STATUTORY RULES OF NORTHERN IRELAND

2000 No. 320

POLICE

Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000

Made - - - -	*23rd October 2000*
To be laid before Parliament .	
Coming into operation	*6th November 2000*

The Secretary of State, in pursuance of Sections 25 and 26 of the Police (Northern Ireland) Act 1998(**1**) and after consulting, in accordance with Section 64(4) of that Act, the Police Authority, the Police Association and the Police Ombudsman, hereby makes the following regulations:—

Part I

General

Citation and commencement

1. These regulations may be cited as the Royal Ulster Constabulary (Conduct) (Senior Officers) Regulations 2000 and shall come into operation on 6th November 2000.

Revocation and transitional provisions

2.—(1) Subject to the following provisions of this regulation the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988, Part III and Schedule 3(**2**) (hereinafter referred to as the Regulations of 1988) are hereby revoked.

(2) Where a report, complaint or allegation has been or is received in respect of conduct by a senior officer which occurred or commenced before 6th November 2000 the 1988 Regulations shall continue to have effect.

(3) Where in the case of a report, complaint or allegation which relates to conduct of a senior officer which occurred or commenced on or after 6th November 2000 these regulations shall apply.

(**1**) 1998 c. 32 (N.I.)
(**2**) S.R. 1988 No. 10

Regulations applicable only to senior officers

3. These Regulations shall only apply in relation to conduct by a senior officer, that is to say, by the Chief Constable, deputy chief constable or an assistant chief constable of the Royal Ulster Constabulary.

Interpretation and application

4.—(1) In these regulations, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"appropriate standard" means the standard set out in the Code of Conduct;

"Chief Constable" shall be construed as including a reference to a person discharging the functions of the Chief Constable;

"Code of Conduct" means the code of conduct contained in schedule 4 of the Royal Ulster Constabulary(Conduct)Regulations 2000; except that in relation to conduct occurring before 6th November 2000 it means the discipline code contained in Schedule 1 to the Regulations of 1988;

"complaint" means a complaint to which Section 50 of the Act of 1998 applies;

"investigating officer" includes an officer appointed under Section 57(1) of the Act of 1998 or under regulation 7(4) to investigate a complaint or other matter relating to the conduct of a senior officer;

"member" means a member of the Royal Ulster Constabulary; or a member of the Royal Ulster Constabulary Reserve appointed on a full-time basis in accordance with regulations made under Section 26 of the Act of 1998;

"Ombudsman" means the Police Ombudsman for Northern Ireland established by Section 51 of the Act of 1998;

"police force in the United Kingdom" has the meaning assigned to a police force in the Police Act 1996(**3**) or a police force in the Police (Scotland) Act 1967(**4**) as the case may be;

"police fund" means the funds of the Police Authority;

"Police Regulations" means the regulations from time to time in operation under Section 25 and Section 26 of the Act of 1998 other than these regulations;

"referred matter" means a matter referred to the Ombudsman under Section 55 of the Act of 1998 and investigated by the Ombudsman under Section 56 of the Act of 1998;

"representative" means in relation to a senior officer, counsel, a solicitor, a member of the police force or a member of a police force selected by him in pursuance of regulation 15(4);

"the Act of 1998" means the Police (Northern Ireland) Act 1998;

"the force" means the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;

"tribunal" means such a tribunal as is mentioned in regulation 14.

(**3**) 1996 c. 16
(**4**) 1967 c. 77

Part II

Conduct: Senior Officers

Suspension — ordinary procedure

5.—(1) Where it appears to the Police Authority, on receiving a report, allegation or complaint which indicates that the conduct of a senior officer does not meet the appropriate standard, that the senior officer concerned ought to be suspended from membership of the RUC and from his office of constable, the Police Authority may, subject to the following provisions of this regulation, so suspend him.

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

(a) that the effective investigation of the report allegation or complaint may be prejudiced unless the senior officer concerned is so suspended; or

(b) that the public interest, having regard to the nature of the report, allegation or complaint, and any other relevant considerations, requires that he should be so suspended.

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

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

(5) Where the Ombudsman gives his approval to the suspension of a senior officer, this suspension shall take effect from the time he receives notice of that approval from the Police Authority and he shall be suspended until—

(a) the Ombudsman decides otherwise; or

(b) the Police Authority decide otherwise; or

(c) it is decided that the conduct of the senior officer concerned shall not be the subject of proceedings under regulation 11; or

(d) the notification by the Police Authority of a finding that the conduct of the senior officer concerned did not fail to meet the appropriate standard or notification that, in spite of a finding that his conduct did fail to meet the appropriate standard, no sanction should be imposed; or

(e) a sanction has been imposed,

whichever first occurs.

Suspension—urgent cases

6.—(1) In cases of urgency, the like power of suspension as under regulation 5 may be exercised with immediate effect-

(a) in relation to the Chief Constable or a person for the time being discharging his functions, by the Police Authority, and

(b) in any other case, by the Chief Constable.

Investigating officers

7.—(1) Where a report, allegation or complaint is received which indicates that the conduct of a senior officer did not meet the appropriate standard, the following provisions of this regulation shall have effect for the purpose of investigating the matter.

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

(a) in relation to cases arising otherwise than from a complaint to which Part VII of the Act of 1998 applies; and

(b) to cases arising from such a complaint where the requirements of the said Act of 1998 are dispensed with by or under regulations made thereunder.

(3) Unless the Police Authority decide that, in the light of such preliminary enquires as they may make, that no proceedings under regulation 11 need be taken, the matter shall be referred to an investigating officer who shall cause it to be investigated.

(4) The investigating officer shall be—

(a) a member, or

(b) if the chief officer of a police force in the United Kingdom is requested and agrees to provide an investigating officer, a member of that force, and of at least the rank of the senior officer concerned; or

(c) an officer of the Ombudsman.

(5) Neither—

(a) the Chief Constable, nor

(b) any member serving in the same sub-division or branch as the senior officer concerned, shall be appointed as the investigating officer for the purposes of paragraph (3) or Section 57 of the Act of 1998.

(6) The provisions of this regulation are without prejudice to the powers of the Ombudsman with regard to the approval of the investigating officer under Section 57(3) of the Act of 1998 or the appointment of an investigating officer of the Ombudsman under Section 56(1) of the Act of 1998.

Notice of investigation and giving of caution

8. The investigating officer shall, as soon as practicable (without prejudicing his or any other investigation of the matter), cause the senior officer concerned to be given written notice—

(a) that there is to be an investigation into the case;

(b) the nature of the report, complaint or allegation;

(c) in all cases give that senior officer in writing the caution set out in paragraph 1 of Schedule 1;

(d) where he reasonably believes that the presence of any object, substance or mark found on the person of the senior officer or in or on his clothing, footwear or otherwise in his possession or in any place in which the senior officer was present at a time material to the subject matter of the report, allegation or complaint may be attributable to the senior officer having breached the Code of Conduct , inform the senior officer that he so believes and give him in writing the caution set out in paragraph 2 of Schedule 1,

(e) where he reasonably believes that the presence of the senior officer at a place at or about the time the breach of the Code of Conduct was alleged to have been committed may be attributable to his involvement in that breach, inform the senior officer that he so believes and give him in writing the caution set out in paragraph 3 of Schedule 1.

Personal explanation following investigation

9.—(1) Where, following or, where paragraph (2) applies, during the investigation of a report, complaint or allegation, it appears that the conduct of a senior officer may not have met the appropriate standard, the Police Authority shall consider what proceedings under regulation 11need be taken.

(2) This paragraph applies where, before the end of the investigation, it appears to the investigating officer that the case is one in respect of which the conditions specified in Part I of Schedule 2 to these regulations are likely to be satisfied and so informs the Police Authority or the Ombudsman as appropriate.

(3) Unless the Police Authority decide that no such proceedings need be taken, the Police Authority shall inform the senior officer in writing of the report, allegation or complaint and give him a written notice asking him whether or not he accepts that his conduct did not meet the appropriate standard, and at the same time the senior officer shall also be given in writing—

(a) in all cases, the caution set out in paragraph 1 Schedule 1,

(b) where the Police Authority reasonably believes that the presence of any object, substance or mark found on the person of the senior officer or in or on his clothing, footwear or otherwise in his possession or in any place in which the senior officer was present at a time material to the subject matter of the report, allegation or complaint may be attributable to the senior officer having breached the Code of Conduct, the caution set out in paragraph 2 of Schedule 1,

(c) where the Police Authority reasonably believes that the presence of the senior officer at a place at or about the time the breach of the Code of Conduct was alleged to have been committed may be attributable to his involvement in that breach, the caution set out in paragraph 3 of Schedule 1.

(4) If the Police Authority decide that no proceedings under regulation 11 need be taken, they shall so inform the senior officer in writing forthwith.

(5) In a case where paragraph (2) applies and where appropriate in consultation with the Ombudsman, the Police Authority shall—

(a) determine whether the case is one in respect of which the conditions specified in Part I of Schedule 2 to these regulations are satisfied; and

(b) if they determine that the case is one in respect of which these conditions are satisfied and unless they are of the opinion that the circumstances are such that it would be inappropriate to do so, certify the case as a special case;

and where the Police Authority certify the case under sub-paragraph (*b*), the notice to be given under paragraph (3) shall inform the senior officer concerned that it has been so certified.

Sanction without hearing

10.—(1) If the senior officer concerned accepts that his conduct did not meet the appropriate standard, the Police Authority may impose a sanction under regulation 22 without the case being dealt with in accordance with regulations 11 to 21.

(2) Notwithstanding that the senior officer concerned accepts that his conduct did not meet the appropriate standard, the Police Authority may, after considering the report of the investigation, deal with the matter according to the Police Authority's discretion if they are satisfied that it does not justify the imposition of any sanction under these regulations.

Notice of proceedings

11.—(1) This regulation shall apply where the senior officer concerned-