

1977 No. 53 (N.I. 2)

NORTHERN IRELAND

The Police (Northern Ireland) Order 1977

Laid before Parliament in draft

Made

17th January 1977

Coming into operation on days to be appointed under Article 1 (1)

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At the Court at Buckingham Palace, the 17th day of January 1977

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I
INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Police (Northern Ireland) Order 1977 and shall come into operation on such day or days as the Secretary of State may by order appoint.

(2) An order under paragraph (1) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Act of 1970” means the Police Act (Northern Ireland) 1970 (c);

“the Board” means the Police Complaints Board for Northern Ireland established under Article 3;

“complaint” means a complaint made by a member of the public against—

(a) a member of the Royal Ulster Constabulary; or

(b) 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;

“Police Authority” means the Police Authority for Northern Ireland;

“police force” has the same meaning as in the Act of 1970;

“senior officer” has the same meaning as in the Act of 1970.

(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) 1970 c. 9 (N.I.).

PART II

COMPLAINTS AGAINST THE POLICE

Establishment of the Police Complaints Board for Northern Ireland

3.—(1) There shall be established a body to be called the Police Complaints Board for Northern Ireland consisting of a chairman, deputy chairman and at least four other members all appointed by the Secretary of State.

(2) The members of the Board shall not include any person who is or has been a member of a police force in any part of the British Islands.

(3) The Board shall have such functions as are conferred on it under the succeeding provisions of this Order.

(4) The Schedule shall have effect with respect to the Board.

Reference to Board of complaints

4.—(1) Where a complaint is referred to the Chief Constable under section 13 (1) of the Act of 1970 (complaints by members of the public against the police) subject to paragraph (2) he shall, as soon as reasonably practicable, send to the Board a copy of the complaint.

(2) Paragraph (1) shall not apply—

(a) where the complaint, in writing, has been sent by the complainant to the Board; or

(b) where the complaint is against a senior officer of the Royal Ulster Constabulary and, in accordance with regulations under section 25 of the Act of 1970, any disciplinary charges would be drawn up by a solicitor and heard by a person selected by the Police Authority with the approval of the Secretary of State.

(3) References in this Article and Article 5 to a copy of the complaint shall, in the case of a complaint made orally, be construed as references to a copy of the record of the complaint.

Reference to Board of complaint reports

5.—(1) Where the Chief Constable receives the report of an investigation into a complaint under section 13 of the Act of 1970, he shall, subject to paragraph (2) and Article 8, send to the Board a copy of the report together with—

(a) a copy of the complaint; and

(b) a statement signed by him stating—

(i) his opinion on the merits of the complaint;

(ii) whether he has preferred disciplinary charges in respect of the matter or matters complained of and, if not, his reasons for not doing so; and

(iii) if he has preferred such disciplinary charges, particulars of the charges and of any exceptional circumstances affecting the case by reason of which he considers that Article 7 should apply to the hearing of them.

(2) Paragraph (1) shall not apply—

(a) where disciplinary charges have been preferred in respect of the matter or matters complained of and the accused has admitted the charges and not withdrawn his admission; or

(b) where, in accordance with regulations made by the Secretary of State under Article 9, the complaint has been withdrawn or the complainant has indicated that he does not wish any further steps to be taken; or

(c) where the complaint is one such as is mentioned in Article 4 (2) (b).

(3) Where, by virtue of paragraph (2) (a), paragraph (1) does not apply in relation to a complaint, the Chief Constable shall, after the conclusion of the disciplinary proceedings (including any appeal to the Secretary of State), send to the Board—

(a) a copy of the complaint and of the report of the investigation under the said section 13; and

(b) particulars of the disciplinary charges preferred and of any punishment imposed.

(4) Where in the case of any complaint the documents mentioned in paragraph (1) are not sent to the Board before the expiration of such period as may be prescribed by regulations made by the Secretary of State under Article 9 (whether because the investigation has not been completed or for any other reason) the Chief Constable shall send to the Board, in accordance with any provision made by the regulations, information as to the stage reached in dealing with the complaint; but the obligation imposed by this paragraph shall apply only if and so long as the case is one to which paragraph (1) applies or could apply.

Powers of Board as to disciplinary charges

6.—(1) Where the report of an investigation into a complaint is sent to the Board under Article 5 (1) the following provisions shall have effect in relation to disciplinary charges in respect of the matter or matters complained of; and for the purpose of discharging its functions under those provisions the Board may request the Chief Constable to furnish it with such additional information as it may reasonably require.

(2) Where the Chief Constable has not preferred disciplinary charges the Board may, if it disagrees with his decision, make recommendations to him as to the charges which it considers should be preferred; and if, after the Board has made such recommendations and consulted the Chief Constable, he is still unwilling to prefer such charges as the Board considers appropriate it may direct him to prefer such charges as it may specify.

(3) Where the Board gives the Chief Constable a direction under paragraph (2) it shall furnish him with a written statement of its reasons for doing so.

(4) Where disciplinary charges have been or are preferred they shall not be withdrawn except with the leave of the Board.

(5) Where disciplinary charges have been or are preferred (otherwise than in pursuance of a direction under paragraph (2)) the Board may direct that Article 7 shall apply to the hearing of the charges if it considers that to be desirable by reason of any exceptional circumstances affecting the case; and that Article shall also apply to the hearing of any charges preferred in pursuance of a direction under that paragraph.

(6) Notwithstanding paragraph (5), Article 7 shall not apply in any case in which the accused admits the charges and does not withdraw his admission before the beginning of the hearing.

(7) The Chief Constable shall comply with any direction given to him under paragraph (2) and, subject to any regulations made by the Secretary of State under Article 9, with any request under paragraph (1).

(8) In discharging its functions under paragraphs (2) and (4) the Board shall have regard to any guidance given to it by the Secretary of State with respect to such matters affecting the preferring and withdrawing of disciplinary charges as are for the time being the subject of guidance by him to the Chief Constable, including in particular the principles to be applied in cases that involve any question of criminal proceedings and are not governed by Article 14.

Disciplinary tribunals

7.—(1) Where this Article applies to the hearing of a disciplinary charge—

(a) the function of determining whether the accused is guilty of the charge shall be discharged by a tribunal consisting of—

(i) a chairman who shall be the Chief Constable by whom that function would fall to be discharged apart from this Article; and

(ii) two members of the Board nominated by the Board, being members who were not concerned with the case under Article 6; and

(b) the function of determining what punishment is to be imposed if the accused is found guilty shall, subject to paragraph (3), be discharged by the chairman after consulting the other members of the tribunal.

(2) The decision of the tribunal in discharging the function mentioned in paragraph (1) (a) may be a majority decision.

(3) Where the chairman of the tribunal is not the Chief Constable of the Royal Ulster Constabulary (and that Chief Constable is neither interested in the case otherwise than in his capacity as such nor a material witness) the function mentioned in paragraph (1) (b) shall be discharged by that Chief Constable after considering any recommendation as to punishment made by the chairman, and before making any recommendation the chairman shall consult the other members of the tribunal.

(4) Where by virtue of Article 6 (5) this Article applies to the hearing of any disciplinary charge and there is another disciplinary charge against the accused which, in the opinion of the Chief Constable can conveniently and fairly be determined at the same time, the Chief Constable may direct that this Article shall apply also to the hearing of the other charge.

Complaints that may involve criminal proceedings

8.—(1) Where the report of an investigation into a complaint is sent to the Director of Public Prosecutions for Northern Ireland in pursuance of section 13 (5) of the Act of 1970 (cases where criminal offences may have been committed) or a direction under Article 6 (3) (b) of the Prosecution of Offences (Northern Ireland) Order 1972 (a), Article 5 (1) shall not apply to the complaint until the question of criminal proceedings has been dealt with by the Director.

(2) Where it appears to the Board that any information furnished to it under Article 5 or 6—

(a) may be relevant to the question of criminal proceedings against the member of a police force against whom the complaint in question is made; but

(b) has not been furnished to the Director,

the Board may request the Chief Constable to transmit that information to the Director; and the Chief Constable shall transmit that information accordingly

(a) S.I. 1972/538 (N.I. 1).

unless it has already been furnished to the Director or the Chief Constable is satisfied that it cannot be relevant as aforesaid.

(3) Where the Chief Constable is requested under paragraph (2) to transmit any information to the Director, the Chief Constable shall notify the Board whether he has transmitted it and, if not, his reasons for not doing so.

Complaints regulations

9.—(1) The Secretary of State may make regulations—

- (a) as to the procedure to be followed by the Chief Constable and the Board in relation to complaints;
- (b) without prejudice to sub-paragraph (a)—
 - (i) for requiring the Chief Constable to furnish a member of the police force against whom a complaint is made with a copy of, or of the record of, the complaint;
 - (ii) for requiring the Board to transmit any such complaint received by it to the Chief Constable;
- (c) for requiring any action or decision of the Board to be notified to the persons concerned and, in connection therewith, for enabling the Board to furnish those persons with any relevant information;
- (d) for requiring the Chief Constable to furnish the Board with information and documents relating to complaints;
- (e) as to the procedure to be followed by disciplinary tribunals under Article 7;
- (f) for dispensing with any requirements of subsection (1) of section 13 of the Act of 1970 where a complaint is withdrawn or the complainant indicates that he does not wish any further steps to be taken;
- (g) for enabling the Board to dispense with any requirements of that subsection or of the provisions of this Part in circumstances other than those mentioned in sub-paragraph (f);
- (h) for enabling the Chief Constable to delegate any function under the said section 13, under Article 4, 5, 6, 7 (4) or 8 (2) and (3) or under the regulations;
- (i) generally for carrying the provisions of this Part into effect.

(2) Regulations made under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (a) shall apply accordingly.

(3) The Secretary of State shall consult both the Police Authority and the Police Association for Northern Ireland before making any regulations under this Article.

Constabularies maintained by authorities other than the Police Authority

10.—(1) The Board may, with the approval of the Secretary of State, make arrangements with any authority maintaining a body of constables, not being the Police Authority, for the discharge by the Board in relation to those constables of functions corresponding to any of those conferred on the Board by the provisions of this Part; and any such arrangements may, with the like approval, be varied or terminated.

(a) 1946 c. 36.

(2) If in the case of any body of constables the Board has not within six months after the coming into force of this Article made such arrangements as are mentioned in paragraph (1), the Secretary of State may, if he thinks fit and after consulting the Board and the authority in question, by order make such arrangements as aforesaid.

(3) Orders made under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(4) Any authority as is mentioned in paragraph (1) shall, if it would not otherwise do so, have power to enter into and carry into effect any arrangements as are mentioned in that paragraph.

(5) The Board shall not under any such arrangements exercise functions in relation to anything done by a constable outside Northern Ireland.

Reports

11.—(1) The Board shall, at the request of the Secretary of State, report to him on such matters relating generally to complaints to which this Part applies as the Secretary of State may specify; and the Board may for that purpose carry out research into any such matters.

(2) The Board may make to the Secretary of State a report on any matters coming to its notice to which it considers that his attention should be drawn by reason of their gravity or of other exceptional circumstances; and the Board shall send a copy of any such report to the Police Authority and the Chief Constable or, if the report concerns any such body of constables as is mentioned in Article 10, to the authority maintaining, and the officer having the direction and control of, that body of constables.

(3) As soon as practicable after the end of each calendar year the Board shall make to the Secretary of State a report on the discharge by the Board in that year of its functions under this Part, and the report shall contain a statement of any guidance given to it in that year under Article 6 (8).

(4) The Secretary of State shall lay before Parliament a copy of every report received by him under paragraph (3) and shall cause every such report to be published.

(5) The Board shall send to the Police Authority—

(a) a copy of every report made by the Board under paragraph (3); and

(b) any statistical or other general information relating to the year dealt with by the report which the Board considers should be brought to the Authority's attention in connection with their functions under section 12 (1) of the Act of 1970.

(6) The Board shall keep under review the working of this Part and make to the Secretary of State a report thereon at least once in every three years after the coming into force of this Article.

Restriction on disclosure of information

12.—(1) No information received by the Board in connection with any complaint shall be disclosed by any person who is or has been a member, officer or servant of the Board except—

- (a) to the Secretary of State or any other member, officer or servant of the Board or, so far as may be necessary for the proper discharge of the functions of the Board, to other persons;
- (b) for the purposes of any criminal, civil or disciplinary proceedings; or
- (c) in the form of a summary or other general statement made by the Board which does not identify the person from whom the information was received or to whom it relates.

(2) Any person who discloses information in contravention of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

PART III

AMENDMENTS OF DISCIPLINE PROVISIONS

Discipline regulations

13. Regulations under section 25 (2) (e) of the Act of 1970 shall provide that the appropriate disciplinary authority as mentioned in subsection (3) of that section shall, subject to Article 7 of this Order and to subsections (4) and (4A) of that section, be—

- (a) in relation to a senior officer of the Royal Ulster Constabulary, the Police Authority;
- (b) in relation to any other member of the Constabulary, the Chief Constable or such other person as may be prescribed by the regulations;

and accordingly in section 25 of the Act of 1970—

- (i) in subsection (3) for the words “subsection (4)” there shall be substituted the words “Article 7 of the Police (Northern Ireland) Order 1977 and subsections (4) and (4A)”;
- (ii) after subsection (4) there shall be inserted the following subsection—
 - “(4A) Without prejudice to subsection (4) the regulations may, as respects any case within subsection (3) (b), provide—
 - (a) for enabling the Chief Constable, where he considers it appropriate to do so, to direct that his function under subsection (3) of determining questions as to whether offences against discipline have been committed shall be discharged by the Chief Constable of another police force; and
 - (b) where such a direction is given, for the function mentioned in subsection (3) relating to punishment to be discharged by the Chief Constable after considering any recommendation as to punishment made by the other Chief Constable.”.

Disciplinary charges in criminal cases

14.—(1) Where a member of the police force has been acquitted or convicted of a criminal offence he shall not be liable to be charged with any offence against discipline which is in substance the same as the offence of which he has been acquitted or convicted.

(2) Paragraph (1) shall not be construed as applying to a charge in respect of an offence against discipline which consists of having been found guilty of a criminal offence.

Disciplinary appeals

15. Without prejudice to section 17 (2) of the Interpretation Act (Northern Ireland) 1954, regulations under section 25 (2) (e) of the Act of 1970 relating to appeals as mentioned in subsection (3) of that section may provide—

- (a) for enabling the Secretary of State only to vary any punishment by substituting some punishment appearing to him to be less severe;
- (b) for enabling the Chief Constable or such other person as the Secretary of State may direct to be made the respondent on any appeal by a member of the police force other than a senior officer;
- (c) for requiring the respondent to act in relation to any appeal in consultation with such other person or persons as the Secretary of State may specify;
- (d) for requiring the Secretary of State to appoint an appeal tribunal where it appears to him that the case cannot be properly determined without taking evidence;
- (e) for enabling any appeal tribunal appointed to deal in their report with any particular matter specified by the Secretary of State; and
- (f) for enabling any appeal tribunal appointed to receive evidence or representations in writing instead of holding a hearing.

PART IV

OTHER AMENDMENTS

Amendment of s. 17 of the Act of 1970

16. Section 17 of the Act of 1970 (Police Association) shall be amended as follows—

- (a) in subsection (2) after the words “of, and” there shall be inserted the words “subject to subsection (2A)”;
- (b) after subsection (2) there shall be inserted the following subsection:—

“(2A) The Secretary of State may authorise the Police Association or a section thereof to be associated with a person or a body outside the police services of the United Kingdom in such cases and manner, and subject to such conditions and restrictions, as he may specify and may vary or withdraw an authorisation previously given; and anything for the time being so authorised shall not be precluded by subsection (2).”.

Amendment of s. 34 of the Act of 1970

17. Section 34 of the Act of 1970 (Orders and regulations) shall be amended by adding after subsection (2) the following subsection:—

- “(3) Regulations under sections 10 (4), 25 and 26 (making provision with respect to allowances of members of the R.U.C., reserve constables and police cadets) may provide that the allowances shall be of such amounts as may be determined by the Secretary of State.”.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULE

Article 3 (4).

THE POLICE COMPLAINTS BOARD FOR NORTHERN IRELAND

Status

1. The Board shall be a body corporate to which section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

2. The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown; and the Board's property shall not be regarded as property of or property held on behalf of the Crown.

Members

3. Persons may be appointed as whole-time or part-time members of the Board.

4.—(1) Subject to the following provisions of this Schedule, a person shall hold office as a member or as chairman or deputy chairman of the Board in accordance with the terms of his appointment.

(2) A person shall not be appointed as a member of the Board for more than three years at a time.

(3) A person may at any time resign his office as a member or as chairman or deputy chairman by notice in writing to the Secretary of State.

(4) The Secretary of State may at any time remove a person from office as a member if satisfied that—

- (a) he has without reasonable excuse failed to carry out his duties for a continuous period of three months beginning not earlier than six months before that time; or
- (b) he has been convicted of a criminal offence; or
- (c) he has become bankrupt or made an arrangement with his creditors; or
- (d) he is incapacitated by physical or mental illness; or
- (e) he is otherwise unable or unfit to perform his duties.

(5) A person whose term of office as member of the Board expires by effluxion of time or who has resigned that office shall be eligible for re-appointment.

(6) If a person who is chairman or deputy chairman ceases to be a member of the Board he shall also cease to be chairman or deputy chairman.

5. The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of members of the Board or any of them as, with the consent of the Minister for the Civil Service, he may determine.

6. Where a person ceases to be a member of the Board otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of the Minister for the Civil Service direct the Board to make to that person a payment of such amount as, with the consent of that Minister, the Secretary of State may determine.

7. In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (a) and Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (b) (bodies of which all members are disqualified under those Acts) there shall be inserted at the appropriate place in alphabetical order—

“The Police Complaints Board for Northern Ireland”.

Staff

8.—(1) The Board may, after consultation with the Secretary of State, appoint such officers and servants as it thinks fit, subject to the approval of the Minister for the Civil Service as to numbers and as to remuneration and other terms and conditions of service.

(2) The Board may make arrangements for administrative, secretarial or other assistance to be provided for the Board by officers of the civil service of the Crown or, as the case may be, of the civil service.

9.—(1) Employment by the Board shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation (Northern Ireland) Order 1972 (a) can apply, and accordingly in Schedule 1 to that Order, at the end of the list of "Other Bodies" there shall be inserted—

"Police Complaints Board for Northern Ireland".

(2) Where a person who is employed by the Board and is by reference to that employment a participant in a scheme under section 1 of the said Order of 1972 becomes a member of the Board, the Minister for the Civil Service may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Board; and his rights under the scheme shall not be affected by paragraph 5.

10. The Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (b) shall not require insurance to be effected by the Board.

Proceedings

11.—(1) Subject to the provisions of this Order, the arrangements for the proceedings of the Board (including the quorum for meetings) shall be such as the Board may determine.

(2) The arrangements may, with the approval of the Secretary of State, provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee or by one or more of the members, officers or servants of the Board.

12. The validity of any proceedings of the Board shall not be affected by any defect in the appointment of a member or by any vacancy among the members or in the office of chairman or deputy chairman.

Finance

13. The Secretary of State shall pay to the Board expenses incurred or to be incurred by the Board under paragraphs 6 and 8 and, with the consent of the Minister for the Civil Service and the Treasury, shall pay to the Board such sums as the Secretary of State thinks fit for enabling the Board to meet other expenses.

14.—(1) It shall be the duty of the Board—

- (a) to keep proper accounts and proper records in relation to the accounts;
- (b) to prepare in respect of each financial year of the Board a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
- (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of November next following the financial year to which the statement relates.

(2) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before Parliament.

(a) S.I. 1972/1073 (N.I. 10).

(b) S.I. 1972/963 (N.I. 6).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order establishes a Police Complaints Board for Northern Ireland with functions relating to complaints from the public against members of the police force; amends the law relating to the discipline of that force; relaxes the prohibition on the Police Association for Northern Ireland being associated with any body or person outside the police services of the United Kingdom and amends a provision relating to the making of regulations.

Note. The Order is included, as an exception to the practice mentioned in paragraph 4A of the Preface, since it amends The House of Commons Disqualification Act 1975.

SI 1977/53
ISBN 0-11-070053-8



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