this section shall include provision that—
- (a) pending the coming into force of any repeal by this Act of an enactment contained in Chapter 1 of Part 4 of the 1996 Act (complaints), or
  - (b) for transitional purposes connected with the coming into force of any such repeal,
- the functions of the Police Complaints Authority under an enactment so contained are to be carried out by the Commission.
- (4) The provision that may be made by an order under this section shall also include transitional provision in connection with the repeal by this Act of the reference to the Police Complaints Authority in Schedule 1 to the Superannuation Act 1972 (c. 11).
- (5) An order under this section may—
- (a) provide for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order; and
  - (b) make provision as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (a).
- (6) Where a person—
- (a) ceases to be a member of the Police Complaints Authority by reason of its abolition, and
  - (b) does not become a member of the Commission,
- the Secretary of State may make a payment to that person of such amount as the Secretary of State may, with the consent of the Treasury, determine.

**Modifications etc. (not altering text)**

**C24** S. 28 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(2\)\(6\)](#), Sch. 1

*Interpretation of Part 2*

**29 Interpretation of Part 2**

- (1) In this Part—
- “the appropriate authority”, in relation to a person serving with the police or in relation to any complaint, matter or investigation relating to the conduct of such a person, means—
- (a) if that person is a senior officer, the police authority for the area of the police force of which he is a member; and
  - (b) if he is not a senior officer, the chief officer under whose direction and control he is;
- “chief officer” means the chief officer of police of any police force;
- “the Commission” has the meaning given by section 9(1);
- “complainant” shall be construed in accordance with subsection (2);

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“complaint” has the meaning given by section 12;

“conduct” includes acts, omissions and statements (whether actual, alleged or inferred);

“conduct matter” has the meaning given by section 12;

“disciplinary proceedings” means—

(a) in relation to a member of a police force or a special constable, proceedings under any regulations made by virtue of section 50 or 51 of the 1996 Act and identified as disciplinary proceedings by those regulations; and

(b) in relation to a person serving with the police who is not a member of a police force or a special constable, proceedings identified as such by regulations made by the Secretary of State for the purposes of this Part;

“document” means anything in which information of any description is recorded;

“information” includes estimates and projections, and statistical analyses;

“local resolution”, in relation to a complaint, means the handling of that complaint in accordance with a procedure which—

(a) does not involve a formal investigation; and

(b) is laid down by regulations under paragraph 8 of Schedule 3 for complaints which it has been decided, in accordance with paragraph 6 of that Schedule, to subject to local resolution;

“person complained against”, in relation to a complaint, means the person whose conduct is the subject-matter of the complaint;

“recordable conduct matter” means (subject to any regulations under section 23(2)(d))—

(a) a conduct matter that is required to be recorded by the appropriate authority under paragraph 10 or 11 of Schedule 3 or has been so recorded; or

(b) except in sub-paragraph (4) of paragraph 2 of Schedule 3, any matter brought to the attention of the appropriate authority under that sub-paragraph;

“relevant force”, in relation to the appropriate authority, means—

(a) if that authority is a police authority, the police force maintained by it; and

(b) if that authority is the chief officer of police of a police force, his force;

“senior officer” means a member of a police force holding a rank above that of chief superintendent;

“serious injury” means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

“serving with the police”, in relation to any person, shall be construed in accordance with section 12(7).

(2) References in this Part, in relation to anything which is or purports to be a complaint, to the complainant are references—

(a) except in the case of anything which is or purports to be a complaint falling within section 12(1)(d), to the person by whom the complaint or purported complaint was made; and

(b) in that case, to the person on whose behalf the complaint or purported complaint was made;

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but where any person is acting on another's behalf for the purposes of any complaint or purported complaint, anything that is to be or may be done under this Part by or in relation to the complainant may be done, instead, by or in relation to the person acting on the complainant's behalf.

- (3) Subject to subsection (4), references in this Part, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to any person falling within any of the following paragraphs (whether at the time of the conduct or at any subsequent time)—
- (a) a person serving with the police;
  - (b) a member of the National Criminal Intelligence Service or the National Crime Squad;
  - (c) a member of the staff of the Central Police Training and Development Authority; or
  - (d) a person engaged on relevant service, within the meaning of section 97(1)(a), (cc) or (d) of the 1996 Act (temporary service otherwise than with NCIS or NCS).
- (4) In this Part references, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to—
- (a) a person who, at the time when the conduct is supposed to have taken place, was under the direction and control of the same chief officer as the person whose conduct it was; or
  - (b) a person who—
    - (i) at the time when the conduct is supposed to have taken place, in relation to him, or
    - (ii) at the time when he is supposed to have been adversely affected by it, or to have witnessed it,was on duty in his capacity as a person falling within subsection (3)(a) to (d).
- (5) For the purposes of this Part a person is adversely affected if he suffers any form of loss or damage, distress or inconvenience, if he is put in danger or if he is otherwise unduly put at risk of being adversely affected.
- (6) References in this Part to the investigation of any complaint or matter by the appropriate authority on its own behalf, under the supervision of the Commission, under the management of the Commission or by the Commission itself shall be construed as references to its investigation in accordance with paragraph 16, 17, 18 or, as the case may be, 19 of Schedule 3.
- (7) The Commissioner of Police for the City of London shall be treated for the purposes of this Part as if he were a member of the City of London police force.



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