1988 No. 9

POLICE

Royal Ulster Constabulary (Complaints etc.) Regulations 1988

Made . . . . . 15th January 1988

Coming into operation . . 29th February 1988

To be laid before Parliament

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SCHEDULE — Complaints which are anonymous, repetitious or incapable of investigation

The Secretary of State, in pursuance of Articles 7(2), 9(6), 9(8)(*c*) and 19 of the Police (Northern Ireland) Order 1987(**a**) and after consulting the Police Authority and the Police Association for Northern Ireland, in accordance with Article 19(4) of that Order, hereby makes the following regulations:—

(a) S.I. 1987/938 (N.I. 10)

Citation, commencement and revocation

1.—(1) These regulations may be cited as the Royal Ulster Constabulary (Complaints etc.) Regulations 1988 and shall come into operation on 29th February 1988.

(2) The Royal Ulster Constabulary (Complaints) Regulations 1977(**a**) are hereby revoked.

Interpretation

2. The following expressions have the meanings hereby respectively assigned to them, that is to say:—

"the appropriate authority" means—

(*a*) in relation to a senior officer, the Police Authority;

(*b*) in relation to any other member, the chief constable;

"the appropriate statement" means the statement submitted by the Commission under Article 9(8) of the Order of 1987;

"the Board" means the Police Complaints Board for Northern Ireland, established by Article 3 of the Police (Northern Ireland) Order 1977(**b**);

"chief constable" shall be construed as including a reference to an officer discharging the functions of the chief constable, and references to "the appropriate authority" shall be construed accordingly;

"the Commission" means the Independent Commission for Police Complaints for Northern Ireland established by Article 3 of the Order of 1987;

"complaint" means a complaint to which the Order of 1987 applies and "copy of a complaint" in the case of a complaint made orally, shall include a copy of the record of the complaint;

"complainant" means the person by or on behalf of whom a complaint is submitted;

"member" means a member of the Royal Ulster Constabulary, or of the Royal Ulster Constabulary Reserve;

"member concerned" in relation to a complaint, means the member about whose conduct the complaint is made;

"the Order of 1987" means the Police (Northern Ireland) Order 1987;

"senior officer" means an officer above the rank of chief superintendent.

Application of regulations

3. Subject to regulation 17, these regulations shall apply—

(*a*) to any complaint made on or after 29th February 1988, under the Order of 1987; and

(*b*) to any other matter the investigation of which the Commission is required to, or determines to supervise under Article 9 of that Order,

being a complaint or matter where the conduct complained of or to which it relates occurred, or is alleged to have occurred, on or after 28th February 1987.

(**a**) S.R. 1977 No. 235
(**b**) S.I. 1977/53 (N.I. 2)

Commission to forward complaints

4.—(1) Subject to paragraph (2), where the Commission has received a complaint against a member, the Commission shall transmit it to the appropriate authority unless the Commission is satisfied that to do so would be contrary to the complainant's wishes or, in all the circumstances, unnecessary.

(2) Notwithstanding that the complainant may not wish his complaint to be so transmitted, the Commission, may where it is satisfied that the public interest so requires, transmit a complaint received by it to the appropriate authority.

Notification of supervision, etc.

5.—(1) Subject to paragraphs (2) and (3), where under Article 9 of the Order of 1987 the Commission determines to supervise an investigation it shall notify its determination to the appropriate authority not later than the end of the seventh day after the day on which the complaint or matter in question is received by the Commission.

(2) Where the Commission has requested further information to assist it in deciding whether to make such a determination the notification referred to in paragraph (1) shall be given not later than the end of the seventh day after the day on which it receives such information.

(3) Where an investigation is delayed pending the outcome of criminal proceedings relating to the complaint or matter to be investigated the notification referred to in paragraph (1) shall be given not later than the end of the seventh day after the day on which the Commission received notification of the outcome of those proceedings.

Supply of information to Commission — general

6. The appropriate authority shall supply the Commission with such information and documents as it may reasonably require relating to a complaint or matter referred to it under Article 7 or 8 of the Order of 1987, whether or not such complaint or matter is the subject of an investigation supervised by the Commission, for the purpose of enabling the Commission to fulfil its functions under the said Order.

Information as to consultations with Director of Public Prosecutions

7. The person appointed to conduct an investigation which is being supervised by the Commission shall keep the Commission informed as to the nature and eventual outcome of any consultation, relating to the investigation, which he conducts with the Director of Public Prosecutions.

Power of Commission to impose requirements in relation to investigations

8.—(1) Without prejudice to the Commission's powers in relation to the appointment of an investigating officer under Article 9(5) of the Order of 1987, but subject to paragraph (2), the Commission may, where it undertakes the supervision of an investigation of a complaint or other matter referred to it under Article 7 or 8 of the said Order, issue directions imposing such additional reasonable requirements as to the conduct of the investigation as appear to it to be necessary.

(2) The Commission shall not, under paragraph (1) above, impose any requirement relating to the resources to be made available by the chief constable for the purposes of an investigation without first consulting him and having regard to any representations he may make.

Supply of report on the investigation of matters not the subject of a complaint

9. At the end of an investigation of a matter, referred to the Commission under Article 8 of the Order of 1987, which it has supervised, and without prejudice to Article 9(7) of that Order, the person appointed to conduct the investigation shall send a copy of the report on the investigation to—

(i) the Secretary of State; and

(ii) the Police Authority and the chief constable unless they have already received a copy of the report under Article 9(7) of the Order of 1987.

Appropriate statements

10.—(1) The appropriate statement submitted to the appropriate authority under Article 9(8) of the Order of 1987 may, in addition to the matters required to be dealt with by sub-paragraphs (*a*) and (*b*) of that paragraph, specify any respects in which the Commission considers that its satisfaction with the conduct of the investigation ought to be recorded, and may deal with any such other matters relating to the investigation or the supervision thereof as the Commission considers should be—

(*a*) brought to the attention of the appropriate authority, the complainant or the member concerned; or

(*b*) dealt with in the public interest.

(2) The Commission, when submitting the appropriate statement under Article 9(8) of the Order of 1987 in relation to a matter referred to it under Article 8(2) of that Order and without prejudice to the Commission's duty under Article 9(9) of that Order to send a copy to the member concerned, shall send a copy of the statement to the Secretary of State and the Police Authority.

Functions of Commission as to disciplinary charges

11.—(1) Where a memorandum is sent to the Commission under Article 10 of the Order of 1987 the Commission shall deal with the case under Article 13 of that Order without undue delay and shall, as soon as practicable, take such decisions as appear to it appropriate for the purposes thereof.

(2) Where the chief constable has not preferred disciplinary charges or does not propose to do so and the Commission accepts his decision it shall—

(*a*) so inform the chief constable forthwith, and

(*b*) subject to paragraph (4) notify the complainant of the decision and of its acceptance thereof,

and may furnish the complainant with such relevant information in explanation thereof, if any, as appears to the Commission to be appropriate.

(3) Where the chief constable withdraws a disciplinary charge with the leave of the Commission given in pursuance of Article 13(6) of the Order of 1987, the Commission shall, subject to paragraph (4), notify the complainant that the charge has been withdrawn with its leave and furnish him with such relevant information in explanation of the withdrawal as appears to the Commission appropriate.

(4) The Commission shall be relieved of the duty of notifying the complainant as mentioned in paragraph (2)(*b*) or (3) if compliance therewith appears to it to be not reasonably practicable.

(5) Where the chief constable has, under the Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988(**a**), or under the Royal Ulster Constabulary Reserve (Part-time) (Discipline and Disciplinary Appeals) Regulations 1988(**b**), delegated the duty of deciding whether a member should be charged with a disciplinary offence, the references in paragraphs (2) and (3) to the chief constable shall be taken as references to the officer to whom the duty is delegated.

Copies of complaints

12.—(1) Subject to paragraph (2), a copy of the complaint shall be supplied to—

(*a*) the complainant, or

(*b*) the member concerned,

where either of them so requests in writing.

(2) The appropriate authority may, by notice in writing to the person who made the request, refuse to supply a copy of the complaint under paragraph (1) if of the opinion that compliance with the request—

(*a*) might prejudice any criminal investigation or proceedings pending at the time the request is made, or

(*b*) would be contrary to the public interest and the Secretary of State agrees the request should not be complied with;

and where such notice is given no further request may be made under paragraph (1) within the period of six months beginning with the date of the notice, without prejudice, however, to further such requests being made subsequently.

Time limits

13. Where a complaint is required to be referred to the Commission by the appropriate authority under Article 7(1) of the Order of 1987 notification of the complaint shall be given to the Commission not later than the end of the day following the day on which it first becomes clear to the appropriate authority that the complaint is one to which that paragraph applies.

Complaints register

14. The chief constable shall cause a register of complaints against members to be kept in which there shall be recorded the steps taken in dealing with a complaint and their outcome.

Delegation of functions by chief constable

15.—(1) Subject to paragraphs (3) and (4), the chief constable may delegate all or any of the functions or duties conferred on him by Articles 4 to 14 of the Order of 1987 (other than his functions or duties under Article 14(3), (5) or (8) thereof), or by regulations made under Article 19 thereof, to such an officer as is mentioned in paragraph (2).

(**a**) S.R. 1988 No. 10
(**b**) S.R. 1988 No. 8