



Police Reform Act 2002

2002 CHAPTER 30

PART 6

MISCELLANEOUS

Appointment and attestation of police officers etc.

82 Nationality requirements applicable to police officers etc.

- (1) Irrespective of his place of birth, a person of any nationality may be—
- (a) a member of a police force maintained for any police area in England and Wales or Scotland;
 - (b) a member of the Police Service of Northern Ireland or of the Police Service of Northern Ireland Reserve;
 - (c) a member of the National Criminal Intelligence Service or of the National Crime Squad (whether a police member or a member of any description);
 - (d) a member of the British Transport Police Force;
 - (e) a member of the United Kingdom Atomic Energy Authority Constabulary;
 - (f) a member of the Royal Parks Constabulary; or
 - (g) a special constable;
- and, accordingly, irrespective of his place of birth such a person may be attested or appointed, and hold office, as a constable.
- (2) Subsection (1) is subject to any provision falling within subsection which relates to qualification for appointment as a constable or as a special constable or for membership of, or for particular ranks, offices or positions with—
- (a) any force or constabulary;
 - (b) the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve; or
 - (c) the National Criminal Intelligence Service or the National Crime Squad.
- (3) Provision falls within this subsection if it is—

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- (a) provision made by regulations made under section 50 or 51 of the 1996 Act (regulations for police constables and for special constables);
 - (b) provision made by regulations made under section 26 of the Police (Scotland) Act 1967 (c. 77) (regulations about the government and administration of police forces);
 - (c) provision made under section 25 or 26 of the Police (Northern Ireland) Act 1998 (c. 32) (regulations for police constables and for the constables in the Police Service of Northern Ireland Reserve);
 - (d) provision made by regulations made under section 34A or 79A of the 1997 Act (regulations for members of NCIS and NCS) or contained in the terms and conditions of appointment of the Directors General and other members of the National Criminal Intelligence Service or of the National Crime Squad; and
 - (e) provision given effect to by any arrangements made for the purpose of regulating appointment to membership of the British Transport Police Force, the United Kingdom Atomic Energy Authority Constabulary or the Royal Parks Constabulary, or to particular ranks or positions with that Force or Constabulary.
- (4) Without prejudice to the generality of any power conferred apart from this section, the provision falling within subsection (3) that may be made by any such regulations, terms and conditions or arrangements as are mentioned in that subsection may include provision imposing any of the following requirements—
- (a) requirements with respect to the competence in written and spoken English of candidates for appointment;
 - (b) requirements with respect to the immigration status of such candidates;
 - (c) requirements with respect to nationality in the case of particular ranks, offices or positions;

and, in a case where the power to make provision with respect to qualification for appointment as a constable or as a special constable, or for membership of a force, Service or Squad, is exercisable by any such regulations as are mentioned in that subsection, the regulations made must impose requirements with respect to all the matters mentioned in paragraphs (a) and (b).

- (5) In this section—

“the Royal Parks Constabulary” means the force of constables appointed under the Parks Regulation Act 1872 (c. 15);

“the United Kingdom Atomic Energy Authority Constabulary” means the force of special constables appointed under section 3 of the Special Constables Act 1923 (c. 11) on the nomination of the United Kingdom Atomic Energy Authority.

83 Attestation of constables

For Schedule 4 to the 1996 Act there shall be substituted—

“SCHEDULE 4

FORM OF DECLARATION

‘I of do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental

human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.”

84 Delegation of functions in relation to senior appointments

In section 54 of the 1996 Act (appointment and functions of inspectors of constabulary), after subsection (3) there shall be inserted—

“(3A) The Secretary of State may delegate to the chief inspector of constabulary any or all of the following functions—

- (a) his functions by virtue of sections 9F(2), 9FA(2) and 9G(2) with respect to the approval required for the appointment of an Assistant Commissioner of Police of the Metropolis, of a Deputy Assistant Commissioner of Police of the Metropolis or of a Commander in the metropolitan police force;
- (b) his functions by virtue of sections 11(1), 11A(2) and 12(2) with respect to the approval required for the appointment of the chief constable of a police force, of the deputy chief constable of a police force or of an assistant chief constable of a police force;
- (c) his functions by virtue of section 12A(4) with respect to the consent required for a deputy chief constable to exercise or perform any powers or duties of a chief constable for a continuous period exceeding three months.”

85 Director General of NCIS

(1) Section 6 of the 1997 Act (appointment of Director General) shall be amended as follows.

(2) In subsection (2), for “list of persons eligible for appointment” there shall be substituted “shortlist”.

(3) Subsection (3) (persons eligible for appointment) shall cease to have effect.

(4) After subsection (5), there shall be inserted—

“(5A) The Director General shall not be attested as a constable under subsection (5) if—

- (a) he was not a serving police officer immediately before his appointment as Director General took effect; or
- (b) he had already been attested as a constable in England and Wales and still held that office immediately before his appointment took effect.”

(5) In subsections (6) and (7) (Director General to have the powers and privileges of a constable and to hold the rank of chief constable), after “Director General”, in each subsection, there shall be inserted “, except in a case where he was not a serving police officer immediately before his appointment took effect,”.

(6) After subsection (8) there shall be inserted—

“(9) In this section “serving police officer” means a person who—

- (a) is a member of a relevant police force;

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- (b) is engaged on relevant service, within the meaning of section 97 of the Police Act 1996 (c. 16); or
- (c) without being so engaged, is a police member of NCIS or a police member of the National Crime Squad.

(10) In subsection (9) “relevant police force” means—

- (a) a police force maintained under section 2 of the Police Act 1996;
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
- (e) the Police Service of Northern Ireland;
- (f) the Ministry of Defence Police;
- (g) the British Transport Police Force,
- (h) the States of Jersey Police Force;
- (i) the salaried police force of the Island of Guernsey; or
- (j) the Isle of Man Constabulary.”

86 Police members of NCIS

(1) Section 9 of the 1997 Act (members of NCIS) shall be amended as follows.

(2) In subsection (2)—

(a) for paragraph (a) there shall be substituted—

“(a) he met the requirements of subsection (3) immediately before his appointment took effect and his appointment is to a police rank in NCIS; or”; and

(b) in paragraph (b), the words from “to which” to “applies” shall be omitted.

(3) For subsection (3) (qualifications for appointment as a police member) there shall be substituted—

“(3) A person meets the requirements of this subsection if he is attested or sworn as a constable and—

- (a) he is a member of a police force maintained under section 2 of the Police Act 1996;
- (b) he is a member of the metropolitan police force or of the City of London police force;
- (c) he is a regular constable within the meaning of the Police (Scotland) Act 1967 (c. 77);
- (d) he is a member of the Police Service of Northern Ireland;
- (e) he is a member of the National Crime Squad;
- (f) he is a member of the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c. 4) ;
- (g) he is a member of the British Transport Police Force;
- (h) he is a member of the States of Jersey Police Force;
- (i) he is a member of the salaried police force of the Island of Guernsey;
- (j) he is a member of the Isle of Man Constabulary; or
- (k) he is engaged with NCIS on a period of temporary service.”

- (4) In subsection (9), in paragraph (a) (restriction on delegation to Director General of appointment of police members), after “police member” there shall be inserted “with the rank of assistant chief constable”.
- (5) After that subsection, there shall be inserted—
- “(9A) In this section “a period of temporary service” means a period of temporary service to which any of the following provisions applies—
- (a) section 97 of the Police Act 1996 (c. 16);
 - (b) section 38A of the Police (Scotland) Act 1967;
 - (c) section 27 of the Police (Northern Ireland) Act 1998 (c. 32);
 - (d) section 2B of the Ministry of Defence Police Act 1987.”

87 Police members of NCS

- (1) Section 55 of the 1997 Act (members of National Crime Squad) shall be amended as follows.
- (2) In subsection (2)—
- (a) for paragraph (a) there shall be substituted—

“(a) he met the requirements of subsection (3) immediately before his appointment took effect and his appointment is to a police rank in the National Crime Squad; or”.
 - (b) in paragraph (b), the words from “to which” to “applies” shall be omitted.
- (3) For subsection (3) there shall be substituted—
- “(3) A person meets the requirements of this subsection if he is attested or sworn as a constable and—
- (a) he is a member of a police force maintained under section 2 of the Police Act 1996;
 - (b) he is a member of the metropolitan police force or of the City of London police force;
 - (c) he is a regular constable within the meaning of the Police (Scotland) Act 1967;
 - (d) he is a member of the Police Service of Northern Ireland;
 - (e) he is a member of NCIS;
 - (f) he is a member of the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c. 4) ;
 - (g) he is a member of the British Transport Police Force;
 - (h) he is a member of the States of Jersey Police Force;
 - (i) he is a member of the salaried police force of the Island of Guernsey;
 - (j) he is a member of the Isle of Man Constabulary; or
 - (k) he is engaged with the National Crime Squad on a period of temporary service.”
- (4) In subsection (9), in paragraph (a) (restriction on delegation to Director General of appointment of police members), after “police member” there shall be inserted “with the rank of assistant chief constable”.

(5) After that subsection, there shall be inserted—

“(9A) In this section “a period of temporary service” means a period of temporary service to which any of the following provisions applies—

- (a) section 97 of the Police Act 1996 (c. 16);
- (b) section 2B of the Ministry of Defence Police Act 1987 (c. 4).”

88 Regulations for NCIS

(1) After section 34 of the 1997 Act there shall be inserted—

“34A Regulations for NCIS

- (1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government and administration of NCIS and conditions of service with NCIS.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
 - (a) the ranks to be held by police members of NCIS;
 - (b) the promotion of police members of NCIS;
 - (c) voluntary retirement of police members of NCIS;
 - (d) the efficiency and effectiveness of police members of NCIS;
 - (e) the suspension of police members of NCIS from membership of NCIS and from their office as constable;
 - (f) the maintenance of personal records of members of NCIS;
 - (g) the duties which are or are not to be performed by police members of NCIS;
 - (h) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996;
 - (i) the hours of duty, leave, pay and allowances of police members of NCIS; and
 - (j) the issue, use and return of—
 - (i) personal equipment and accoutrements; and
 - (ii) police clothing.
- (3) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.
- (4) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.
- (5) Regulations under this section may make different provision for different cases and circumstances.

- (6) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Before making any regulations under this section, the Secretary of State shall consult the Scottish Ministers.”
- (2) In section 37 of the 1997 Act (discipline regulations for NCIS), after subsection (2) there shall be inserted—
- “(2A) Without prejudice to the generality of the other powers conferred by this section, regulations under this section may make provision—
- (a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;
 - (b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations;
 - (c) as to the representation of persons subject to disciplinary proceedings; and
 - (d) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.
- (2B) In subsection (2A) “disciplinary proceedings” means any proceedings under any regulations made under subsection (1) which—
- (a) are conducted in England and Wales; and
 - (b) are identified as disciplinary proceedings by those regulations.”
- (3) In section 38 of the 1997 Act (appeals against decisions in disciplinary proceedings), in subsection (1), for the words “or required to resign”, in both places where they occur, there shall be substituted “, required to resign or reduced in rank”.

89 Regulations for NCS

- (1) After section 79 of the 1997 Act there shall be inserted—

“79A Regulations for NCS

- (1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government and administration of the National Crime Squad and conditions of service with that Squad.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
- (a) the ranks to be held by police members of the National Crime Squad;
 - (b) the promotion of police members of the Squad;
 - (c) voluntary retirement of police members of the Squad;
 - (d) the efficiency and effectiveness of police members of the Squad;

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- (e) the suspension of police members of the Squad from membership of it and from their office as constables;
 - (f) the maintenance of personal records of members of the Squad;
 - (g) the duties which are or are not to be performed by police members of the Squad;
 - (h) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 (c. 16);
 - (i) the hours of duty, leave, pay and allowances of police members of the Squad; and
 - (j) the issue, use and return of—
 - (i) personal equipment and accoutrements; and
 - (ii) police clothing.
- (3) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.
- (4) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.
- (5) Regulations under this section may make different provision for different cases and circumstances.
- (6) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 81 of the 1997 Act (discipline regulations for NCS), after subsection (2) there shall be inserted—
- “(2A) Without prejudice to the generality of the other powers conferred by this section, regulations under this section may make provision—
- (a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;
 - (b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations;
 - (c) as to the representation of persons subject to any disciplinary proceedings; and
 - (d) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.
- (2B) In subsection (2A) “disciplinary proceedings” means any proceedings under any regulations made under subsection (1) which are identified as disciplinary proceedings by those regulations.”

- (3) In section 82 of the 1997 Act (appeals against decisions in disciplinary proceedings), in subsection (1), for the words “or required to resign”, in both places where they occur, there shall be substituted “, required to resign or reduced in rank”.

90 Supplementary provisions about police membership of NCIS

- (1) The reference in section 59(8)(a) of the 1996 Act to persons falling within section 9(2)(a) of the 1997 Act shall include a reference to persons appointed as police members of the National Criminal Intelligence Service (“NCIS”) after the date on which section 86 comes into force.
- (2) The persons whose interests are to be represented by the membership of the Police Negotiating Board shall include persons appointed as police members of NCIS after the date on which section 86 comes into force.
- (3) In section 62(1) of the 1996 Act (duty to consult Police Negotiating Board before making certain regulations), after paragraph (a) there shall be inserted—
“(aa) section 34A of the Police Act 1997;”.
- (4) The function of the Police Advisory Board for England and Wales of advising on general questions affecting members of NCIS within section 9(1)(b) of the 1997 Act shall include the function of advising on such general questions as respects persons appointed as police members of NCIS after the date on which section 86 comes into force.
- (5) In section 63(3) of the 1996 Act (duty to consult Police Advisory Board before making certain regulations), in paragraph (c), after “section” there shall be inserted “34A,”.
- (6) In subsection (1) of section 9A of the 1997 Act (retirement in interests of efficiency or effectiveness), for “member of NCIS” there shall be substituted “police member of NCIS with the rank of assistant chief constable”.
- (7) Subsection (2) of that section shall cease to have effect.

91 Supplementary provisions about police membership of NCS

- (1) The reference in section 59(8)(b) of the 1996 Act to persons falling within section 55(2)(a) of the 1997 Act shall include a reference to persons appointed as police members of the National Crime Squad (“the Squad”) after the date on which section 87 comes into force.
- (2) The persons whose interests are to be represented by the membership of the Police Negotiating Board shall include persons appointed as police members of the Squad after the date on which section 87 comes into force.
- (3) In section 62(1) of the 1996 Act (duty to consult Police Negotiating Board before making certain regulations), after paragraph (a) there shall be inserted—
“(ab) section 79A of the Police Act 1997;”.
- (4) The function of the Police Advisory Board for England and Wales of advising on general questions affecting members of the Squad within section 55(1)(b) of the 1997 Act shall include the function of advising on such general questions as respects persons appointed as police members of the Squad after the date on which section 87 comes into force.

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- (5) In section 63(3) of the 1996 Act (duty to consult Police Advisory Board before making certain regulations), in paragraph (c), after “39,” there shall be inserted “79A,”.
- (6) In subsection (1) of section 55A of the 1997 Act (retirement in interests of efficiency or effectiveness), for “member of the National Crime Squad” there shall be substituted “police member of the National Crime Squad with the rank of assistant chief constable”.
- (7) Subsection (2) of that section shall cease to have effect.