1989 No. 471

POLICE

Royal Ulster Constabulary (Discipline and Disciplinary Appeals) (Amendment) Regulations 1989

Made . . . . . 6th December 1989

Coming into operation . . 1st January 1990

To be laid before Parliament

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

Citation and commencement

1. These regulations may be cited as the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) (Amendment) Regulations 1989 and shall come into operation on 1st January 1990.

Interpretation

2. In these regulations any reference to the principal regulations is a reference to the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988(**c**).

Personal explanation

3. In the principal regulations the following provision shall be substituted for regulation 6:—

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

(*a*) in all cases give him in writing the caution set out in paragraph 1 of Schedule 1A,

(*b*) where he reasonably believes that the presence of any object, substance or mark found on the person of the member subject to investigation or in or on his clothing, footwear or otherwise in his possession or in any place in which the member was present at a time material to the subject-matter of the report, allegation

(**a**) 1970 c. 9 (N.I.) as amended by S.I. 1977/53 (N.I. 2) and S.I. 1987/938 (N.I. 10) and modified by S.I. 1973/2163 and S.I. 1981/1670
(**b**) S.I. 1987/938 (N.I. 10)
(**c**) S.R. 1988 No. 10

or complaint may be attributable to the participation of the member in the commission of a disciplinary offence specified by him, inform the member that he so believes and give him in writing the caution set out in paragraph 2 of Schedule 1A,

(*c*) where he reasonably believes that the presence of the member subject to investigation at a place at or about the time the disciplinary offence was alleged to have been committed may be attributable to his participation in the commission of the offence, inform the member that he so believes and give him in writing the caution set out in paragraph 3 of Schedule 1A.''.

Procedure at hearing

4. In regulation 17 of the principal regulations after paragraph (11) there shall be inserted the following provision:—

''(12) Where evidence is given that the accused, while subject to investigation—

(*a*) after having been given in writing the caution set out in paragraph 1 of Schedule 1A failed to mention any fact relied on in his defence at the hearing, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention during the investigation, or

(*b*) after having been given in writing the caution set out in paragraph 2 of Schedule 1A failed or refused to account for any object, substance or mark or any mark on any such object, or

(*c*) after having been given in writing the caution set out in paragraph 3 of Schedule 1A failed or refused to account for his presence at a particular place,

the officer conducting the hearing may draw such inferences from the failure or refusal as appear proper:

Provided that no such inferences may be drawn if the failure or refusal occurred before 1st January 1990.''.

Initial personal explanation

5. In the principal regulations the following provision shall be substituted for regulation 30:—

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

(*a*) in all cases give him in writing the caution set out in paragraph 1 of Schedule 1A,

(*b*) where he reasonably believes that the presence of any object, substance or mark found on the person of the senior officer subject to investigation 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 participation of the senior officer in the commission of a

disciplinary offence specified by him, inform the senior officer that he so believes and give him in writing the caution set out in paragraph 2 of Schedule 1A,

(*c*) where he reasonably believes that the presence of the senior officer subject to investigation at a place at or about the time the disciplinary offence was alleged to have been committed may be attributable to his participation in the commission of the offence, inform the senior officer that he so believes and give him in writing the caution set out in paragraph 3 of Schedule 1A.".

Personal explanation following investigation

6. In the principal regulations for regulation 31 there shall be substituted the following provision:—

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

(2) Unless the Police Authority decide that no disciplinary proceedings need be taken, the Police Authority shall inform the senior officer in writing of the report, allegation or complaint and give him a written notice asking him whether or not he admits that he has committed an offence.

(3) At the same time the senior officer shall also be given in writing:—

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

(*b*) where the Police Authority reasonably believes that the presence of any object, substance or mark found on the person of the senior officer subject to investigation 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 participation of the senior officer in the commission of a disciplinary offence specified by it, the caution set out in paragraph 2 of Schedule 1A,

(*c*) where the Police Authority reasonably believes that the presence of the senior officer subject to investigation at a place at or about the time the disciplinary offence was alleged to have been committed may be attributable to his participation in the commission of the offence, the caution set out in paragraph 3 of Schedule 1A.".

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

Procedure at hearing

7. In regulation 37 of the principal regulations after paragraph (8) there shall be inserted the following provision:—