1988 No. 8

POLICE

Royal Ulster Constabulary Reserve (Part-time) (Discipline and Disciplinary Appeals) Regulations 1988

Made . . . . . 15th January 1988

Coming into operation . . 29th February 1988

To be laid before Parliament

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SCHEDULE 1: Discipline Code
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The Secretary of State, in pursuance of section 26 of the Police Act (Northern Ireland) 1970(**a**) and Article 14(3), (4), (5) and (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 that Act, hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Royal Ulster Constabulary Reserve (Part-time) (Discipline and Disciplinary Appeals) Regulations 1988 and shall come into operation on 29th February 1988.

Interpretation and application

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

"the Act of 1970" means the Police Act (Northern Ireland) 1970;

"chief constable" shall be construed as including a reference to a person discharging the functions of the chief constable;

"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;

"complaints matter" means, in a case where the report of an investigation into a complaint is sent to the Commission under Article 9(7) or 10(9) of the Order of 1987, the matter or matters dealt with in the report;

"conclusion of hearing" does not include the termination of a hearing on a case being remitted under regulation 12;

"disciplinary board" means a board consisting of two members of a rank not lower than that of assistant chief constable appointed by the chief constable to hear disciplinary cases;

"discipline code" means the code of offences contained in Schedule 1;

(**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
(**b**) S.I. 1987/938 (N.I. 10)

"discipline form" means such a form as is mentioned in regulation 6(3);

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

"home police force" has the same meaning as in the Police Act 1969(**a**);

"internal appeal" means such an appeal as is mentioned in regulation 22;

"investigating officer" means an officer appointed under Article 5(3) of the Order of 1987 or under regulation 4 to investigate a complaint or other matter relating to the conduct of a part-time member;

"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 1970;

"part-time member" means a member of the Royal Ulster Constabulary Reserve appointed on a part-time basis in accordance with regulations made under section 26 of the Act of 1970;

"member subject to investigation" has the meaning assigned thereto by regulation 4(1);

"offence or disciplinary offence" means an offence set out in the discipline code;

"officer conducting the hearing" has the meaning assigned thereto by regulation 11;

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

"Police Regulations" means the regulations from time to time in operation under section 26 of the Act of 1970 other than these regulations;

"referred matter" means a matter referred to the Commission under Article 8 of the Order of 1987 and supervised by the Commission under Article 9 of that Order;

"representative" means in relation to a part-time member the member of a police force conducting his case or appeal in pursuance of regulation 15(7) or 22(8).

Disciplinary offences

3. A part-time member commits an offence against discipline if he commits an offence set out in the discipline code.

PART II

DISCIPLINE AND INTERNAL APPEALS

Investigation procedure

4.—(1) Where a report, allegation or complaint is received from which it appears that an offence may have been committed by a part-time member (hereinafter referred to as "member subject to investigation"), the following provisions of this regulation shall have effect for the purpose of investigating the matter.

(a) 1969 c. 63

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

(*a*) in relation to a case arising otherwise than from a complaint to which Part II of the Order of 1987 applies; and

(*b*) in relation to cases arising from such complaints where the requirements of the said Order are dispensed with by or under regulations made thereunder.

(3) Unless the chief constable decides that no disciplinary proceedings 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 if the chief officer of a home police force is requested and agrees to provide an investigating officer he shall be a member of that other force;

(*b*) of at least the rank of inspector.

(5) Neither—

(*a*) the chief constable;

(*b*) the deputy chief constable; nor

(*c*) any member serving in the same sub-division or branch as the member subject to investigation,

shall be appointed as the investigating officer for the purpose of paragraph (3) or Article 5 of the Order of 1987 (formal investigation of a complaint).

(6) The provisions of this regulation are without prejudice to the powers of the Commission with regard to the approval of the investigating officer under Article 9(5)(*a*) and (*b*) of the Order of 1987 (which provides for approval by the Commission of officers appointed to conduct an investigation) where the investigation is to be supervised by the Commission.

Personal explanation

5. 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 give him a written notice—

(*a*) informing him that he is not obliged to say anything concerning the matter, but that he may, if he so desires make a written or oral statement concerning the matter to the investigating officer or to the chief constable; and

(*b*) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

Formulation of charges

6.—(1) The decision whether or not the member subject to investigation should be charged with an offence shall (subject, as respects a complaints matter or referred matter, to Articles 9(12), 10(6) and 13(1) and (3) of the Order of 1987) be taken by the chief constable after considering the report of the investigating officer and any statement made under regulation 5.

(2) Where the chief constable decides (or as respects a complaints matter or referred matter, the Commission directs under Article 13(3) of the Order of

1987) that a charge be preferred, the chief constable shall, as soon as possible, cause—

(*a*) to be entered on a discipline form the offence in question together with such particulars as will leave the member subject to investigation in no doubt as to the precise offence alleged, and

(*b*) the member subject to investigation to be charged by being served with a copy of the discipline form.

(3) A discipline form shall be in the form set out in Schedule 2.

Withdrawal of charges

7.—(1) At any time before the beginning of the hearing of a charge, the chief constable may (subject, as respects a complaints matter or a referred matter, to the leave of the Commission under Article 13(6) of the Order of 1987) direct that the charge be withdrawn.

(2) Where the chief constable so directs he shall, as soon as possible, cause—

(*a*) his direction to be noted in the discipline form, and

(*b*) the member subject to investigation to be served with written notice of his direction.

Documents to be supplied to accused

8.—(1) Subject to paragraphs (2) and (3), where a part-time member is charged with an offence, he shall not less than 21 days before the date of the hearing, be supplied with copies—

(*a*) of any statement he may have made under regulation 5;

(*b*) of the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report of the investigating officer) notwithstanding that they may be confidential;

(*c*) of any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address;

(*d*) of any statement relating to the charge made by any person, other than a witness to be called in support of the charge, to the investigating officer or to anybody on his behalf, together with the person's name and address; and

(*e*) of any statement made by a witness to be called by the presenting officer, in pursuance of regulation 21(6), for the purpose of assisting the person conducting the hearing or the chief constable in determining, in the event of a finding of guilt, the punishment to be imposed or recommended.

(2) In a case to which this paragraph applies the hearing of a charge against a part-time member may, if the chief constable considers it appropriate in the circumstances, take place before the expiry of the period of 21 days referred to in paragraph (1).

(3) Paragraph (2) applies where a part-time member charged with an offence, is at the time he is so charged, detained in pursuance of the sentence