
STATUTORY INSTRUMENTS

2007 No. 1098

**The Police, Public Order and Criminal Justice (Scotland) Act
2006 (Consequential Provisions and Modifications) Order 2007**

Agreements to establish complaints procedures

4.—(1) The Commissioner and the British Transport Police Authority may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of the British Transport Police Force, a constable of that Force and any other persons specified in the agreement who serve with that Force or who are employed by the British Transport Police Authority.

(2) The Commissioner and the Civil Nuclear Police Authority may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of the Civil Nuclear Constabulary, a member of that Constabulary and any other persons specified in the agreement who are serving with that Constabulary or who are employed by the Civil Nuclear Police Authority.

(3) The Commissioner and the Secretary of State may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of the Ministry of Defence Police, a member of the Ministry of Defence Police and any other persons specified in the agreement who serve with the Ministry of Defence Police.

(4) The Commissioner and SOCA may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of SOCA and members of the staff of SOCA.

(5) The Commissioner and Her Majesty's Revenue and Customs may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of Her Majesty's Revenue and Customs, the Commissioners for Revenue and Customs, an officer of Revenue and Customs and any other persons specified in the agreement who are authorised to act for or on behalf of Her Majesty's Revenue and Customs.

(6) The Commissioner and the Secretary of State may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about—

- (a) the exercise by an immigration officer of specified enforcement functions;
- (b) the exercise by officials of the Secretary of State of specified enforcement functions relating to asylum or immigration.

(7) But “complaint” for the purposes of an agreement made under this article, does not include—

- (a) a statement which consists of or includes an allegation of an act or omission which constitutes a crime;
- (b) any statement made by a person who is serving with, or who has served with—
 - (i) the British Transport Police Force;
 - (ii) the Civil Nuclear Constabulary;

- (iii) the Ministry of Defence Police;
 - (iv) SOCA;about the terms and conditions of their service;
 - (c) any statement made by a person who is employed by, or has been employed by—
 - (i) the British Transport Police Authority;
 - (ii) the Civil Nuclear Police Authority;
 - (iii) SOCA;about the terms and conditions of their employment;
 - (d) any statement made by any person who is serving with, or has served with, or who is or has been authorised to act on behalf of, Her Majesty’s Revenue and Customs about the terms and conditions of their service; and
 - (e) any statement made by a person who is serving as, or who has served as—
 - (i) an immigration officer who exercises, or who has exercised, specified enforcement functions; or
 - (ii) an official of the Secretary of State who exercises, or who has exercised, specified enforcement functions relating to asylum or immigration;about the terms and conditions of their service.
- (8) An agreement made under this article shall not be made, varied or terminated without the approval of the Secretary of State and the Scottish Ministers.
- (9) Complaints procedures established and maintained in accordance with any agreement under this article shall have no effect in relation to anything done outside Scotland by any person or body in relation to whom complaints procedures are so established and maintained.
- (10) An agreement made under paragraph (6) of this article shall not establish and maintain procedures in relation to complaints about the exercise by any person of a function conferred on him by or under Part 8 of the Immigration and Asylum Act 1999⁽¹⁾.
- (11) Information obtained by the Commissioner in connection with any of the Commissioner’s functions under an agreement which may be entered into under paragraph (5) or (6) of this article may be disclosed by the Commissioner to the Parliamentary Commissioner for Administration—
- (a) for any purpose connected with the carrying out of the Commissioner’s functions under an agreement which may be entered into under paragraph (5) or (6) of this article; or
 - (b) for the purpose of enabling or assisting the Parliamentary Commissioner for Administration to carry out any function under the Parliamentary Commissioner Act 1967⁽²⁾.
- (12) The Parliamentary Commissioner for Administration may disclose information to the Commissioner if the disclosure is made—
- (a) for any purpose connected with the carrying out of any of the Commissioner’s functions under an agreement which may be entered into under paragraph (5) or (6) of this article; or
 - (b) for the purpose of enabling or assisting the Parliamentary Commissioner for Administration to carry out any function under the Parliamentary Commissioner Act 1967.

(1) 1999 c. 33; Part 8 consists of sections 147 to 159; section 147 was amended by the Nationality, Immigration and Asylum Act 2002 (c. 41) (“the NIA Act 2002”), sections 62, 66 and Schedule 9; sections 148, 150 to 153, 155, 158 and 159 were amended by the NIA Act 2002, section 66; section 149 was amended by the NIA Act 2002, section 66 and the [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), schedule 1, paragraph 52; section 154 was amended by the NIA Act 2002, section 65 and section 156 was amended by [S.I. 2005/2078](#), Schedule 1, paragraph 5. There have been further amendments to Part 8 but these are not relevant.

(2) 1967 c. 13.

- (13) An agreement made under this article may—
- (a) specify types of complaints in relation to which procedures may not be established and maintained;
 - (b) include provision for payment to the Commissioner for any function which he may exercise under it;
 - (c) make different provision for different purposes or circumstances.
- (14) For the purposes of this article—
- (a) an “immigration officer” means a person appointed under paragraph 1 of Schedule 2 to the Immigration Act 1971⁽³⁾;
 - (b) the reference to enforcement functions includes, in particular, reference to—
 - (i) powers of entry;
 - (ii) power to search persons or property;
 - (iii) power to seize or detain property;
 - (iv) power to arrest persons;
 - (v) power to detain persons;
 - (vi) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data); and
 - (vii) powers in connection with the removal of persons from the United Kingdom.

(3) 1971 c. 77.