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Police Reform Act 2002

2002 Chapter 30

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PART 2 COMPLAINTS AND MISCONDUCT

The Independent Police Complaints Commission

9 The Independent Police Complaints Commission

- (1) There shall be a body corporate to be known as the Independent Police Complaints Commission (in this Part referred to as "the Commission").
- (2) The Commission shall consist of
 - (a) a chairman appointed by Her Majesty; and
 - (b) not less than ten other members appointed by the Secretary of State.
- (3) A person shall not be appointed as the chairman of the Commission, or as another member of the Commission, if-
 - (a) he holds or has held office as a constable in any part of the United Kingdom;
 - (b) he is or has been under the direction and control of a chief officer or of any person holding an equivalent office in Scotland or Northern Ireland;
 - (c) he is a person in relation to whom a designation under section 39 is or has been in force;
 - (d) he is a person in relation to whom an accreditation under section 41 is or has been in force;
 - (e) he is or has been a member of the National Criminal Intelligence Service or the National Crime Squad; or
 - (f) he is or has at any time been a member of a body of constables which at the time of his membership is or was a body of constables in relation to which any procedures are or were in force by virtue of an agreement or order under-
 - (i) section 26 of this Act; or

- (ii) section 78 of the 1996 Act or section 96 of the 1984 Act (which made provision corresponding to that made by section 26 of this Act).
- (4) An appointment made in contravention of subsection (3) shall have no effect.
- (5) The Commission shall not-
 - (a) be regarded as the servant or agent of the Crown; or
 - (b) enjoy any status, privilege or immunity of the Crown;and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.
- (6) Schedule 2 (which makes further provision in relation to the Commission) shall have effect.
- (7) The Police Complaints Authority shall cease to exist on such day as the Secretary of State may by order appoint.

10 General functions of the Commission

- (1) The functions of the Commission shall be-
 - (a) to secure the maintenance by the Commission itself, and by police authorities and chief officers, of suitable arrangements with respect to the matters mentioned in subsection (2);
 - (b) to keep under review all arrangements maintained with respect to those matters;
 - (c) to secure that arrangements maintained with respect to those matters comply with the requirements of the following provisions of this Part, are efficient and effective and contain and manifest an appropriate degree of independence;
 - (d) to secure that public confidence is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters;

- (e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of police practice in relation to other matters, as appear, from the carrying out by the Commission of its other functions, to be necessary or desirable; and
 - (f) to such extent as it may be required to do so by regulations made by the Secretary of State, to carry out functions in relation to the National Criminal Intelligence Service, the National Crime Squad and bodies of constables maintained otherwise than by police authorities which broadly correspond to those conferred on the Commission in relation to police forces by the preceding paragraphs of this subsection
- (2) Those matters are-
- (a) the handling of complaints made about the conduct of persons serving with the police;
 - (b) the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;
 - (c) the manner in which any such complaints or any such matters as are mentioned in paragraph (b) are investigated or otherwise handled and dealt with.
- (3) The Commission shall also have the functions which are conferred on it by-
- (a) any regulations under section 39 or 83 of the 1997 Act (complaints etc. against members of NCIS and NCS);
 - (b) any agreement or order under section 26 of this Act (other bodies of constables);
 - (c) any regulations under section 39 of this Act (police powers for contracted out staff); or

- (d) any regulations or arrangements relating to disciplinary or similar proceedings against persons serving with the police, or against members of the National Criminal Intelligence Service, the National Crime Squad or any body of constables maintained otherwise than by a police authority.
- (4) It shall be the duty of the Commission-
 - (a) to exercise the powers and perform the duties conferred on it by the following provisions of this Part in the manner that it considers best calculated for the purpose of securing the proper carrying out of its functions under subsections (1) and (3); and
 - (b) secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the Commission has functions.
- (5) It shall also be the duty of the Commission-
 - (a) to enter into arrangements with the chief inspector of constabulary for the purpose of securing co-operation, in the carrying out of their respective functions, between the Commission and the inspectors of constabulary; and
 - (b) to provide those inspectors with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Commission to be appropriate, for facilitating the carrying out by those inspectors of their functions.
- (6) Subject to the other provisions of this Part, the Commission may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.
- (7) The Commission may, in connection with the making of any recommendation or the giving of any advice to any person for the purpose of carrying out-
 - (a) its function under subsection (1)(e), or
 - (b) any corresponding function conferred on it by virtue of subsection (1)(f),

impose any such charge on that person for anything done by the Commission for the purposes of, or in connection with, the carrying out of that function as it thinks fit.

- (8) Nothing in this Part shall confer any function on the Commission in relation to so much of any complaint or conduct matter as relates to the direction and control of a police force by-
 - (a) the chief officer of police of that force; or
 - (b) a person for the time being carrying out the functions of the chief officer of police of that force.

11 Reports to the Secretary of State

- (1) As soon as practicable after the end of each of its financial years, the Commission shall make a report to the Secretary of State on the carrying out of its functions during that year.
- (2) The Commission shall also make such reports to the Secretary of State about matters relating generally to the carrying out of its functions as he may, from time to time, require.
- (3) The Commission may, from time to time, make such other reports to the Secretary of State as it considers appropriate for drawing his attention to matters which-
 - (a) have come to the Commission's notice; and
 - (b) are matters that it considers should be drawn to his attention by reason of their gravity or of other exceptional circumstances.
- (4) The Commission shall prepare such reports containing advice and recommendations as it thinks appropriate for the purpose of carrying out-
 - (a) its function under subsection (1)(e) of section 10; or
 - (b) any corresponding function conferred on it by virtue of subsection (1)(f) of that section.

- (5) Where the Secretary of State receives any report under this section, he shall-
- (a) in the case of every annual report under subsection (1), and
 - (b) in the case of any other report, if and to the extent that he considers it appropriate to do so,
- lay a copy of the report before Parliament and cause the report to be published.
- (6) The Commission shall send a copy of every annual report under subsection (1)-
- (a) to every police authority;
 - (b) to the Service Authority for the National Criminal Intelligence Service;
 - (c) to the Service Authority for the National Crime Squad;
 - (d) to every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section.
- (7) The Commission shall send a copy of every report under subsection (3)-
- (a) to any police authority that appears to the Commission to be concerned; and
 - (b) to the chief officer of police of any police force that appears to it to be concerned.
- (8) Where a report under subsection (3) relates to the National Criminal Intelligence Service or the National Crime Squad, the Commission shall send a copy of that report-
- (a) to the Service Authority for that Service or Squad; and
 - (b) to its Director General.

- (9) Where a report under subsection (3) relates to a body of constables maintained by an authority other than a police authority, the Commission shall send a copy of that report-
- (a) to that authority; and
 - (b) to the person having the direction and control of that body of constables.
- (10) The Commission shall send a copy of every report under subsection (4) to-
- (a) the Secretary of State;
 - (b) every police authority;
 - (c) every chief officer;
 - (d) the Service Authority for the National Criminal Intelligence Service and the Director General of that Service;
 - (e) the Service Authority for the National Crime Squad and the Director General of that Squad;
 - (f) every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section; and
 - (g) every person who has the direction and control of such a body of constables.
- (11) The Commission shall send a copy of every report made or prepared by it under subsection (3) or (4) to such of the persons (in addition to those specified in the preceding subsections) who -
- (a) are referred to in the report, or
 - (b) appear to the Commission otherwise to have a particular interest in its contents,
- as the Commission thinks fit.

Application of Part 2

12 Complaints, conduct matters and persons to which Part 2 applies

- (1) In this Part references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by-
 - (a) a member of the public who claims to be the person in relation to whom the conduct took place;
 - (b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
 - (c) a member of the public who claims to have witnessed the conduct;
 - (d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).
- (2) In this Part "conduct matter" means (subject to the following provisions of this section, paragraph 2(4) of Schedule 3 and any regulations made by virtue of section 23(2)(d)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have-
 - (a) committed a criminal offence; or
 - (b) behaved in a manner which would justify the bringing of disciplinary proceedings.
- (3) The complaints that are complaints for the purposes of this Part by virtue of subsection (1)(b) do not, except in a case falling within subsection (4), include any made by or on behalf of a person who claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.
- (4) A case falls within this subsection if-
 - (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or

- (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.
- (5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if
 - (a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
 - (b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.
- (6) For the purposes of this Part a person falling within subsection 1(a) to (c) shall not be taken to have authorised another person to act on his behalf unless-
 - (a) that other person is for the time being designated for the purposes of this Part by the Commission as a person through whom complaints may be made, or he is of a description of persons so designated; or
 - (b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.
- (7) For the purposes of this Part, a person is serving with the police if-
 - (a) he is a member of a police force;
 - (b) he is an employee of a police authority who is under the direction and control of a chief officer; or
 - (c) he is a special constable who is under the direction and control of a chief officer.

Handling of complaints and conduct matters etc.

13 Handling of complaints and conduct matters etc.

Schedule 3 (which makes provision for the handling of complaints and conduct matters and for the carrying out of investigations) shall have effect subject to section 14(1).

14 Direction and control matters

- (1) Nothing in Schedule 3 shall have effect with respect to so much of any complaint as relates to the direction and control of a police force by-
 - (a) the chief officer of police of that force; or
 - (b) a person for the time being carrying out the functions of the chief officer of police of that force.
- (2) The Secretary of State may issue guidance to chief officers and to police authorities about the handling of so much of any complaint as relates to the direction and control of a police force by such a person as is mentioned in subsection (1).
- (3) It shall be the duty of a chief officer and of a police authority when handling any complaint relating to such a matter to have regard to any guidance issued under subsection (2).

Co-operation, assistance and information

15 General duties of police authorities, chief officers and inspectors

- (1) It shall be the duty of-
 - (a) every police authority maintaining a police force,
 - (b) the chief officer of police of every police force, and
 - (c) every inspector of constabulary carrying out any of his functions in relation to a police force,

to ensure that it or he is kept informed, in relation to that force, about all matters falling within subsection (2).

- (2) Those matters are-
- (a) matters with respect to which any provision of this Part has effect;
 - (b) anything which is done under or for the purposes of any such provision; and
 - (c) any obligations to act or refrain from acting that have arisen by or under this Part but have not yet been complied with, or have been contravened.

- (3) Where-
- (a) a police authority maintaining any police force requires the chief officer of that force or of any other force to provide a member of his force for appointment under paragraph 16, 17 or 18 of Schedule 3,
 - (b) the chief officer of police of any police force requires the chief officer of police of any other police force to provide a member of that other force for appointment under any of those paragraphs, or
 - (c) a police authority or chief officer requires the Director General of the National Criminal Intelligence Service or the Director General of the National Crime Squad to provide a member of that Service or Squad for appointment under any of those paragraphs,

it shall be the duty of the chief officer or Director General to whom the requirement is addressed to comply with it.

- (4) It shall be the duty of-
- (a) every police authority maintaining a police force,
 - (b) the chief officer of police of every police force,
 - (c) the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad, and
 - (d) the Directors General of that Service and of that Squad,

to provide the Commission and every member of the Commission's staff with all such assistance as the Commission or that member of staff may

reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Commission under this Part.

- (5) It shall be the duty of-
- (a) every police authority maintaining a police force,
 - (b) the chief officer of every police force,
 - (c) the Service Authorities for the National Criminal Intelligence Service and of the National Crime Squad, and
 - (d) the Directors General of that Service and of that Squad,

to ensure that a person appointed under paragraph 16, 17 or 18 of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require

- (6) The duties imposed by subsections (4) and (5) on a police authority maintaining a police force and on the chief officer of such a force and on the Directors General of the National Criminal Intelligence Service and of the National Crime Squad have effect-
- (a) irrespective of whether the investigation relates to the conduct of a person who is or has been a member of that force or of that Service or Squad; and
 - (b) irrespective of who has the person appointed to carry out the investigation under his direction and control;

but a chief officer of a third force may be required to give assistance and co-operation under subsection (5) only with the approval of the chief officer of the force to which the person who requires it belongs or, as the case may be, of the Director General of the Service or Squad to which that person belongs.

- (7) In subsection (6) "third force", in relation to an investigation, means a police force other than-
- (a) the force to which the person carrying out the investigation belongs;
- or

- (b) the force to which the person whose conduct is under investigation belonged at the time of the conduct;

and in this subsection references to a police force include references to the National Criminal Intelligence Service and the National Crime Squad.

16 Payment for assistance with investigations

- (1) This section applies where-
 - (a) one police force is required to provide assistance to another in connection with an investigation under this Part; or
 - (b) a police force is required to provide assistance in such a connection to the Commission.
- (2) For the purposes of this section-
 - (a) assistance is required to be provided by one police force to another in connection with an investigation under this Part if the chief officer of the first force ("the assisting force") complies with a requirement under section 15 (3) or (5) that is made in connection with an investigation relating to the conduct of a person who, at the time of the conduct, was a member of the other force; and
 - (b) assistance is required to be provided in such a connection by a police force ("the assisting force") to the Commission if the chief officer of that force complies with a requirement under section 15(4) that is made in connection with an investigation relating to the conduct of a person who, at the time of the conduct, was not a member of that force.
- (3) Where the assistance is required to be provided by one police force to another, the police authority maintaining that other police force shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance-
 - (a) as may be agreed between them; or
 - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which-
 - (i) have been agreed to by police authorities generally; and

- (ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, by one police force to another; or
 - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (4) Where the assistance is required to be provided by a police force to the Commission, the Commission shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance-
 - (a) as may be agreed between the Commission and that authority; or
 - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which-
 - (i) have been agreed to by police authorities generally and by the Commission; and
 - (ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, to the Commission; or
 - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (5) In this section (subject to subsection (6))-
 - (a) references to a police force include references to the National Criminal Intelligence Service and to the National Crime Squad; and
 - (b) in relation to that Service or Squad, references to the police authority maintaining it and to the chief officer are references, respectively, to the Service Authority and to the Director General.
- (6) This section shall have effect in relation to cases in which assistance is required to be provided by the National Criminal Intelligence Service or National Crime Squad as if-

- (a) the reference in subsection (3)(b) to police authorities generally included a reference to the Service Authority for that Service or, as the case may be, for that Squad; and
 - (b) the reference in subsection (4)(b) to police authorities generally were a reference to the Service Authority for that Service or, as the case may be, for that Squad.
- (7) This section is without prejudice to the application of section 24 of the 1996 Act (assistance given voluntarily by one force to another) in a case in which assistance is provided, otherwise than in pursuance of any duty imposed by section 15 of this Act, in connection with an investigation under this Part.

17 Provision of information to the Commission

- (1) It shall be the duty of-
- (a) every police authority, and
 - (b) every chief officer,
- at such times, in such circumstances and in accordance with such other requirements as may be set out in regulations made by the Secretary of State, to provide the Commission with all such information and documents as may be specified or described in regulations so made.
- (2) It shall also be the duty of every police authority and of every chief officer-
- (a) to provide the Commission with all such other information and documents specified or described in a notification given by the Commission to that authority or chief officer, and
 - (b) to produce or deliver up to the Commission all such evidence and other things so specified or described,
- as appear to the Commission to be required by it for the purposes of the carrying out of any of its functions.
- (3) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under subsection (2) must be provided, produced or delivered up in such form, in such manner and within such period as may be specified in-

- (a) the notification imposing the requirement; or
 - (b) in any subsequent notification given by the Commission to that person for the purposes of this subsection.
- (4) Nothing in this section shall require a police authority or chief officer-
- (a) to provide the Commission with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for that authority or chief officer to do so; or
 - (b) to provide, produce or deliver up anything at all in a case in which it never becomes practicable for that authority or chief officer to do so.
- (5) A requirement imposed by any regulations or notification under this section may authorise or require information or documents to which it relates to be provided to the Commission electronically.

18 Inspections of police premises on behalf of the Commission

- (1) Where-
- (a) the Commission requires-
 - (i) a police authority maintaining any police force, or
 - (ii) the chief officer of police of any such force,to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purposes of that force and to documents and other things on those premises, and
 - (b) the requirement is imposed for any of the purposes mentioned in subsection (2),
- it shall be the duty of the authority or, as the case may be, of the chief officer to secure that the required access is allowed to the nominated person.

- (2) Those purposes are-
- (a) the purposes of any examination by the Commission of the efficiency and effectiveness of the arrangements made by the force in question for handling complaints or dealing with recordable conduct matters;
 - (b) the purposes of any investigation by the Commission under this Part or of any investigation carried out under its supervision or management.
- (3) A requirement imposed under this section for the purposes mentioned in subsection (2)(a) must be notified to the authority or chief officer at least 48 hours before the time at which access is required.

(4) Where-

- (a) a requirement imposed under this section for the purposes mentioned in subsection (2)(a) requires access to any premises, document or thing to be allowed to any person, but
- (b) there are reasonable grounds for not allowing that person to have the required access at the time at which he seeks to have it,

the obligation to secure that the required access is allowed shall have effect as an obligation to secure that the access is allowed to that person at the earliest practicable time after there cease to be any such grounds as that person may specify.

(5) The provisions of this section are in addition to, and without prejudice to-

- (a) the rights of entry, search and seizure that are or may be conferred on-
 - (i) a person designated for the purposes of paragraph 19 of Schedule 3, or
 - (ii) any person who otherwise acts on behalf of the Commission,
- in his capacity as a constable or as a person with the powers and privileges of a constable; or

- (b) the obligations of police authorities and chief officers under sections 15 and 17.

19 Use of investigatory powers by or on behalf of the Commission

- (1) The Secretary of State may by order make such provision as he thinks appropriate for the purpose of authorising-
 - (a) the use of directed and intrusive surveillance, and
 - (b) the conduct and use of covert human intelligence sources,for the purposes of, or for purposes connected with, the carrying out of the Commission's functions.
- (2) An order under this section may, for the purposes of or in connection with any such provision as is mentioned in subsection (1), provide for-
 - (a) Parts 2 and 4 the Regulation of Investigatory Powers Act 2000 (c. 23) (surveillance and covert human intelligence sources and scrutiny of investigatory powers), and
 - (b) Part 3 of the 1997 Act (authorisations in respect of property),to have effect with such modifications as may be specified in the order.
- (3) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by this section unless a draft of that order has been laid before Parliament and approved by a resolution of each House.
- (4) Expressions used in this section and in Part 2 of the Regulation of Investigatory Powers Act 2000 have the same meanings in this section as in that Part.

20 Duty to keep the complainant informed

- (1) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3-
 - (a) by the Commission, or
 - (b) under its management,

it shall be the duty of the Commission to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

- (2) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3-
 - (a) by the appropriate authority on its own behalf, or
 - (b) under the supervision of the Commission,

it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

- (3) Where subsection (2) applies, it shall be the duty of the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.

- (4) The matters of which the complainant must be kept properly informed are-
 - (a) the progress of the investigation;
 - (b) any provisional findings of the person carrying out the investigation;
 - (c) whether any report has been submitted under paragraph 22 of Schedule 3;
 - (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
 - (e) the outcome of any such action.
- (5) The duties imposed by this section on the Commission and the appropriate authority in relation to any complaint shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.
- (6) The Secretary of State shall not by regulations provide for any exceptions from the duties imposed by this section except so far as he considers it necessary to do so for the purpose of-
 - (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
 - (b) preventing the disclosure of information in any circumstances in which it has been determined in accordance with the regulations that its non-disclosure-
 - (i) is in the interests of national security;
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - (iii) is required on proportionality grounds; or
 - (iv) is otherwise necessary in the public interest.

- (7) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.
- (8) Regulations under this section may include provision framed by reference to the opinion of, or a determination by, the Commission or any police authority or chief officer.
- (9) It shall be the duty of a person appointed to carry out an investigation under this Part to provide the Commission or, as the case may be, the appropriate authority with all such information as the Commission or that authority may reasonably require for the purpose of performing its duty under this section.

21 Duty to provide information for other persons

- (1) A person has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if-
 - (a) it appears to the Commission or to an appropriate authority that he is a person falling within subsection (2); and
 - (b) that person has indicated that he consents to the provision of information to him in accordance with this section and that consent has not been withdrawn.
- (2) A person falls within this subsection if-
 - (a) he is a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter relates;
 - (b) he is a relative of a person whose serious injury is the alleged result from that conduct and that person is incapable of making a complaint;
 - (c) he himself has suffered serious injury as the alleged result of that conduct.

- (3) A person who does not fall within subsection (2) has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if-
- (a) the Commission or an appropriate authority considers that he has an interest in the handling of the complaint or recordable conduct matter which is sufficient to make it appropriate for information to be provided to him in accordance with this section; and
 - (b) he has indicated that he consents to the provision of information to him in accordance with this section.
- (4) In relation to a complaint, this section confers no rights on the complainant.
- (5) A person who has an interest in being kept properly informed about the handling of a complaint or conduct matter is referred to in this section as an "interested person".
- (6) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of Schedule 3-
- (a) by the Commission, or
 - (b) under its management,

it shall be the duty of the Commission to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).

- (7) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of Schedule 3-
- (a) by the appropriate authority on its own behalf, or
 - (b) under the supervision of the Commission,

it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).

- (8) Where subsection (7) applies, it shall be the duty of the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.
- (9) The matters of which the interested person must be kept properly informed are-
 - (a) the progress of the investigation;
 - (b) any provisional findings of the person carrying out the investigation;
 - (c) whether any report has been submitted under paragraph 22 of Schedule 3;
 - (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
 - (e) the outcome of any such action.
- (10) The duties imposed by this section on the Commission and the appropriate authority in relation to any complaint or recordable conduct matter shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.
- (11) Subsections (6) to (9) of section 20 apply for the purposes of this section as they apply for the purposes of that section.
- (12) In this section "relative" means a person of a description prescribed in regulations made by the Secretary of State.

Guidance and regulations

22 Power of the Commission to issue guidance

- (1) The Commission may issue guidance-
 - (a) to police authorities,
 - (b) to chief officers, and
 - (c) to persons who are serving with the police otherwise than as chief officers, concerning the exercise or performance, by the persons to whom the guidance is issued, of any of the powers or duties specified in subsection (2).
- (2) Those powers and duties are-
 - (a) those that are conferred or imposed by or under this Part; and
 - (b) those that are otherwise conferred or imposed but relate to-
 - (i) the handling of complaints;
 - (ii) the means by which recordable conduct matters are dealt with; or
 - (iii) the detection or deterrence of misconduct by persons serving with the police.
- (3) Before issuing any guidance under this section, the Commission shall consult with-
 - (a) persons whom it considers to represent the interests of police authorities;
 - (b) persons whom it considers to represent the interests of chief officers of police; and
 - (c) such other persons as it thinks fit.

- (4) The approval of the Secretary of State shall be required for the issue by the Commission of any guidance under this section.
- (5) Without prejudice to the generality of the preceding provisions of this section, the guidance that may be issued under this section includes-
 - (a) guidance about the handling of complaints which have not yet been recorded and about dealing with recordable conduct matters that have not been recorded;
 - (b) guidance about the procedure to be followed by the appropriate authority when recording a complaint or any recordable conduct matter;
 - (c) guidance about-
 - (i) how to decide whether a complaint is suitable for being subjected to local resolution; and
 - (ii) about the information to be provided to a person before his consent to such resolution is given;
 - (d) guidance about how to protect the scene of an incident or alleged incident which-
 - (i) is or may become the subject- matter of a complaint; or
 - (ii) is or may involve a recordable conduct matter;
 - (e) guidance about the circumstances in which it is appropriate (where it is lawful to do so)-
 - (i) to disclose to any person, or to publish, any information about an investigation of a complaint or conduct matter; or
 - (ii) to provide any person with, or to publish, any report or other document relating to such an investigation;
 - (f) guidance about the matters to be included in a memorandum under paragraph 23 or 25 of Schedule 3 and about the manner in which, and the place at which, such a memorandum is to be delivered to the Commission.

- (6) Nothing in this section shall authorise the issuing of any guidance about a particular case.
- (7) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in exercising or performing the powers and duties to which the guidance relates.
- (8) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

23 Regulations

- (1) The Secretary of State may make regulations as to the procedure to be followed under any provision of this Part.
- (2) Without prejudice to the generality of the power conferred by subsection (1) or of any other power to make regulations conferred by any provision of this Part, the Secretary of State may also by regulations provide-
 - (a) for the appropriate authority, in the case of a complaint against any person, to be required, in accordance with procedures provided for in the regulations-
 - (i) to supply the person complained against with a copy of the complaint; and
 - (ii) to supply the complainant with a copy of the record made of that complaint
 - (b) for the matters to be taken into account in making any determination as to which procedure to adopt for handling complaints and dealing with recordable conduct matters;

- (c) for any procedure for the purposes of this Part to be discontinued where-
- (i) a complaint is withdrawn;
 - (ii) the complainant indicates that he does not wish any further steps to be taken; or
 - (iii) the whole or part of the investigation of the complaint has been postponed until the conclusion of criminal proceedings and the complainant fails to indicate after the conclusion of those proceedings that he wishes the investigation to be resumed;

and for the manner in which any such withdrawal or indication is to be effected or given, and for the circumstances in which it is to be taken as effected or given;

- (d) for requiring the subject- matter of a complaint that has been withdrawn to be treated for the purposes of this Part, in the cases and to the extent specified in the regulations, as a recordable conduct matter;
- (e) for the manner in which any procedure for the purposes of this Part is to be discontinued in a case where it is discontinued in accordance with the regulations, and for the consequences of any such discontinuance;
- (f) for the circumstances in which any investigation or other procedure under this Part may be or must be suspended to allow any other investigation or proceedings to continue, and for the consequences of such a suspension;
- (g) for the regulation of the appointment of persons to carry out investigations under this Part or to assist with the carrying out of such investigations, for limiting the persons who may be appointed and for the regulation of the carrying out of any such investigation;

- (h) for combining into a single investigation-
 - (i) the investigations of different complaints (whether relating to the same or different conduct),
 - (ii) the investigations of different conduct matters, and
 - (iii) the investigation or investigations of any one or more complaints and the investigation or investigations of any one or more conduct matters, and for splitting a single investigation into two or more separate investigations;
- (i) for the procedure to be followed in cases in which the Commission relinquishes the supervision or management of any investigation and for the consequences of its doing so;
- (j) for the manner in which any reference of a complaint or conduct matter to the Commission is to be made;
- (k) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or recordable conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct;
- (l) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or conduct matter relates to the conduct of a person-
 - (i) whose identity is unascertained at the time at which a complaint is made or a conduct matter is recorded;
 - (ii) whose identity is not ascertained during, or subsequent to, the investigation of a complaint or recordable conduct matter;
- (m) for the Commission-
 - (i) to be required to notify actions and decisions it takes in consequence of the receipt of a memorandum under paragraph 23 or 25 of Schedule 3; and

- (ii) to be authorised to provide information in relation to the matters notified;
- (n) for the records to be kept by police authorities and chief officers-
 - (i) with respect to complaints and purported complaints;
 - (ii) with respect to recordable conduct matters; and
 - (iii) with respect to the exercise and performance of their powers and duties under this Part;
- (o) for the Commission to be required to establish and maintain a register of such information provided to it in accordance with this Part as may be of a description specified in the regulations and for regulating the extent to which information stored on that register may be published or otherwise disclosed to any person by the Commission;
- (p) for chief officers to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part;
- (q) for the manner in which any notification for the purposes of any provision of this Part is to be given and the time at which, or period within which, any such notification must be given.

24 Consultation on regulations

Before making any regulations under this Part, the Secretary of State shall consult with-

- (a) the Commission;
- (b) persons whom he considers to represent the interests of police authorities;
- (c) persons whom he considers to represent the interests of chief officers of police; and
- (d) such other persons as he thinks fit.

Conduct of persons in other forms of police service

25 NCIS and NCS

(1) For subsection (1) of section 39 of the 1997 Act (complaints about members of NCIS) there shall be substituted-

"(1) The Secretary of State may by regulations make provision about-

(a) the handling of complaints about the conduct of members of NCIS;

(b) the recording of matters from which it appears there may have been misconduct by members of NCIS; and

(c) the investigation of such complaints and matters."

(2) In subsection (2) of that section-

(a) for "shall" there shall be substituted "may"; and

(b) for paragraph (c) there shall be substituted-

"(c) for applying, with such modifications as he may think fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 30) (complaints and misconduct)."

(3) After that subsection there shall be inserted

"(2ZA) Regulations under subsection (1) may provide

(a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and

(b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified."

(4) Subsection (3) of that section (guidance by the Secretary of State after consultation with the Scottish Ministers) shall cease to have effect.

(5) For subsections (1) to (3) of section 83 of that Act (complaints about members of NCS and guidance by the Secretary of State) there shall be substituted-

"(1) The Secretary of State may by regulations make provision about(

- a) the handling of complaints about the conduct of members of National Crime Squad;
- (b) the recording of matters from which it appears there may have been misconduct by members of the National Crime Squad; and
- (c) the investigation of such complaints and matters.

(2) Regulations under this section may make such provision as the Secretary of State thinks desirable for applying, with such modifications as he thinks fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 00) (complaints and misconduct).

(2A) Regulations under this section may provide-

- (a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and
- (b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified."

26 Forces maintained otherwise than by police authorities

(1) Notwithstanding any provision made by or under any enactment passed or made before this Act-

- (a) the Commission, and
- (b) an authority other than a police authority which maintains a body of constables,

shall each have power to enter into an agreement with the other for the establishment and maintenance in relation to that body of constables of procedures corresponding or similar to any of those provided for by or under this Part.

(2) If it appears to the Secretary of State appropriate to do so in relation to any body of constables maintained otherwise than by a police authority to establish any such corresponding or similar procedures, he may by order-

- (a) provide for the establishment and maintenance of such procedures in relation to that body of constables; and
- (b) in a case in which procedures in relation to that body of constables have effect by virtue of subsection (9) or have previously been established by virtue of this section-
 - (i) provide for those procedures to be superseded by the provision made by the order; and
 - (ii) make transitional provision in connection with the replacement of the superseded procedures.

(3) It shall be the duty of the Secretary of State to secure that procedures are established and maintained under subsection (2) in relation to each of the following-

- (a) the Ministry of Defence Police; and
- (b) the British Transport Police Force.

- (4) An agreement under this section shall not be made, varied or terminated except with the approval of the Secretary of State.
- (5) An agreement or order under this section in relation to any body of constables may contain provision for enabling the Commission to bring and conduct, or otherwise participate or intervene in, any proceedings which are identified by the agreement or order as disciplinary proceedings in relation to members of that body of constables.
- (6) An agreement or order under this section in relation to any body of constables may provide for the application of procedures in relation to persons who are not themselves constables but are employed for the purposes of that body of constables and in relation to the conduct of such persons, as well as in relation to members of that body of constables and their conduct
- (7) Before making an order under this section the Secretary of State shall consult with both
 - (a) the Commission; and
 - (b) the authority maintaining the body of constables to whom the order relates.
- (8) Procedures established in accordance with any agreement or order under this section shall have no effect in relation to anything done outside England and Wales by any constable or any person employed for the purposes of a body of constables.
- (9) Where, immediately before the coming into force of this section, any procedures have effect in relation to any body of constables by virtue of
 - (a) section 78 of the 1996 Act (which made provisions similar to that made by this section), or
 - (b) paragraph 13 of Schedule 8 to that Act (transitional provisions),

those procedures shall continue to have effect thereafter (notwithstanding the repeal by this Act of Chapter 1 of Part 4 of the 1996 Act and of that paragraph) until superseded by procedures established by virtue of any agreement or order under this section.

- (10) Subsection (9) has effect subject to the provisions of any order made under section 28.

27 Conduct of the Commission's staff

- (1) The Secretary of State shall by regulations make provision for the manner in which the following cases are to be handled or dealt with-
- (a) cases in which allegations of misconduct are made against members of the Commission's staff; and
 - (b) cases in which there is otherwise an indication that there may have been misconduct by a member of the Commission's staff.
- (2) Regulations under this section may apply, with such modifications as the Secretary of State thinks fit, any provision made by or under this Part.
- (3) Regulations under this section may provide for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be specified in the regulations.
- (4) Before making any regulations under this section the Secretary of State shall consult with the Commission.

Transitional provisions

28 Transitional arrangements connected with establishing the Commission etc.

- (1) The Secretary of State may, in connection with the coming into force of any provision of this Part, by order make such transitional provision and savings (including provision modifying this Part) as he thinks fit.
- (2) The Secretary of State may, for the purpose of facilitating the carrying out by the Commission of its functions, or in connection with the coming into force of any provision of this Part, by order make such provision as he thinks fit-
- (a) for the transfer and apportionment of property; and
 - (b) for the transfer, apportionment and creation of rights and liabilities

(3) The provision that may be made by an order under this section shall include provision that-

- (a) pending the coming into force of any repeal by this Act of an enactment contained in Chapter 1 of Part 4 of the 1996 Act (complaints), or
- (b) for transitional purposes connected with the coming into force of any such repeal,

the functions of the Police Complaints Authority under an enactment so contained are to be carried out by the Commission.

(4) The provision that may be made by an order under this section shall also include transitional provision in connection with the repeal by this Act of the reference to the Police Complaints Authority in Schedule 1 to the Superannuation Act 1972 (c. 11).

(5) An order under this section may-

- (a) provide for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order; and
- (b) make provision as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (a).

(6) Where a person-

- (a) ceases to be a member of the Police Complaints Authority by reason of its abolition, and
- (b) does not become a member of the Commission,

the Secretary of State may make a payment to that person of such amount as the Secretary of State may, with the consent of the Treasury, determine.

Interpretation of Part 2

29 Interpretation of Part 2

(1) In this Part-

"the appropriate authority", in relation to a person serving with the police or in relation to any complaint, matter or investigation relating to the conduct of such a person, means-

- (a) if that person is a senior officer, the police authority for the area of the police force of which he is a member; and
- (b) if he is not a senior officer, the chief officer under whose direction and control he is;

"chief officer" means the chief officer of police of any police force;

"the Commission" has the meaning given by section 9(1);

"complainant" shall be construed in accordance with subsection (2);

"complaint" has the meaning given by section 12;

"conduct" includes acts, omissions and statements (whether actual, alleged or inferred);

"conduct matter" has the meaning given by section 12;

"disciplinary proceedings" means-

- (a) in relation to a member of a police force or a special constable, proceedings under any regulations made by virtue of section 50 or 51 of the 1996 Act and identified as disciplinary proceedings by those regulations; and
- (b) in relation to a person serving with the police who is not a member of a police force or a special constable, proceedings identified as such by regulations made by the Secretary of State for the purposes of this Part;

"document" means anything in which information of any description is recorded;

"information" includes estimates and projections, and statistical analyses;

"local resolution", in relation to a complaint, means the handling of that complaint in accordance with a procedure which-

- (a) does not involve a formal investigation; and
- (b) is laid down by regulations under paragraph 8 of Schedule 3 for complaints which it has been decided, in accordance with paragraph 6 of that Schedule, to subject to local resolution;

"person complained against", in relation to a complaint, means the person whose conduct is the subject- matter of the complaint;

"recordable conduct matter" means (subject to any regulations under section 23(2)(d))-

- (a) a conduct matter that is required to be recorded by the appropriate authority under paragraph 10 or 11 of Schedule 3 or has been so recorded; or
- (b) except in sub-paragraph (4) of paragraph 2 of Schedule 3, any matter brought to the attention of the appropriate authority under that sub-paragraph;

"relevant force", in relation to the appropriate authority, means-

- (a) if that authority is a police authority, the police force maintained by it; and
- (b) if that authority is the chief officer of police of a police force, his force;

"senior officer" means a member of a police force holding a rank above that of chief superintendent;

"serious injury" means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

"serving with the police", in relation to any person, shall be construed in accordance with section 12(7).

- (2) References in this Part, in relation to anything which is or purports to be a complaint, to the complainant are references-
- (a) except in the case of anything which is or purports to be a complaint falling within section 12(1)(d), to the person by whom the complaint or purported complaint was made; and
 - (b) in that case, to the person on whose behalf the complaint or purported complaint was made;

but where any person is acting on another's behalf for the purposes of any complaint or purported complaint, anything that is to be or may be done under this Part by or in relation to the complainant may be done, instead, by or in relation to the person acting on the complainant's behalf.

- (3) Subject to subsection (4), references in this Part, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to any person falling within any of the following paragraphs (whether at the time of the conduct or at any subsequent time)-
- (a) a person serving with the police;
 - (b) a member of the National Criminal Intelligence Service or the National Crime Squad;
 - (c) a member of the staff of the Central Police Training and Development Authority; or
 - (d) a person engaged on relevant service, within the meaning of section 97(1)(a), (cc) or (d) of the 1996 Act (temporary service otherwise than with NCIS or NCS).
- (4) In this Part references, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to-
- (a) a person who, at the time when the conduct is supposed to have taken place, was under the direction and control of the same chief officer as the person whose conduct it was; or

(b) a person who-

- (i) at the time when the conduct is supposed to have taken place, in relation to him, or
- (ii) at the time when he is supposed to have been adversely affected by it, or to have witnessed it,

was on duty in his capacity as a person falling within subsection (3)(a) to (d).

- (5) For the purposes of this Part a person is adversely affected if he suffers any form of loss or damage, distress or inconvenience, if he is put in danger or if he is otherwise unduly put at risk of being adversely affected.
- (6) References in this Part to the investigation of any complaint or matter by the appropriate authority on its own behalf, under the supervision of the Commission, under the management of the Commission or by the Commission itself shall be construed as references to its investigation in accordance with paragraph 16, 17, 18 or, as the case may be, 19 of Schedule 3.
- (7) The Commissioner of Police for the City of London shall be treated for the purposes of this Part as if he were a member of the City of London police force.

SCHEDULE 2

Section 9

THE INDEPENDENT POLICE COMPLAINTS COMMISSION

1 Chairman

- (1) The chairman of the Commission shall hold office as chairman of the Commission in accordance with the terms of his appointment.
- (2) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he was sentenced, be appointed as chairman of the Commission; and an appointment made in contravention of this sub-paragraph shall have no effect.
- (3) The appointment of the chairman of the Commission shall be for a term not exceeding five years; but the chairman shall be eligible for re-appointment at the end of his term of office.
- (4) The chairman of the Commission may be removed from office by Her Majesty either
 - (a) at his own request; or
 - (b) on being advised by the Secretary of State that there are grounds falling with sub-paragraph (5) for the removal of the chairman.
- (5) The following are grounds for removing the chairman from office
 - (a) that he has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months;
 - (b) that he has become a person falling within one or more paragraphs of section 9(3);
 - (c) that he has, since his appointment, been sentenced to imprisonment for a term of three months or more;

- (d) that he is a person who-
 - (i) has had a bankruptcy order made against him;
 - (ii) has had his estate sequestrated; or
 - (iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;
 - (e) that he is subject to-
 - (i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under Part 2 of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18)); or
 - (ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);
 - (f) that he has acted improperly in relation to his duties; or
 - (g) that he is otherwise unable or unfit to perform his duties.
- (6) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

2 Ordinary members of the Commission

- (1) Subject to the provisions of this Schedule, a person shall hold office as an ordinary member in accordance with the terms of his appointment.
- (2) An appointment as an ordinary member may be to whole or to part time membership of the Commission.
- (3) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he is sentenced, be appointed as an ordinary member; and an appointment made in contravention of this sub-paragraph shall have no effect.

- (4) A person shall not be appointed to be an ordinary member for a term of more than five years; but an ordinary member shall be eligible for re-appointment at the end of his term of office.
- (5) An ordinary member may at any time resign his office as a member of the Commission by notice in writing to the Secretary of State.
- (6) The Secretary of State may at any time remove a person from office as an ordinary member if he is satisfied that that person-
 - (a) has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months beginning not earlier than six months before that time;
 - (b) has become a person falling within one or more paragraphs of section 9(3);
 - (c) has, since his appointment, been sentenced to imprisonment for a term of three months or more;
 - (d) is a person who-
 - (i) has had a bankruptcy order made against him;
 - (ii) has had his estate sequestrated; or
 - (iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;
 - (e) is subject to-
 - (i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under Part 2 of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18)); or
 - (ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);
 - (f) has acted improperly in relation to his duties; or
 - (g) is otherwise unable or unfit to perform his duties.

- (7) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.
- (8) In this paragraph "ordinary member" means a member of the Commission other than the chairman.

3 Deputy Chairmen

- (1) The Secretary of State may appoint not more than two deputy chairmen of the Commission from amongst its members.
- (2) A person who ceases to hold office as a member of the Commission shall cease at the same time to hold office as deputy chairman of the Commission.
- (3) A person shall hold office as a deputy chairman of the Commission in accordance with the terms of his appointment.
- (4) A deputy chairman of the Commission may at any time resign his office as a deputy chairman by notice in writing to the Secretary of State.
- (5) A deputy chairman of the Commission who is reappointed as a member from the time that would otherwise have been the end of his term of office as a member shall cease to be a deputy chairman at that time unless he is also reappointed to that office.

4 Remuneration, pensions etc. of members

- (1) 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 the chairman, deputy chairmen and members of the Commission, or any of them, as he may determine.

- (2) Where-
- (a) a person ceases, otherwise than on the expiry of his term of office, to hold office as chairman, deputy chairman or member of the Commission, and
 - (b) 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 direct the Commission to make a payment to that person of such amount as the Secretary of State may determine.

5 The Chief Executive

- (1) The Commission shall have a chief executive.
- (2) Subject to sub-paragraphs (3) and (5), it shall be for the Commission to appoint the person to be its chief executive.
- (3) The approval of the Secretary of State shall be required for any appointment by the Commission of a person to be its chief executive.
- (4) Subject to sub-paragraph (5), the Commission's chief executive shall be appointed on such terms and conditions and shall have such functions as the Commission may, with the approval of the Secretary of State, determine.
- (5) The first appointment of a person to be the chief executive of the Commission shall be made by the Secretary of State, instead of by the Commission; and the terms and conditions on which that appointment is made shall also be determined by the Secretary of State, instead of by the Commission.

6 Staff

- (1) The Commission may appoint such employees, on such terms and conditions, as appear to it to be appropriate.
- (2) The Commission may make arrangements with
 - (a) the chief officer of police of any police force maintained for a police area in England and Wales,
 - (b) the chief constable of any police force maintained for a police area in Scotland, or
 - (c) the Chief Constable of the Police Service of Northern Ireland, under which members of his force are engaged on temporary service with the Commission.
- (3) The Commission may make such other arrangements for its staffing as it thinks fit.
- (4) A member of a police force on temporary service with the Commission shall be under the direction and control of the Commission.
- (5) The approval of the Secretary of State as to numbers and as to the terms and conditions of staff shall be required for the exercise by the Commission of its powers under this paragraph.

7 Superannuation and insurance

- (1) Where a person who
 - (a) is employed by the Commission, and
 - (b) is by reference to that employment a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11),

is appointed as the chairman or as a deputy chairman of the Commission or as a member of it, the Treasury may determine that his service in that office shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by anything done under paragraph 4.

- (2) The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) shall not require insurance to be effected by the Commission.

8 Liability for acts of seconded staff

- (1) The Commission shall be liable in respect of unlawful conduct of seconded constables in the carrying out, or purported carrying out, of their functions as members of the Commission's staff in the like manner as an employer is liable in respect of any unlawful conduct of his employees in the course of their employment.
- (2) Accordingly, the Commission shall be treated in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.
- (3) In this paragraph "seconded constables" means persons serving as members of the Commission's staff without being employed by it.

9 Power of Commission to set up regional offices

If it appears to the Commission that it is necessary to do so in order to carry out its functions efficiently, the Commission may, with the consent of the Secretary of State, set up regional offices in places in England and Wales.

10 Proceedings

- (1) The arrangements for the proceedings of the Commission (including the quorum for meetings and the establishment of committees) shall be such as the Commission may determine.
- (2) The arrangements may include provision for the committees established under the arrangements to include members of the Commission's staff and other persons who are not members of the Commission.
- (3) The arrangements may include provision for persons selected by the Commission to attend meetings of the Commission or of any committee established by it.

- (4) The Commission may-
- (a) pay such remuneration and allowances as it may determine to members of committees established by it who are neither members of the Commission nor members of its staff; and
 - (b) make such payments for the reimbursement of expenses incurred by persons attending meetings in accordance with arrangements made by virtue of sub-paragraph (3) as it may determine.
- (5) The arrangements may provide for the carrying out, under the general direction of the Commission, of any of the Commission's functions-
- (a) by a committee established by the Commission;
 - (b) by one or more of the members of the Commission; or
 - (c) by the chief executive or by one or more members of the Commission's staff.
- (6) The making of arrangements by virtue of sub-paragraph (5) shall require the consent of the Secretary of State.
- (11) The validity of any proceedings of the Commission or of any of its committees shall not be affected by-
- (a) any defect in the appointment of the chairman, a deputy chairman or any member of the Commission; or
 - (b) any vacancy in the office of chairman or among the members of the Commission.

12 Authentication of the Commission's seal

The application of the seal of the Commission shall be authenticated by the signature of-

- (a) any member of the Commission; or
- (b) any other person who has been authorised by the Commission (whether generally or specially) for that purpose.

13 Evidence of documents

A document purporting to be-

- (a) duly executed by the Commission under its seal, or
- (b) signed on its behalf,

shall be received in evidence and shall, unless the contrary is shown, be taken to be so executed or signed.

14 Payments by the Secretary of State

The Secretary of State may pay to the Commission-

- (a) sums equal to any amounts paid or falling to be paid by it under any provision of this Act (other than paragraph 15); and
- (b) such other sums as appear to him to be appropriate for enabling it to meet the expenses incurred or to be incurred by it in the carrying out of its functions.

15 Other receipts by the Commission

- (1) The Commission shall pay to the Secretary of State all sums received by it (otherwise than under paragraph 14) in the course of, or in connection with, the carrying out of its functions.
- (2) Sub-paragraph (1) shall not apply where the Secretary of State so directs.
- (3) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.

16 Borrowing

The Commission shall not borrow money unless authorised to do so (whether generally or specially) by the Secretary of State.

17 Accounts

- (1) The Commission shall-
 - (a) keep proper accounts and proper records in relation to the accounts;
 - (b) prepare in respect of each financial year of the Commission a statement of accounts in such form as the Secretary of State may direct; and
 - (c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of August in the financial year of the Commission following that to which the statement relates.
- (2) The Comptroller and Auditor General shall-
 - (a) examine, certify and report on every statement received by him by virtue of this paragraph; and
 - (b) lay copies of every such statement, and of his report on it, before Parliament.

18 Financial year of the Commission

The following are financial years of the Commission-

- (a) the period beginning with the day on which the Commission is established and ending with 31st March falling next after that day; and
- (b) every subsequent period of twelve months ending with 31st March.

SCHEDULE 3

Section 13 HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC.

PART 1

HANDLING OF COMPLAINTS

1 Duties to preserve evidence relating to complaints

- (1) Where a complaint is made about the conduct of a chief officer, it shall be the duty of the police authority maintaining his force to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct complained of.
- (2) Where-
 - (a) a complaint is made to a chief officer about the conduct of a person under his direction and control, or
 - (b) a chief officer becomes aware that a complaint about the conduct of a person under his direction or control has been made to the Commission or to a police authority,

the chief officer shall take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.
- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after the complaint is made or, as the case may be, he becomes aware of it.
- (4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.
- (5) It shall be the duty of a police authority to comply with all such directions as may be given to it by the Commission in relation to the performance of its duty under subparagraph (1).

- (6) It shall be the duty of a chief officer to take all such specific steps for obtaining or preserving evidence relating to any conduct that is the subject-matter of a complaint as he may be directed to take for the purposes of this paragraph by the police authority maintaining his force or by the Commission.

2 Initial handling and recording of complaints

- (1) Where a complaint is made to the Commission-
 - (a) it shall ascertain whether the complainant is content for the police authority or chief officer who is the appropriate authority to be notified of the complaint; and
 - (b) it shall give notification of the complaint to the appropriate authority if, and only if, the complainant is so content.
- (2) Where a complaint is made to a police authority, it shall-
 - (a) determine whether or not it is itself the appropriate authority; and
 - (b) if it determines that it is not, give notification of the complaint to the person who is.
- (3) Where a complaint is made to a chief officer, he shall-
 - (a) determine whether or not he is himself the appropriate authority; and
 - (b) if he determines that he is not, give notification of the complaint to the person who is.

- (4) Where the Commission-
- (a) is prevented by sub-paragraph (1)(b) from notifying any complaint to the appropriate authority, and
 - (b) considers that it is in the public interest for the subject- matter of the complaint to be brought to the attention of the appropriate authority and recorded under paragraph 11,

the Commission may bring that matter to the appropriate authority's attention under that paragraph as if it were a recordable conduct matter, and (if it does so) the following provisions of this Schedule shall have effect accordingly as if it were such a matter.

- (5) Where the Commission, a police authority or a chief officer gives notification of a complaint under any of sub-paragraphs (1) to (3) or the Commission brings any matter to the appropriate authority's attention under sub-paragraph (4), the person who gave the notification or, as the case may be, the Commission shall notify the complainant-
- (a) that the notification has been given and of what it contained; or
 - (b) that the matter has been brought to the appropriate authority's attention to be dealt with otherwise than as a complaint.

- (6) Where-
- (a) a police authority determines, in the case of any complaint made to the authority, that it is itself the appropriate authority,
 - (b) a chief officer determines, in the case of any complaint made to that chief officer, that he is himself the appropriate authority, or
 - (c) a complaint is notified to a police authority or chief officer under this paragraph,

the authority or chief officer shall record the complaint.

- (7) Nothing in this paragraph shall require the notification or recording by any person of any complaint about any conduct if-
- (a) that person is satisfied that the subject- matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct it was; or
 - (b) the complaint has been withdrawn.

3 Failures to notify or record a complaint

- (1) This paragraph applies where anything which is or purports to be a complaint in relation to which paragraph (2) has effect is received by a police authority or chief officer (whether in consequence of having been made directly or of a notification under that paragraph).
- (2) If the police authority or chief officer decides not to take action under paragraph (2) for notifying or recording the whole or any part of what has been received, the authority or chief officer shall notify the complainant of the following matters-
- (a) the decision to take no action and, if that decision relates to only part of what was received, the part in question;
 - (b) the grounds on which the decision was made; and
 - (c) that complainant's right to appeal against that decision under this paragraph.
- (3) The complainant shall have a right of appeal to the Commission against any failure by the police authority or chief officer to make a determination under paragraph 2 or to notify or record anything under that paragraph.

- (4) On an appeal under this paragraph, the Commission shall-
- (a) determine whether any action under paragraph 2 should have been taken in the case in question; and
 - (b) if the Commission finds in the complainant's favour, give such directions as the Commission considers appropriate to the police authority or chief officer as to the action to be taken for making a determination, or for notifying or recording what was received;

and it shall be the duty of a police authority or chief officer to comply with any directions given under paragraph (b).

- (5) Directions under sub-paragraph (4)(b) may require action taken in pursuance of the directions to be treated as taken in accordance with any such provision of paragraph 2 as may be specified in the direction.

- (6) The Commission-

- (a) shall give notification both to the police authority or, as the case may be, the chief officer and to the complainant of any determination made by it under this paragraph; and
- (b) shall give notification to the complainant of any direction given by it under this paragraph to the police authority or chief officer.

- (7) The Secretary of State may by regulations make provision-

- (a) for the form and manner in which appeals under this paragraph are to be brought;
- (b) for the period within which any such appeal must be brought; and
- (c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

4 Reference of complaints to the Commission

- (1) It shall be the duty of the appropriate authority to refer a complaint to the Commission if
 - (a) the complaint is one alleging that the conduct complained of has resulted in death or serious injury;
 - (b) the complaint is of a description specified for the purposes of this subparagraph in regulations made by the Secretary of State; or
 - (c) the Commission notifies the appropriate authority that it requires the complaint in question to be referred to the Commission for its consideration.

- (2) In a case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a complaint to the Commission if that authority considers that it would be appropriate to do so by reason of
 - (a) the gravity of the subject- matter of the complaint; or
 - (b) any exceptional circumstances.

- (3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a police authority may refer a complaint to the Commission if-
 - (a) it is one in relation to which the chief officer of police of the police force maintained by that authority is the appropriate authority; and
 - (b) the police authority considers that it would be appropriate to do so reason of-
 - (i) the gravity of the subject- matter of the complaint; or
 - (ii) any exceptional circumstances.

- (4) Where there is an obligation under this paragraph to refer a complaint to the Commission, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.

- (5) Subject to sub-paragraph (7), the following powers-
- (a) the power of the Commission by virtue of sub-paragraph (1)(c) to require a complaint to be referred to it, and
 - (b) the power of a police authority or chief officer to refer a complaint to the Commission under sub-paragraph (2) or (3),
- shall each be exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the Commission.
- (6) A police authority or chief officer which refers a complaint to the Commission under this paragraph shall give a notification of the making of the reference-
- (a) to the complainant, and
 - (b) except in a case where it appears to that authority or chief officer that to do so might prejudice a possible future investigation of the complaint, to the person complained against.
- (7) A complaint that has already been referred to the Commission under this paragraph on a previous occasion-
- (a) shall not be required to be referred again under this paragraph unless the Commission so directs; and
 - (b) shall not be referred in exercise of any power conferred by this paragraph unless the Commission consents.

5 Duties of Commission on references under paragraph 4

- (1) It shall be the duty of the Commission in the case of every complaint referred to it by a police authority or chief officer, to determine whether or not it is necessary for the complaint to be investigated.
- (2) Where the Commission determines under this paragraph that it is not necessary for a complaint to be investigated, it may, if it thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with paragraph 6.

- (3) Where the Commission refers a complaint back under sub-paragraph (2), it shall give a notification of the making of the reference back-
 - (a) to the complainant, and
 - (b) except in a case where it appears to the Commission that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

6 Handling of complaints by the appropriate authority

- (1) This paragraph applies where a complaint has been recorded by the appropriate authority unless the complaint-
 - (a) is one which has been, or must be, referred to the Commission under paragraph 4; and
 - (b) is not for the time being either referred back to the authority under paragraph 5 or the subject of a determination under paragraph 15.
- (2) Subject to paragraph 7, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution, and-
 - (a) if it determines that it is so suitable and the complainant consents, it shall make arrangements for it to be so subjected; and
 - (b) in any other case, it shall make arrangements for the complaint to be investigated by that authority on its own behalf.
- (3) A determination that a complaint is suitable for being subjected to local resolution shall not be made unless either-
 - (a) the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not justify the bringing of any criminal or disciplinary proceedings; or
 - (b) the Commission, in a case falling within sub-paragraph (4), has approved the use of local resolution.

- (4) The Commission may approve the use of local resolution in the case of any complaint if, on an application by the appropriate authority, the Commission is satisfied-
- (a) that the following two conditions are fulfilled-
 - (i) that the conduct complained of (even if it were proved) would not justify the bringing of any criminal proceedings; and
 - (ii) that any disciplinary proceedings the bringing of which would be justified in respect of that conduct (even if it were proved) would be unlikely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine;
- or
- (b) that it will not be practicable (even if the complaint is thoroughly investigated) for either of the following to be brought-
 - (i) criminal proceedings in respect of the conduct to which it relates that would be likely to result in a conviction; or
 - (ii) disciplinary proceedings in respect of that conduct that would be likely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine.
- (5) No more than one application may be made to the Commission for the purposes of sub-paragraph (4) in respect of the same complaint.
- (6) Before a complainant can give his consent for the purposes of this paragraph to the local resolution of his complaint he must have been informed of his rights of appeal under paragraph 9.
- (7) A consent given for the purposes of this paragraph shall not be capable of being withdrawn at any time after the procedure for the local resolution of the complaint has been begun.

7 Dispensation by the Commission from requirements of Schedule

- (1) If, in a case in which paragraph (6) applies, the appropriate authority considers-
 - (a) that it should handle the complaint otherwise than in accordance with this Schedule or should take no action in relation to it, and
 - (b) that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph,

the appropriate authority may apply to the Commission, in accordance with the regulations, for permission to handle the complaint in whatever manner (if any) that authority thinks fit.
- (2) The appropriate authority shall notify the complainant about the making of the application under this paragraph.
- (3) Where such an application is made to the Commission, it shall, in accordance with regulations made by the Secretary of State-
 - (a) consider the application and determine whether to grant the permission applied for; and
 - (b) notify its decision to the appropriate authority and the complainant.
- (4) Where an application is made under this paragraph in respect of any complaint, the appropriate authority shall not, while the application is being considered by the Commission, take any action in accordance with the provisions of this Schedule (other than under paragraph 1) in relation to that complaint.
- (5) Where the Commission gives permission under this paragraph to handle the complaint in whatever manner (if any) the appropriate authority thinks fit, the authority-
 - (a) shall not be required by virtue of any of the provisions of this Schedule (other than paragraph 1) to take any action in relation to the complaint; but

- (b) may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint, and for the purposes of handling the complaint may take any step that it could have taken, or would have been required to take, but for the permission.
- (6) Where the Commission determines that no permission should be granted under this paragraph-
 - (a) it shall refer the matter back to the appropriate authority for the making of a determination under paragraph 6(2); and
 - (b) the authority shall then make that determination.
- (7) No more than one application may be made to the Commission under this paragraph in respect of the same complaint.

8 Local resolution of complaints

- (1) The arrangements made by the appropriate authority for subjecting any complaint to local resolution may include the appointment of a person who-
 - (a) is serving with the police, and
 - (b) is under the direction and control of the chief officer of police of the relevant force,to secure the local resolution of the complaint.
- (2) The Secretary of State may by regulations make provision-
 - (a) for the different descriptions of procedures that are to be available for dealing with a complaint where it is decided it is to be subjected to local resolution;
 - (b) for requiring a person complained against in a case in which the complaint is subjected to local resolution to be given an opportunity of commenting, in such manner as may be provided for in the regulations, on the complaint;

- (c) for requiring that, on the making of an application in accordance with the regulations, a record of the outcome of any procedure for the local resolution of any complaint is to be given to the complainant.
- (3) A statement made by any person for the purposes of the local resolution of any complaint shall not be admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to local resolution.
- (4) If, after attempts have been made to resolve a complaint using local resolution, it appears to the appropriate authority-
- (a) that the resolution of the complaint in that manner is impossible, or
 - (b) that the complaint is, for any other reason, not suitable for such resolution,
- it shall make arrangements for the complaint to be investigated by that authority on its own behalf.
- (5) The local resolution of any complaint shall be discontinued if-
- (a) any arrangements are made under sub-paragraph (4);
 - (b) the Commission notifies the appropriate authority that it requires the complaint to be referred to the Commission under paragraph 4; or
 - (c) the complaint is so referred otherwise than in pursuance of such a notification.
- (6) A person who has participated in any attempt to resolve a complaint using local resolution shall be disqualified for appointment under any provision of this Schedule to investigate that complaint, or to assist with the carrying out of the investigation of that complaint.

9 Appeals relating to local resolution

- (1) Subject to sub-paragraph (2), a complainant whose complaint has been subjected to local resolution shall have a right of appeal to the Commission against the conduct of the local resolution of that complaint.

- (2) The only matter that shall fall to be determined on an appeal under this paragraph is whether there have been any contraventions of the procedural requirements relating to the local resolution of the complaint.
- (3) Where an appeal is brought under this paragraph, it shall be the duty of the Commission to give both-
 - (a) the person complained against, and
 - (b) the appropriate authority,an opportunity of making representations about the matters to which the appeal relates.
- (4) On an appeal under this paragraph, the Commission shall determine whether there have been any contraventions of the procedural requirements relating to the local resolution of the complaint.
- (5) Where the Commission finds in the complainant's favour on an appeal under this paragraph-
 - (a) it shall give such directions as the Commission considers appropriate to the appropriate authority as to the future handling of the complaint; and
 - (b) it shall be the duty of the appropriate authority to comply with any directions given to it under this sub-paragraph.
- (6) Where the Commission determines for the purposes of sub-paragraph (5) that the future handling of the complaint should include an investigation, paragraph 15 shall apply as it applies in the case of a determination mentioned in sub-paragraph (1) of that paragraph.
- (7) The Commission-
 - (a) shall give notification to the appropriate authority, to the complainant and to the person complained against of any determination made by it under this paragraph; and
 - (b) shall give notification to the complainant and to the person complained against of any direction given by it under this paragraph to the appropriate authority.

- (8) The Secretary of State may by regulations make provision-
- (a) for the form and manner in which appeals under this paragraph are to be brought;
 - (b) for the period within which any such appeal must be brought; and
 - (c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

PART 2

HANDLING OF CONDUCT MATTERS

10 Conduct matters arising in civil proceedings

- (1) This paragraph applies where-
 - (a) a police authority or chief officer has received notification (whether or not under this paragraph) that civil proceedings relating to any matter have been brought by a member of the public against that authority or chief officer, or it otherwise appears to a police authority or chief officer that such proceedings are likely to be so brought; and
 - (b) it appears to that authority or chief officer (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter.
- (2) The authority or chief officer-
 - (a) shall consider whether it or, as the case may be, he is the appropriate authority in relation to the conduct matter in question; and
 - (b) if it or he is not, shall notify the person who is the appropriate authority about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as mentioned in subparagraph (1)(b).
- (3) Where a police authority or chief officer determines for the purposes of this paragraph that it or, as the case may be, he is the appropriate authority in relation to any conduct matter, it or he shall record that matter.
- (4) Where the appropriate authority records any matter under this paragraph it-
 - (a) shall first determine whether the matter is one which it is required to refer to the Commission under paragraph 13 or is one which it would be appropriate to so refer; and
 - (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.

- (5) Nothing in sub-paragraph (3) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.
- (6) For the purposes of this paragraph civil proceedings involve a conduct matter if-
 - (a) they relate to such a matter; or
 - (b) they are proceedings that relate to a matter in relation to which a conduct matter, or evidence of a conduct matter, is or may be relevant.
- (7) The Secretary of State may by regulations provide for the times at which, or the periods within which, any requirement of this paragraph is to be complied with; and the period from which any such period is to run shall be such time as may be specified in those regulations or as may be determined in a manner set out in the regulations.

11 Recording etc. of conduct matters in other cases

- (1) Where-
 - (a) a conduct matter comes (otherwise than as mentioned in paragraph 10) to the attention of the police authority or chief officer who is the appropriate authority in relation to that matter, and
 - (b) it appears to the appropriate authority that the conduct involved in that matter falls within sub-paragraph (2),it shall be the duty of the appropriate authority to record that matter.
- (2) Conduct falls within this sub-paragraph if (assuming it to have taken place)-
 - (a) it appears to have resulted in the death of any person or in serious injury to any person;
 - (b) a member of the public has been adversely affected by it; or

- (c) it is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State.
- (3) Where the appropriate authority records any matter under this paragraph it-
 - (a) shall first determine whether the matter is one which it is required to refer to the Commission under paragraph (13) or is one which it would be appropriate to so refer; and
 - (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.
- (4) Nothing in sub-paragraph (1) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.
- (5) If it appears to the Commission-
 - (a) that any matter that has come to its attention is a recordable conduct matter, but
 - (b) that that matter has not been recorded by the appropriate authority,the Commission may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

12 Duties to preserve evidence relating to conduct matters

- (1) Where a recordable conduct matter that relates to the conduct of a chief officer comes to the attention of the police authority maintaining his force, it shall be the duty of that authority to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to that matter.
- (2) Where a chief officer becomes aware of any recordable conduct matter relating to the conduct of a person under his direction and control, it shall be his duty to take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to that matter.

- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after he becomes aware of the matter in question.
- (4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the matter.
- (5) It shall be the duty of a police authority to comply with all such directions as may be given to it by the Commission in relation to the performance of any duty imposed on it by virtue of sub-paragraph (1).
- (6) It shall be the duty of the chief officer to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as he may be directed to take for the purposes of this paragraph by the police authority maintaining his force or by the Commission.

13 Reference of conduct matters to the Commission

- (1) It shall be the duty of a police authority or a chief officer to refer a recordable conduct matter to the Commission if, in a case (whether or not falling within paragraph 10) in which the authority or chief officer is the appropriate authority-
 - (a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;
 - (b) that matter is of a description specified for the purposes of this subparagraph in regulations made by the Secretary of State; or
 - (c) the Commission notifies the appropriate authority that it requires that matter to be referred to the Commission for its consideration.
- (2) In any case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a recordable conduct matter to the Commission if that authority considers that it would be appropriate to do so by reason of-
 - (a) the gravity of the matter; or
 - (b) any exceptional circumstances.

- (3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a police authority maintaining any police force may refer any recordable conduct matter to the Commission if-
- (a) it is one in relation to which the chief officer of police of that force is the appropriate authority; and
 - (b) the police authority considers that it would be appropriate to do so by reason of
 - (i) the gravity of the matter; or
 - (ii) any exceptional circumstances.

(4) Where there is an obligation under this paragraph to refer any matter to the Commission, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.

(5) Subject to sub-paragraph (7), the following powers-

- (a) the power of the Commission by virtue of sub-paragraph (1)(c) to require a matter to be referred to it, and
- (b) the power of a police authority or chief officer to refer any matter to the Commission under sub-paragraph (2) or (3),

shall each be exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the Commission.

(6) Where-

- (a) a police authority or chief officer refers a matter to the Commission under this paragraph, and
- (b) that authority or chief officer does not consider that to do so might prejudice a possible future investigation of that matter,

that authority or chief officer shall give a notification of the making of the reference to the person to whose conduct that matter relates.

- (7) A matter that has already been referred to the Commission under this paragraph on a previous occasion-
- (a) shall not be required to be referred again under this paragraph unless the Commission so directs; and
 - (b) shall not be referred in exercise of any power conferred by this paragraph unless the Commission consents.

14 Duties of Commission on references under paragraph 13

- (1) It shall be the duty of the Commission, in the case of every recordable conduct matter referred to it by a police authority or chief officer under paragraph 13, to determine whether or not it is necessary for the matter to be investigated.
- (2) Where the Commission determines under this paragraph that it is not necessary for a recordable conduct matter to be investigated, it may if it thinks fit refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.
- (3) Where-
- (a) the Commission refers a matter back to the appropriate authority under this paragraph, and
 - (b) the Commission does not consider that to do so might prejudice a possible future investigation of that matter,

the Commission shall give a notification of the making of the reference to the person to whose conduct that matter relates.

PART 3

INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

15 Power of the Commission to determine the form of an investigation

- (1) This paragraph applies where-
 - (a) a complaint or recordable conduct matter is referred to the Commission; and
 - (b) the Commission determines that it is necessary for the complaint or matter to be investigated.
- (2) It shall be the duty of the Commission to determine the form which the investigation should take.
- (3) In making a determination under sub-paragraph (2) the Commission shall have regard to the following factors-
 - (a) the seriousness of the case; and
 - (b) the public interest.
- (4) The only forms which the investigation may take in accordance with a determination made under this paragraph are-
 - (a) an investigation by the appropriate authority on its own behalf;
 - (b) an investigation by that authority under the supervision of the Commission;
 - (c) an investigation by that authority under the management of the Commission;
 - (d) an investigation by the Commission.
- (5) The Commission may at any time make a further determination under this paragraph to replace an earlier one.

- (6) Where a determination under this paragraph replaces an earlier determination under this paragraph, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the Commission may give-
- (a) the appropriate authority, and
 - (b) any person previously appointed to carry out the investigation,
- such directions as it considers appropriate for the purpose of giving effect to the new determination.
- (7) It shall be the duty of a person to whom a direction is given under subparagraph(6) to comply with it.
- (8) The Commission shall notify the appropriate authority of any determination that it makes under this paragraph in relation to a particular complaint or recordable conduct matter.

16 Investigations by the appropriate authority on its own behalf

- (1) This paragraph applies if the appropriate authority is required by virtue of-
- (a) any determination made by that authority under paragraph 6(2) (whether following the recording of a complaint or on a reference back under paragraph 5(2)) or under paragraph 8(4), or
 - (b) any determination made by the Commission under paragraph 15,
- to make arrangements for a complaint or recordable conduct matter to be investigated by the appropriate authority on its own behalf.
- (2) This paragraph also applies if-
- (a) a determination falls to be made by that authority under paragraph 10(4)(b), or 11(3)(b) or 14(2) in relation to any recordable conduct matter; and
 - (b) the appropriate authority determine that it is necessary for the matter to be investigated by the authority on its own behalf.

- (3) Subject to sub-paragraph (4), it shall be the duty of the appropriate authority to appoint-
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
 - (b) a member of the National Criminal Intelligence Service or the National Crime Squad,
- to investigate the complaint or matter.
- (4) The person appointed under this paragraph to investigate any complaint or matter-
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
 - (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

17 Investigations supervised by the Commission

- (1) This paragraph applies where the Commission has determined that it should supervise the investigation by the appropriate authority of any complaint or recordable conduct matter.
- (2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint-
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
 - (b) a member of the National Criminal Intelligence Service or the National Crime Squad, to investigate the complaint or matter.

- (3) The Commission may require that no appointment is made under sub-paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint.
- (4) Where a person has already been appointed to investigate the complaint or matter, or is selected under this sub-paragraph for appointment, and the Commission is not satisfied with that person, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so-
 - (a) to select another person falling within sub-paragraph (2)(a) or (b) to investigate the complaint or matter; and
 - (b) to notify the Commission of the person selected.
- (5) Where a selection made in pursuance of a requirement under sub-paragraph (4) has been notified to the Commission, the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person.
- (6) A person appointed under this paragraph to investigate any complaint or matter-
 - (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
 - (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.
- (7) The person appointed to investigate the complaint or matter shall comply with all such requirements in relation to the carrying out of that investigation as may, in accordance with regulations made for the purposes of this sub-paragraph by the Secretary of State, be imposed by the Commission in relation to that investigation.

18 Investigations managed by the Commission

- (1) This paragraph applies where the Commission has determined that it should manage the investigation by the appropriate authority of any complaint or recordable conduct matter.
- (2) Sub-paragraphs (2) to (6) of paragraph 17 shall apply as they apply in the case of an investigation which the Commission has determined is one that it should supervise.
- (3) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the Commission.

19 Investigations by the Commission itself

- (1) This paragraph applies where the Commission has determined that it should itself carry out the investigation of a complaint or recordable conduct matter.
- (2) The Commission shall designate both
 - (a) a member of the Commission's staff to take charge of the investigation on behalf of the Commission, and
 - (b) all such other members of the Commission's staff as are required by the Commission to assist him.
- (3) The person designated under sub-paragraph (2) to be the person to take charge of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that subparagraph.

- (4) A member of the Commission's staff who-
- (a) is designated under sub-paragraph (2) in relation to any investigation, but
 - (b) does not already, by virtue of section 97(8) of the 1996 Act, have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,
- shall, for the purposes of the carrying out of the investigation and all purposes connected with it, have all those powers and privileges throughout England and Wales and those waters.
- (5) A member of the Commission's staff who is not a constable shall not, as a result of sub-paragraph (4), be treated as being in police service for the purposes of-
- (a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (person in police service excluded from definitions of "worker" and "employee"); or
 - (b) section 200 of the Employment Rights Act 1996 (c. 18) (certain provisions of that Act not to apply to persons in police service).
- (6) The Secretary of State may by order provide that such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order shall apply, subject to such modifications as may be so specified, to investigations of offences conducted by virtue of this paragraph by members of the Commission's staff designated under sub-paragraph (2).
- (7) References in this paragraph to the powers and privileges of a constable-
- (a) are references to any power or privilege conferred by or under any enactment (including one passed after the passing of this Act) on a constable; and
 - (b) shall have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this subparagraph).

- (8) In this paragraph "United Kingdom waters" means the sea and other waters within the seaward limits of the United Kingdom's territorial sea.

20 Restrictions on proceedings pending the conclusion of an investigation

- (1) No criminal or disciplinary proceedings shall be brought in relation to any matter which is the subject of an investigation in accordance with the provisions of this Schedule until a report on that investigation has been submitted to the Commission or to the appropriate authority under paragraph 22.
- (2) Nothing in this paragraph shall prevent the bringing of criminal or disciplinary proceedings in respect of any conduct at any time after the discontinuance of the investigation in accordance with the provisions of this Schedule which relates to that conduct.
- (3) The restrictions imposed by this paragraph in relation to the bringing of criminal proceedings shall not apply to the bringing of criminal proceedings by the Director of Public Prosecutions in any case in which it appears to him that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.

21 Power of the Commission to discontinue an investigation

- (1) If at any time appears to the Commission (whether on an application by the appropriate authority or otherwise) that a complaint or matter that is being investigated-
- (a) by the appropriate authority on its own behalf, or
 - (b) under the supervision or management of the Commission,
- is of a description of complaint or matter specified in regulations made by the Secretary of State for the purposes of this sub-paragraph, the Commission may by order require the discontinuance of the investigation.
- (2) The Commission shall not discontinue any investigation that is being carried out in accordance with paragraph 19 except in such cases as may be authorised by regulations made by the Secretary of State.

- (3) Where the Commission makes an order under this paragraph or discontinues an investigation being carried out in accordance with paragraph 19, it shall give notification of the discontinuance-
 - (a) to the appropriate authority;
 - (b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under section 21; and
 - (c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.
- (4) Where an investigation of a complaint or recordable conduct matter is discontinued in accordance with this paragraph-
 - (a) the Commission may give the appropriate authority directions to do any such things as it is authorised to direct by regulations made by the Secretary of State;
 - (b) the Commission may itself take any such steps of a description specified in regulations so made as it considers appropriate for purposes connected with the discontinuance of the investigation; and
 - (c) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.
- (5) The appropriate authority shall comply with any directions given to it under subparagraph(4).

22 Final reports on investigations

- (1) On the completion of his investigation, a person appointed under paragraph 16 shall submit a report on it to the appropriate authority.
- (2) On the completion of his investigation, a person appointed under paragraph 17 or 18 shall-
 - (a) submit a report on it to the Commission; and
 - (b) send a copy of that report to the appropriate authority.

- (3) On the completion of an investigation by the Commission itself, the person designated under paragraph 19 as the person in charge of the investigation shall submit a report on it to the Commission.
- (4) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.

23 Action by the Commission in response to an investigation report

- (1) This paragraph applies where-
 - (a) a report on an investigation carried out under the management of the Commission is submitted to it under sub-paragraph (2) of paragraph 22; or
 - (b) a report on an investigation carried out by a person designated by the Commission is submitted to it under sub-paragraph (3) of that paragraph.
- (2) On receipt of the report, the Commission-
 - (a) if it appears that the appropriate authority has not already been sent a copy of the report, shall send a copy of the report to that authority;
 - (b) shall determine whether the report indicates that a criminal offence may have been committed by the person whose conduct was the subject-matter of the investigation;
 - (c) if it determines that the report does so indicate, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report; and
 - (d) shall notify the appropriate authority of its determination under paragraph (b) and of any action taken by it under paragraph (c).
- (3) The Director of Public Prosecutions shall notify the Commission of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2)(c).

- (4) It shall be the duty of the Commission to notify the persons mentioned in subparagraph(5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(c).
- (5) Those persons are-
- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.
- (6) Where the Commission-
- (a) has determined under sub-paragraph (2)(b) that there is no indication in the report that a criminal offence may have been committed,
 - (b) is notified by the Director of Public Prosecutions, in any case in which it has sent him a copy of the report, that the Director proposes to take no action in respect any of the matters dealt with in the report, or
 - (c) is satisfied that all criminal proceedings brought or likely to be brought in respect of matters dealt with in the report have been brought to a conclusion (apart from the bringing and determination of any appeal),

the Commission shall give a notification to the appropriate authority requiring it to determine what action (if any) it will itself take in respect of the matters dealt with in the report.

- (7) On being required under sub-paragraph (6) to determine what action it will take in respect of the matters dealt with in the report the appropriate authority shall make that determination and submit a memorandum to the Commission which-
- (a) sets out whether the appropriate authority is proposing to take any action in respect of the matters dealt with in the report;
 - (b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take; and
 - (c) if the appropriate authority has decided in relation to any person whose conduct is the subject- matter of the report that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding.
- (8) On receipt of a memorandum under sub-paragraph (7), the Commission shall-
- (a) consider the memorandum and whether the appropriate authority is proposing to take the action that the Commission considers appropriate in respect of the matters dealt with in the report;
 - (b) determine, in the light of its consideration of those matters, whether or not to make recommendations under paragraph 27; and
 - (c) make such recommendations (if any) under that paragraph as it thinks fit.
- (9) On the making of a determination under sub-paragraph (8)(b) the Commission shall give a notification-
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.

- (10) The notification required by sub-paragraph (9) is one setting out-
 - (a) the findings of the report;
 - (b) the Commission's determination under sub-paragraph (8)(b); and
 - (c) the action which the appropriate authority is to be recommended to take as a consequence of the determination.
- (11) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (9) of this paragraph as they have effect in relation to the duties imposed on the Commission by that section.
- (12) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (11), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (9) notification of the findings of the report by sending that person a copy of the report

24 Action by the appropriate authority in response to an investigation report

- (1) This paragraph applies where-
 - (a) a report of an investigation is submitted to the appropriate authority in accordance with paragraph 22(1); or
 - (b) a copy of a report on an investigation carried out under the supervision of the Commission is sent to the appropriate authority in accordance with paragraph 22(2).
- (2) On receipt of the report or (as the case may be) of the copy, the appropriate authority-
 - (a) shall determine whether the report indicates that a criminal offence may have been committed by a person whose conduct was the subject- matter of the investigation; and
 - (b) if it determines that the report does so indicate, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report.

- (3) The Director of Public Prosecutions shall notify the appropriate authority of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2).
- (4) It shall be the duty of the appropriate authority to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(b).
- (5) Those persons are-
 - (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.
- (6) Where the appropriate authority-
 - (a) has determined under sub-paragraph (2) that there is no indication in the report that a criminal offence may have been committed,
 - (b) is notified by the Director of Public Prosecutions, in any case in which it has sent him a copy of the report, that the Director proposes to take no action in respect any of the matters dealt with in the report, or
 - (c) is satisfied that all criminal proceedings brought or likely to be brought in respect of matters dealt with in the report have been brought to a conclusion (apart from the bringing and determination of any appeal),

the appropriate authority shall determine what action (if any) it will itself take in respect of the matters dealt with in the report.

- (7) On the making of a determination under sub-paragraph (6) the appropriate authority shall give a notification-
 - (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (8) The notification required by sub-paragraph (7) is one setting out-
 - (a) the findings of the report;
 - (b) whether the authority has determined under sub-paragraph (6) to take any action;
 - (c) the action (if any) which that authority has decided to take; and
 - (d) the complainant's right of appeal under paragraph 25.
- (9) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (7) of this paragraph as they have effect in relation to the duties imposed on the appropriate authority by that section.
- (10) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (9), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (7) notification of the findings of the report by sending that person a copy of the report.

25 Appeals to the Commission with respect to an investigation

- (1) This paragraph applies where a complaint has been subjected to-
 - (a) an investigation by the appropriate authority on its own behalf; or
 - (b) an investigation under the supervision of the Commission.

- (2) The complainant shall have the following rights of appeal to the Commission-
- (a) a right to appeal on the grounds that he has not been provided with adequate information-
 - (i) about the findings of the investigation; or
 - (ii) about any proposals of the appropriate authority to take, or not to take, action in consequence of the report;
 - (b) a right to appeal against the findings of the investigation; and
 - (c) a right of appeal against any proposal of the appropriate authority to take, or not to take, action in respect of any of the matters dealt with in the report of the investigation;

and it shall be the duty of the Commission to notify the appropriate authority, every person entitled to be kept properly informed in relation to the complaint under section 21 and the person complained against of any appeal brought under this paragraph.

- (3) On the bringing of an appeal under this paragraph, the Commission may require the appropriate authority to submit a memorandum to the Commission which-
- (a) sets out whether the appropriate authority is proposing to take any action in respect of the matters dealt with in the report;
 - (b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take; and
 - (c) if the appropriate authority has decided in relation to any person whose conduct is the subject- matter of the report that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding;

and it shall be the duty of the appropriate authority to comply with any requirement under this sub-paragraph.

- (4) Where the Commission so requires on the bringing of any appeal under this paragraph in the case of an investigation by the appropriate authority on its own behalf, the appropriate authority shall provide the Commission with a copy of the report of the investigation.
- (5) On an appeal under this paragraph, the Commission shall determine-
 - (a) whether the complainant has been provided with adequate information about the matters mentioned in sub-paragraph (2)(a);
 - (b) whether the findings of the investigation need to be reconsidered; and
 - (c) whether the appropriate authority is proposing to take the action that the Commission considers appropriate in consequence of the report.
- (6) If, on an appeal under this paragraph, the Commission determines that the complainant has not been provided with adequate information about any matter, the Commission shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed.
- (7) Nothing in sub-paragraph (6) shall authorise the Commission to require the disclosure of any information the disclosure of which to the appellant has been or is capable of being withheld by virtue of regulations made under section 20(5).
- (8) If, on an appeal under this paragraph, the Commission determines that the findings of the investigation need to be reconsidered, it shall either-
 - (a) review those findings without an immediate further investigation; or
 - (b) direct that the complaint be re- investigated.

- (9) If, on an appeal under this paragraph, the Commission determines that the appropriate authority is not proposing to take the action in consequence of the report that the Commission considers appropriate, the Commission shall-
- (a) determine, in the light of that determination, whether or not to make recommendations under paragraph 27; and
 - (b) make such recommendations (if any) under that paragraph as it thinks fit.
- (10) The Commission shall give notification of any determination under this paragraph-
- (a) to the appropriate authority,
 - (b) to the complainant;
 - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (d) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (11) The Commission shall also give notification of any directions given to the appropriate authority under this paragraph-
- (a) to the complainant;
 - (b) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (12) It shall be the duty of the appropriate authority to comply with any directions given to it under this paragraph.

- (13) The Secretary of State may by regulations make provision-
- (a) for the form and manner in which appeals under this paragraph are to be brought;
 - (b) for the period within which any such appeal must be brought; and
 - (c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

26 Reviews and re -investigations following an appeal

- (1) On a review under paragraph 25(8)(a) of the findings of an investigation the powers of the Commission shall be, according to its determination on that review, to do one or more of the following-
- (a) to uphold the findings in whole or in part;
 - (b) to give the appropriate authority such directions-
 - (i) as to the carrying out by the appropriate authority of its own review of the findings,
 - (ii) as to the information to be provided to the complainant, and
 - (iii) generally as to the handling of the matter in future, as the Commission thinks fit;
 - (c) to direct that the complaint be re- investigated.
- (2) Where the Commission directs under paragraph 25 or sub-paragraph (1) that a complaint be re-investigated, it shall make a determination of the form that the reinvestigation should take.
- (3) Sub-paragraphs (3) to (7) of paragraph 15 shall apply in relation to a determination under sub-paragraph (2) as they apply in the case of a determination under that paragraph.

- (4) The other provisions of this Schedule (including this paragraph) shall apply in relation to any re- investigation in pursuance of a direction under paragraph 25(8) or sub-paragraph (1) of this paragraph as they apply in relation to any investigation in pursuance of a determination under paragraph 15.
- (5) The Commission shall give notification of any determination made by it under this paragraph-
 - (a) to the appropriate authority;
 - (b) to the complainant;
 - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
 - (d) except in a case where it appears to the Commission that to do so might prejudice any proposed re- investigation of the complaint, to the person complained against.
- (6) The Commission shall also give notification of any directions given to the appropriate authority under this paragraph –
 - (a) to the complainant;
 - (b) to every person entitled to be kept properly informed in relation to the complaint under section ; and
 - (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

27 Duties with respect to disciplinary proceedings

- (1) This paragraph applies where, in the case of any investigation, the appropriate authority-
 - (a) has given, or is required to give, a notification under paragraph 24(7) of the action it is proposing to take in relation to the matters dealt with in any report of the investigation; or
 - (b) has submitted, or is required to submit, a memorandum to the Commission under paragraph 23 or 25 setting out the action that it is proposing to take in relation to those matters.
- (2) Subject to paragraph 20 and to any recommendations or directions under the following provisions of this paragraph, it shall be the duty of the appropriate authority-
 - (a) to take the action which has been or is required to be notified or, as the case may be, which is or is required to be set out in the memorandum; and
 - (b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.
- (3) Where this paragraph applies by virtue of sub-paragraph (1)(b), the Commission may make a recommendation to the appropriate authority in respect of any person serving with the police-
 - (a) that disciplinary proceedings, or such disciplinary proceedings as may be specified in the recommendation, are brought against that person in respect of the conduct which was the subject- matter of the investigation; or
 - (b) that any disciplinary proceedings brought against that person are modified so as to include such charges as may be so specified;

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

- (4) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not take steps to secure that full effect is given to the recommendation-
 - (a) the Commission may direct the appropriate authority to take steps for that purpose; and
 - (b) it shall be the duty of the appropriate authority to comply with the direction.
- (5) A direction under sub-paragraph (4) may, to such extent as the Commission thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.
- (6) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.
- (7) Where disciplinary proceedings have been brought in accordance with a recommendation or direction under this paragraph, it shall be the duty of the authority to ensure that they are proceeded with to a proper conclusion.
- (8) The Commission may at any time withdraw a direction given under this paragraph; and sub-paragraph (7) shall not impose any obligation in relation to any time after the withdrawal of the direction.
- (9) The appropriate authority shall keep the Commission informed-
 - (a) in a case in which this paragraph applies by virtue of sub-paragraph (1)(b), of whatever action it takes in pursuance of its duty under sub-paragraph (2); and
 - (b) in every case of a recommendation or direction under this paragraph, of whatever action it takes in response to that recommendation or direction.

28 Information for complainant about disciplinary recommendations

- (1) Where-
 - (a) the Commission makes recommendations under paragraph 27 in the case of an investigation of a complaint, and
 - (b) the appropriate authority notify the Commission that the recommendations have been accepted,

the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.

- (2) Where in the case of an investigation of a complaint the appropriate authority-
 - (a) notify the Commission that it does not (either in whole or in part) accept recommendations made by the Commission under paragraph 27, or
 - (b) fails to take steps to give full effect to any such recommendations,

it shall be the duty of the Commission to determine what if any further steps to take under that paragraph.

- (3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21-
 - (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 27; and
 - (b) where they determine under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

PART 3

REMOVAL, SUSPENSION AND DISCIPLINING OF POLICE OFFICERS

Removal and suspension of senior officers

30 Resignation in the interests of efficiency and effectiveness

- (1) In section 9E of the 1996 Act (removal of Commissioner and Deputy Commissioner of Police of the Metropolis)-
 - (a) in subsection (1), for "to retire in the interests of efficiency or effectiveness" there shall be substituted "in the interests of efficiency or effectiveness, to retire or to resign"; and
 - (b) in subsection (3), for the words from "retire", in the first place where it occurs, to "earlier date" there shall be substituted "retire or resign under subsection (1), he shall retire or resign with effect from such date as the Metropolitan Police Authority may specify, or with effect from such earlier date".
- (2) In section 11 of that Act (removal of chief constables)-
 - (a) in subsection (2), for "to retire in the interests of efficiency or effectiveness" there shall be substituted "in the interests of efficiency or effectiveness, to retire or to resign"; and
 - (b) in subsection (4), for the words from "retire", in the first place where it occurs, to "earlier date" there shall be substituted "retire or resign under subsection (2), shall retire or resign with effect from such date as the police authority may specify, or with effect from such earlier date".

31 Procedural requirements for removal of senior officers

- (1) In subsection (2) of section 9E of the 1996 Act (removal of Commissioner of Police of the Metropolis) for the words from "an opportunity" to the end there shall be substituted"-
 - (a) an explanation in writing of the Authority's grounds for calling upon him, in the interests of efficiency or effectiveness, to retire or to resign; and
 - (b) an opportunity to make representations; and the Authority shall consider any representations made by or on behalf of the Commissioner.

The opportunity given to the Commissioner to make representations must include the opportunity to make them in person."

- (2) In subsection (3) of section 11 of the 1996 Act (removal of chief constable), for the words from "an opportunity" to the end there shall be substituted"-
 - (a) an explanation in writing of the authority's grounds for calling upon him, in the interests of efficiency or effectiveness, to retire or to resign; and
 - (b) an opportunity to make representations; and the authority shall consider any representations made by or on behalf of the chief officer.

The opportunity given to the chief constable to make representations must include the opportunity to make them in person."

32 Suspension of senior officers

- (1) In section 9E of the 1996 Act (removal of Commissioner and Deputy Commissioner of Police of the Metropolis), after subsection (2) there shall be inserted-

"(2A) The Metropolitan Police Authority, acting with the approval of the Secretary of State, may suspend the Commissioner of Police of the Metropolis from duty if-

- (a) it is proposing to consider whether to exercise its power under subsection (1) to call upon the Commissioner to retire or to resign and is satisfied that, in the light of the proposal, the maintenance of public confidence in the metropolitan police force requires the suspension; or
- (b) having been notified by the Secretary of State that he is proposing to consider whether to require the Authority to exercise that power, it is satisfied that, in the light of the Secretary of State's proposal, the maintenance of public confidence in that force requires the suspension; or
- (c) it has exercised that power or been sent under section 42(2A) a copy of a notice of the Secretary of State's intention to require it to exercise that power, but the retirement or resignation has not yet taken effect;

and it shall be the duty of the Metropolitan Police Authority (without reference to the preceding provisions of this subsection) to suspend the Commissioner from duty if it is required to do so by the Secretary of State under section 42(1A)."

- (2) In section 11 of that Act (appointment and removal of chief constables), after subsection (3) there shall be inserted-

"(3A) A police authority maintaining a police force under section 2, acting with the approval of the Secretary of State, may suspend from duty the chief constable of that force if-

- (a) it is proposing to consider whether to exercise its power under subsection (2) to call upon the chief constable to retire or to resign and is satisfied that, in the light of the proposal, the maintenance of public confidence in that force requires the suspension; or
- (b) having been notified by the Secretary of State that he is proposing to consider whether to require the police authority to exercise that power, it is satisfied that, in the light of the Secretary of State's proposal, the maintenance of public confidence in that force requires the suspension; or

- (c) it has exercised that power or been sent under section 42(2A) a copy of a notice of the Secretary of State's intention to require it to exercise that power, but the retirement or resignation has not yet taken effect;

and it shall be the duty of a police authority maintaining such a force (without reference to the preceding provisions of this subsection) to suspend the chief constable of that force from duty if it is required to do so by the Secretary of State under section 42(1A)."

- (3) In each of sections 9F(3), 9FA(3) and 9G(3) of that Act (application of sections 9E(1) to (3) in the case of Assistant Commissioners, Deputy Assistant Commissioners and Commanders), at the end there shall be inserted" but with the omission in subsection (2A)-

- (a) of paragraph (b);

- (b) in paragraph (c), of the words from "or been sent" to "exercise that power"; and

- (c) of the words after paragraph (c)."

- (4) In section 11A(3) of that Act (application of section 11(2) to (4) in the case of deputy chief constables), at the end there shall be inserted" but with the omission in subsection (3A)-

- (a) of paragraph (b);

- (b) in paragraph (c), of the words from "or been sent" to "exercise that power"; and

- (c) of the words after paragraph (c)."

- (5) In section 12(3) of that Act (application of section 11(2), (3) and (4) in the case of assistant chief constables)-

- (a) for ", (3) and" there shall be substituted "to"; and

- (b) at the end there shall be inserted" but with the omission in subsection (3A) -

- (a) of paragraph (b);

(b) in paragraph (c), of the words from "or been sent" to "exercise that power"; and

(c) of the words after paragraph (c)."

33 Removal etc. of senior officers at the instance of the Secretary of State

(1) Section 42 of the 1996 Act (role of the Secretary of State as respects removal of chief constables etc.) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted"(1) The Secretary of State may-

(a) require the Metropolitan Police Authority to exercise its power under section 9E to call upon the Commissioner or Deputy Commissioner, in the interests of efficiency or effectiveness, to retire or to resign; or

(b) require a police authority maintaining a police force under section 2 to exercise its power under section 11 to call upon the chief constable of that force, in the interests of efficiency or effectiveness, to retire or to resign.

(1A) The Secretary of State may also, in any case falling within subsection (1B) in which he considers that it is necessary for the maintenance of public confidence in the force in question-

(a) require the Metropolitan Police Authority to suspend the Commissioner or Deputy Commissioner from duty; or

(b) require a police authority maintaining a police force under section 2 to suspend the chief constable of that force from duty.

(1B) The cases falling within this subsection are-

(a) where the Secretary of State is proposing to exercise his power under subsection (1) in relation to the Metropolitan Police Authority or, as the case may be, the other police authority in question, or is proposing to consider so exercising that power;

- (b) where the Metropolitan Police Authority or the other police authority in question is itself proposing to exercise its power to call upon the Commissioner or Deputy Commissioner or, as the case may be, the chief constable of the force in question to retire or to resign, or is proposing to consider so exercising that power; and
 - (c) where the power mentioned in paragraph (a) or (b) has been exercised but the retirement or resignation has not yet taken effect.
- (2) Before requiring the exercise by the Metropolitan Police Authority or any other police authority of its power to call upon the Commissioner or Deputy Commissioner or the chief constable of the force in question to retire or to resign, the Secretary of State shall
 - (a) give the officer concerned a notice in writing
 - (i) informing him of the Secretary of State's intention to require the exercise of that power; and
 - (ii) explaining the Secretary of State's grounds for requiring the exercise of that power; and
 - (b) give that officer an opportunity to make representations to the Secretary of State.
- (2A) Where the Secretary of State gives a notice under subsection (2)(a), he shall send a copy of the notice to the Metropolitan Police Authority or other police authority concerned.
- (2B) The Secretary of State shall consider any representations made to him under subsection (2)."
- (3) In subsection (3) (inquiries), for the words from the beginning to "subsection (1)" there shall be substituted-

"(3) Where the Secretary of State proposes to require the exercise of a power mentioned in subsection (1), he".
- (4) After subsection (3) there shall be inserted-

"(3A) At an inquiry held under subsection (3)-

- (a) the Commissioner, Deputy Commissioner or, as the case may be, the chief constable in question shall be entitled, in accordance with any regulations under section 42A, to make representations to the inquiry;
 - (b) the Metropolitan Police Authority or, as the case may be, the police authority concerned shall be entitled, in accordance with any regulations made under section 42A, to make representations to the inquiry.
- (3B) The entitlement of the Commissioner, Deputy Commissioner or, as the case may be, the chief constable in question to make representations shall include the entitlement to make them in person."
- (5) In subsection (4) (expenses of inquiry), for the words "a chief constable, deputy chief constable or assistant chief constable" there shall be substituted "the Commissioner, the Deputy Commissioner or a chief constable".
- (6) After subsection (4) there shall be inserted-
- "(4A) If the Secretary of State exercises the power conferred by subsection (1) in relation to the Commissioner or the Deputy Commissioner or a chief constable, the Metropolitan Police Authority or other police authority concerned-
- (a) shall not be required to seek the Secretary of State's approval before calling upon the Commissioner or Deputy Commissioner or chief constable in question, in the interests of efficiency or effectiveness, to retire or to resign; and
 - (b) shall not be required to give the Commissioner, the Deputy Commissioner or the chief constable a written explanation of the authority's grounds for calling upon him to retire or to resign, to give him an opportunity to make representations to it or to consider any representations made by him.
- (4B) In this section "the Commissioner" means the Commissioner of Police of the Metropolis and "the Deputy Commissioner" means the Deputy Commissioner of Police of the Metropolis.

- (4C) In this section a reference to the police authority concerned, in relation to a chief constable, is to the police authority which maintains the police force of which he is chief constable."
- (7) Subsection (5) (application to senior officers in the metropolitan police) shall cease to have effect.

34 Regulations concerning procedure for removal of senior officers

After section 42 of the 1996 Act, there shall be inserted-

"42A Procedure in relation to removal of senior officers

- (1) The Secretary of State may by regulations make provision as to the procedure to be followed in the exercise of any power conferred or duty imposed by section 9E, 11 or 42.
- (2) Before making any regulations under this section, the Secretary of State shall consult with-
- (a) persons whom he considers to represent the interests of police authorities;
 - (b) persons whom he considers to represent the interests of chief officers of police; and
 - (c) such other persons as he thinks fit.
- (3) Regulations under this section may make different provision for different cases and circumstances.
- (4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Disciplinary proceedings and protected disclosures

35 Disciplinary regulations for special constables

In section 51 of the 1996 Act (regulations for special constables), in subsection (2), after paragraph (b) there shall be inserted-

"(ba) the conduct of special constables and the maintenance of discipline;".

36 Conduct of disciplinary proceedings

- (1) Without prejudice to the generality of any of the powers conferred by sections 50 and 51 of the 1996 Act (regulations for police forces and for special constables), regulations under each of those sections may make provision
 - (a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;
 - (b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations; and
 - (c) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.
- (2) In this section "disciplinary proceedings" means any proceedings under any regulations made under section 50 or, as the case may be, section 51 of 1996 Act which are identified as disciplinary proceedings by those regulations.

37 Protected disclosures by police officers

- (1) After section 43K of the Employment Rights Act 1996 (c.18), there shall be inserted-

"43KA Application of this Part and related provisions to police

- (1) For the purposes of-
- (a) this Part,
 - (b) section 47B and sections 48 and 49 so far as relating to that section, and
 - (c) section 103A and the other provisions of Part 10 so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of section 103A,

a person who holds, otherwise than under a contract of employment, the office of constable or an appointment as a police cadet shall be treated as an employee employed by the relevant officer under a contract of employment; and any reference to a worker being "employed" and to his "employer" shall be construed accordingly.

- (2) In this section "the relevant officer" means-
- (a) in relation to a member of a police force or a special constable appointed for a police area, the chief officer of police;
 - (b) in relation to a person appointed as a police member of the NCIS, the Director General of NCIS;
 - (c) in relation to a person appointed as a police member of the NCS, the Director General of NCS;
 - (d) in relation to any other person holding the office of constable or an appointment as police cadet, the person who has the direction and control of the body of constables or cadets in question."

- (2) In section 200(1) of that Act (provisions which do not apply to persons engaged in police service under a contract of employment)-
 - (a) the words ", Part IVA" and ", 47B" shall be omitted;
 - (b) after "sections 100" there shall be inserted ", 103A"; and
 - (c) after "section 100" there shall be inserted "or 103A".
- (3) Section 13 of the Public Interest Disclosure Act 1998 (c. 23) (exclusion of police service from provisions about protected disclosures) shall cease to have effect.

PART 4

POLICE POWERS ETC.

CHAPTER 1

EXERCISE OF POLICE POWERS ETC. BY CIVILIANS

39 Police powers for contracted-out staff

- (1) This section applies if a police authority has entered into a contract with a person ("the contractor") for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody.
- (2) The chief officer of police of the police force maintained by that police authority may designate any person who is an employee of the contractor as either or both of the following-
 - (a) a detention officer; or
 - (b) an escort officer.
- (3) A person designated under this section shall have the powers and duties conferred or imposed on him by the designation.
- (4) A chief officer of police shall not designate a person under this section unless he is satisfied that that person-
 - (a) is a suitable person to carry out the functions for the purposes of which he is designated;
 - (b) is capable of effectively carrying out those functions; and
 - (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred on him by virtue of the designation.
- (5) A chief officer of police shall not designate a person under this section unless he is satisfied that the contractor is a fit and proper person to supervise the carrying out of the functions for the purposes of which that person is designated.

- (6) Powers and duties may be conferred or imposed on a designated person by means only of the application to him by his designation of provisions of the applicable Part of Schedule 4 that are to apply to the designated person; and for this purpose the applicable Part of that Schedule is-
 - (a) in the case of a person designated as a detention officer, Part 3; and
 - (b) in the case of a person designated as an escort officer, Part 4.
- (7) An employee of the contractor authorised or required to do anything by virtue of a designation under this section-
 - (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and
 - (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.
- (8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.
- (9) The Secretary of State may by regulations make provision for the handling of complaints relating to, or other instances of misconduct involving, the carrying out by any person designated under this section of the functions for the purposes of which any power or duty is conferred or imposed by his designation.
- (10) Regulations under subsection (9) may, in particular, provide that any provision made by Part 2 of this Act with respect to complaints against persons serving with the police is to apply, with such modifications as may be prescribed by them, with respect to complaints against persons designated under this section.

- (11) Before making regulations under this section, the Secretary of State shall consult with-
- (a) persons whom he considers to represent the interests of police authorities;
 - (b) persons whom he considers to represent the interests of chief officers of police;
 - (c) the Independent Police Complaints Commission; and
 - (d) such other persons as he thinks fit.
- (12) A designation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (13), shall remain in force for such period as may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.
- (13) A designation under this section shall cease to have effect-
- (a) if the designated person ceases to be an employee of the contractor;
or
 - (b) if the contract between the police authority and the contractor is terminated or expires.

SCHEDULE 7

Section 107

MINOR AND CONSEQUENTIAL AMENDMENTS

Police (Scotland) Act 1967

1. (1) In subsection (1) of section 38A of the Police (Scotland) Act 1967 (c. 77) (police officers engaged on service outside their force), after paragraph (a) there shall be inserted-

"(aa) temporary service on which a person is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 30) (service with the Independent Police Complaints Commission);".

- (2) In subsection (6)(a) of that section, after "paragraph (a)," there shall be inserted "(aa),".

Superannuation Act 1972

2. (1) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which that Act applies), at the appropriate place in the entries under the heading

"Royal Commissions and other Commissions", there shall be inserted-

"Independent Police Complaints Commission."

- (2) In that Schedule, in the entries under the heading "Other bodies", the words "Police Complaints Authority." shall be omitted.

Juries Act 1974

3. In Part 1 of Schedule 1 to the Juries Act 1974 (c. 23) (ineligibility for jury service), in Group B, after the entry relating to the Criminal Cases Review Commission there shall be inserted-

"Chairman and members of the Independent Police Complaints Commission and any member of its staff who is not otherwise ineligible."

Rehabilitation of Offenders Act 1974

4. In section 7(2)(bb) of the Rehabilitation of Offenders Act 1974 (c. 53) (limitations on rehabilitations under Act etc.), for "a sex offender order under section 2 or, as the case may be, 20" there shall be substituted "an order under section 2, 2A or 20".

House of Commons Disqualification Act 1975

5. In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified)-
 - (a) at the appropriate place, there shall be inserted - "The Independent Police Complaints Commission."; and
 - (b) the words "The Police Complaints Authority." shall be omitted.

Northern Ireland Assembly Disqualification Act 1975

6. In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified)-
 - (a) at the appropriate place, there shall be inserted - "The Independent Police Complaints Commission."; and
 - (b) the words "The Police Complaints Authority." shall be omitted.

The Police Pensions Act 1976

7. (1) Section 11 of the Police Pensions Act 1976 (c. 35) (interpretation) shall be amended as follows.
- (2) In subsection (2) (meaning of "police authority" in relation to pensions)-
- (a) in paragraph (b), for "(c)", in the second place where it occurs, there shall be substituted "(ba)";
 - (b) after paragraph (b) there shall be inserted-

"(ba) in relation to service of the kind described in section 97(1)(aa) of the Police Act 1996 (c. 16) or section 38A(1)(aa) of the Police (Scotland) Act 1967 (c. 77), it means the Independent Police Complaints Commission;"
 - (c) in paragraph (c), for "subsection (ba) or (bc) above" there shall be substituted "paragraph (ba) or (bc) of subsection (1)";
 - (d) in paragraph (d), for "subsection (bb) or (bd) above" there shall be substituted "paragraph (bb) or (bd) of subsection (1)";
 - (e) in paragraph (da), for "subsection (be)" there shall be substituted "subsection (1)(be)".
- (3) In subsection (5) of that section, in the definition of "central service", in each of paragraphs (a) and (b), after "paragraph" there shall be inserted "(aa),".
- (4) After that subsection, there shall be inserted-
- "(6) References in this Act to the Director General of the National Criminal Intelligence Service and to his service have effect only in relation to cases in which the person in question was a serving police officer for the purposes of section 6 of the Police Act 1997 (c. 50) immediately before his appointment to that office took effect."

Rehabilitation of Offenders (Northern Ireland) Order 1978

8. In Article 8(2) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/ 1908 (N.I. 27)) (limitations on rehabilitation under Order etc.), after subparagraph(b) there shall be inserted-

"(bb) in any proceedings on an application for an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) or in any appeal against the making of such an order;"

The 1984 Act

9. (1) In section 18(5) of the 1984 Act (power of constable to conduct search of an arrested person's premises before taking him to a police station), for "taking the person" there shall be substituted "the person is taken".

- (2) In section 54A(6) of that Act (persons entitled to carry out search or examination or to take photographs), for paragraphs (a) and (b) and the words after paragraph (b) there shall be substituted "constables".

- (3) In section 61 of that Act (fingerprinting), before subsection (9) there shall be inserted –

"(8B) The power to take the fingerprints of a person detained at a police station without the appropriate consent shall be exercisable by any constable."

- (4) In section 63 of that Act (non- intimate samples), after subsection (9) there shall be inserted –

"(9ZA) The power to take a non-intimate sample from a person without the appropriate consent shall be exercisable by any constable."

- (5) In section 64A(3) of that Act (persons entitled to photograph detainees), for paragraphs (a) and (b) and the words after paragraph (b) there shall be substituted "constables".

- (6) In subsection (7B) of section 67 of that Act (limited effect of modification of code of practice), in paragraph (c) for "order" there shall be substituted "code".
- (7) After subsection (9) of that section there shall be inserted –
- "(9A) Persons on whom powers are conferred by-
- (a) any designation under section 38 or 39 of the Police Reform Act 2002 (c. 30) (police powers for police authority employees), or
 - (b) any accreditation under section 41 of that Act (accreditation under community safety accreditation schemes), shall have regard to any relevant provision of a code of practice to which this section applies in the exercise or performance of the powers and duties conferred or imposed on them by that designation or accreditation."
- (8) In subsection (10) of that section (failure to comply with codes not to render a person liable to civil or criminal proceedings), after paragraph (b) there shall be inserted", or
- (c) of a person designated under section 38 or 39 or accredited under section 41 of the Police Reform Act 2002 (c. 00) to have regard to any relevant provision of such a code in the exercise or performance of the powers and duties conferred or imposed on him by that designation or accreditation,".
- (9) In section 118, at the beginning of subsection (2) (meaning of persons in police detention) there shall be inserted "Subject to subsection (2A)"; and after that subsection there shall be inserted –
- "(2A) Where a person is in another's lawful custody by virtue of paragraph 22, 34(1) or 35(3) of Schedule 4 to the Police Reform Act 2002, he shall be treated as in police detention."

Prosecution of Offences Act 1985

10. In section 3(2) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), after paragraph (b) there shall be inserted –

"(ba) to institute and have the conduct of any criminal proceedings in any case where the proceedings relate to the subject-matter of a report a copy of which has been sent to him under paragraph 23 or 24 of Schedule 3 to the Police Reform Act 2002 (c. 30) (reports on investigations into conduct of persons serving with the police);".

Road Traffic Act 1988

- 11.(1) Section 103 of the Road Traffic Act 1988 (c. 52) (obtaining licence, or driving, while disqualified) shall be amended as follows.

(2) Subsection (3) shall cease to have effect.

(3) In subsection (4), for "Subsections (1) and (3) above do" there shall be substituted "Subsection (1) above does".

(4) In subsection (5), for "Subsections (1)(b) and (3) above do" there shall be substituted "Subsection (1)(b) above does".

(5) In subsection (6), for "subsections (1) and (3)" there shall be substituted "subsection (1)".

12. In section 183(1) of the Road Traffic Act 1988 (application to the Crown), in paragraph (c), the words ", except section 103(3)" shall be omitted.

Aviation and Maritime Security Act 1990

13. In section 22(4) of the Aviation and Maritime Security Act 1990 (c. 31) (persons entitled to exercise certain powers in relation to private dwelling), in paragraph (b)(i), for the words from "Police Complaints Authority" to the end of the sub-paragraph there shall be substituted "Independent Police Complaints Commission under section 26 of the Police Reform Act 2002 (c. 00); or".

The 1996 Act

14. In section 8 of the 1996 Act (local policing plans), after subsection (4) there shall be inserted –

"(4A) It shall be the duty of a police authority and of a chief constable, in preparing, issuing or submitting any plan or draft plan under this section, to have regard to any general guidance given by the Secretary of State with respect to local policing plans and the drafts of such plans.

(4B) Before giving any guidance under subsection (4A), the Secretary of State shall consult with-

- (a) persons whom he considers to represent the interests of police authorities;
- (b) persons whom he considers to represent the interests of chief officers of police; and
- (c) such other persons as he thinks fit."

15. In section 54 of the 1996 Act (appointment and functions of inspectors of constabulary), before subsection (3) there shall be inserted - "(2D) It shall be the duty of the chief inspector of constabulary-

- (a) to enter into arrangements with the Independent Police Complaints Commission for the purpose of securing cooperation, in the carrying out of their respective functions, between the inspectors of constabulary and that Commission; and
- (b) to ensure that inspectors of constabulary provide that Commission with all such assistance and co-operation as may be required by those arrangements or as otherwise appears to the chief inspector to be appropriate for facilitating the carrying out by that Commission of its functions."

16. (1) Section 62 of that Act (consultation on terms and conditions for certain appointments) shall be amended as follows.

(2) In subsection (1B), the words "6 or" shall be omitted.

(3) After that subsection, there shall be inserted -

"(1C) Before determining the terms and conditions on which the Director General of the National Criminal Intelligence Service is to be appointed, the Secretary of State shall-

- (a) consult the Police Negotiating Board for the United Kingdom about any term or condition which would, if the person appointed were to be a serving police officer, relate to any of the matters mentioned in section 61(1) (other than pensions), and
- (b) take into consideration any recommendations made by the Board;

and in this subsection "serving police officer" has the same meaning as in section 6 of the Police Act 1997 (c. 50)."

17. In section 63(3) of that Act (consultation with Police Advisory Board for England and Wales before exercise of certain powers), after paragraph (c) there shall be inserted", or

(d) regulations under Part 2 of the Police Reform Act 2002 (c. 30) ,".

18. In section 87 of that Act (guidance concerning disciplinary proceedings), for subsection (2) there shall be substituted –

"(1A) The Secretary of State may also issue guidance to the Independent Police Complaints Commission concerning the discharge of its functions under any regulations under section 50 in relation to disciplinary proceedings.

- (2) Nothing in this section shall authorise the issuing of any guidance about a particular case.
- (3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in discharging the functions to which the guidance relates.
- (4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

(5) In this section "disciplinary proceedings" means any proceedings under any regulations under section 50 that are identified as disciplinary proceedings by those regulations."

19. (1) In subsection (1) of section 97 of that Act (police officers engaged on service outside their force), after paragraph (a) there shall be inserted –

"(aa) temporary service on which a person is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 30) ;".

(2) In subsection (6)(a) of that section, after "paragraph (a)," there shall be inserted "(aa),".

(3) In subsection (8) of that section, after "paragraph" there shall be inserted "(aa),".

Justices of the Peace Act 1997

20. After section 64 of the Justices of the Peace Act 1997 (c. 25) there shall be inserted-

"64A Disqualifying offices

The person who is the chairman of the Independent Police Complaints Commission or any person who is otherwise a member of that Commission or a member of its staff is disqualified for being appointed or acting as a justice of the peace."

The 1997 Act

21. (1) In section 46 of the 1997 Act (interpretation of Part 1), before the definition of "financial year" there shall be inserted-

""British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);".

(2) In section 52 of the 1997 Act (appointment of Director General of NCS), after subsection (5) there shall be inserted –

"(5A) The Director General shall not be attested as a constable under subsection (5) if he had already been attested as a constable in

England and Wales, and still held that office, immediately before his appointment took effect."

(3) In section 90 of the 1997 Act (interpretation of Part 2), before the definition of "financial year" there shall be inserted –

""British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949;".

Police (Northern Ireland) Act 1998

22. (1) In subsection (1) of section 27 of the Police (Northern Ireland) Act 1998 (c.32) (police officers engaged on service outside the Police Service of Northern Ireland), after paragraph (a) there shall be inserted –

"(aa) temporary service on which a member of the police force is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 00);".

(2) In subsection (5)(b) of that section, for "subsection (1)(b)" there shall be substituted "subsection (1)(aa), (b)".

Freedom of Information Act 2000

23. In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public bodies for the purposes of that Act)-

(a) at the appropriate place, there shall be inserted - "The Independent Police Complaints Commission."; and

(b) the words "The Police Complaints Authority." shall be omitted.

Criminal Justice and Police Act 2001

24. In section 88(7) of the Criminal Justice and Police Act 2001 (c. 16) (power of the Central Police Training and Development Authority to provide training for persons other than persons serving or employed for policing purposes in England and Wales), after paragraph (a) there shall be inserted –

"(aa) members of the staff of the Independent Police Complaints Commission;".

SCHEDULE 8

Section 107

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Superannuation Act 1972 (c. 11)	In Schedule 1, in the entries under the heading "Other bodies", the words "Police Complaints Authority."
House of Commons Disqualification Act 1975 (c. 24)	In Part 2 of Schedule 1, the words "Police Complaints Authority."
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the words "The Police Complaints Authority."
Road Traffic Regulation Act 1984 (c. 27)	In section 96(3)-(a) in the words before paragraph (a), the words "163"; and (b) paragraph (c) and the word "or" immediately preceding it.
Police and Criminal Evidence Act 1984 (c. 60)	In section 67(10), the word "or" after paragraph (a).
Housing Act 1985 (c. 68)	In section 4(e), the words "the Metropolitan Police Authority".
Housing Act 1988 (c. 50)	In paragraph 12(2)(g) of Schedule 1, the words "and the Metropolitan Police Authority".

Road Traffic Act 1988 (c. 52)	Section 103(3). In section 183(1)(c), the words ", except section 103(3)".
Road Traffic Offenders Act 1988 (c. 53)	In section 34(3), the word "and" after paragraph (a).
Official Secrets Act 1989 (c. 6)	Section 11(1).
Criminal Justice and Public Order Act 1994 (c. 33)	Section 54(5).
Police Act 1996 (c. 16)	Section 42(5). In section 62(1B), the words "6 or". Section 63(3)(b). Chapter 1 of Part 4. Section 86. In section 105(2), the words from "paragraph 8" to "that paragraph);". In Schedule 2, paragraph 25. In Schedule 2A, paragraph 20. Schedule 5.
Employment Rights Act 1996 (c. 18)	In section 200(1), the words "Part IVA," and "47B".
Protection from Harassment Act 1997 (c. 40)	Section 2(3).
Police (Health and Safety) Act 1997 (c. 42)	Section 5.

Police Act 1997 (c. 50)	Section 6(3). In section 9, in subsection (2)(b), the words from "to which" to "applies". Section 9A(2). Section 39(3). Section 42(6)(a). In section 55, in subsection (2)(b), the words from "to which" to "applies". Section 55A(2).
Public Interest Disclosure Act 1998 (c. 23)	Section 13.
Police (Northern Ireland) Act 1998 (c. 32)	In Schedule 4, sub-paragraphs (2) to (4) of paragraph 22, and sub-paragraph (9) of that paragraph, the words "and 55(3)(c)".
Crime and Disorder Act 1998 (c. 37)	In section 1- (a) the words after paragraph (b) of subsection (1); and (b) subsection (2). In section 5(1), the word "and" at the end of paragraph (a). Section 32(2). Section 84(2).
Football (Offences and Disorder) Act 1999 (c. 21)	Section 1(2)(f). Section 8(3) and (4).
Local Government Act 1999 (c. 27)	Section 24(3).
Greater London Authority Act 1999 (c. 29)	In Schedule 27, paragraphs 51, 59, 90 and 97 to 99.

Police (Northern Ireland) Act 2000 (c. 32)	In Schedule 6, paragraph 20(4).
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the words "The Police Complaints Authority".
Countryside and Rights of Way Act 2000 (c. 37)	In Schedule 12, paragraph 13.
Criminal Justice and Court Services Act 2000 (c. 43)	In Schedule 7, in paragraph 151, the words "5(2)(b)".
Criminal Justice and Police Act 2001 (c. 16)	Section 12(6). Section 46(6). Section 71. Section 80(2). Section 122(3). Section 123(3). Section 125(4)(b). In Schedule 6, paragraph 74.
Anti-Terrorism, Crime and Security Act 2001 (c. 24)	Section 82(1). Section 94(3).