STATUTORY INSTRUMENTS

1999 No. 1266

POLICE

The National Crime Squad (Complaints) (Amendment) Regulations 1999

Made - - - -	*29th April 1999*
Laid before Parliament	*11th May 1999*
Coming into force	*1st June 1999*

The Secretary of State, in exercise of the powers conferred upon him by section 83 of the Police Act 1997**(a)**, and after complying with the requirements of section 63(3) of the Police Act 1996**(b)**, hereby makes the following Regulations:

1. These Regulations may be cited as the National Crime Squad (Complaints) (Amendment) Regulations 1999 and shall come into force on 1st June 1999.

2. The National Crime Squad (Complaints) Regulations 1998**(c)** shall be amended in accordance with the following provisions of these Regulations.

3. In regulation 2–

(a) after the words "In these Regulations" there shall be inserted "unless the context otherwise requires";

(b) in the definition of "complaint", the words ", other than a police member engaged with the National Crime Squad on a period of temporary service under section 97 of the Police Act 1996," shall be omitted;

(c) in the definition of "disciplinary proceedings" at the end there shall be added the words "or, in the case of a seconded police member, section 50 of the Police Act 1996";

(d) after the definition of "disciplinary proceedings" there shall be inserted the following definition:

" "interested party" means any person involved in the conduct which is the subject of the complaint or who otherwise has a direct interest in the investigation;"; and

(e) for the definition of "police force" there shall be substituted the following definition:

" "seconded police member" means a police member appointed under section 55(2)(b) of the 1997 Act.".

4.—(1) In Part I, for the words "these Regulations" wherever they occur there shall be substituted "this Part of these Regulations".

(2) For regulation 10(4) there shall be substituted the following paragraph:

"(4) The PCA shall send to the NCS Service Authority–

(a) a copy of every report made under subsection (4) of section 79 of the Police Act 1996, and

(a) 1997 c. 50.
(b) 1996 c. 16; section 63(3) was amended by paragraph 83(3) of Schedule 9 to the Police Act 1997.
(c) S.I. 1998/638.

(b) any statistical or any other general information which relates to the year dealt with by the report and which the PCA consider should be brought to the NCS Service Authority's attention in connection with its functions under section 84 of the 1997 Act.".

5. After Part II, there shall be inserted the following provisions:

"PART III

PROCEDURE FOR HANDLING COMPLAINTS RELATING TO THE CONDUCT OF SECONDED POLICE MEMBERS OF THE NATIONAL CRIME SQUAD

Preliminary

18. Where a complaint regarding the conduct of a seconded police member of the National Crime Squad is submitted to the Director General, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of and shall record the complaint.

Investigation of complaint

19.—(1) After recording a complaint under regulation 18, the Director General shall consider whether the complaint is suitable for informal resolution and may appoint a member of the National Crime Squad to assist him.

(2) A complaint is not suitable for informal resolution unless–

(a) the member of the public concerned gives his consent, and

(b) the Director General is satisfied that the conduct complained of, even if proved, would not justify criminal or disciplinary proceedings.

(3) If it appears to the Director General that the complaint is suitable for informal resolution, he shall seek to resolve it informally and may appoint a member of the National Crime Squad to do so on his behalf.

(4) If it appears to the Director General that the complaint is not suitable for informal resolution, he shall appoint a member of the National Crime Squad or a member of NCIS or of a police force to investigate it formally.

(5) If, after attempts have been made to resolve a complaint informally, it appears to the Director General–

(a) that informal resolution of the complaint is impossible, or

(b) that the complaint is for any other reason not suitable for informal resolution,

he shall appoint a member of the National Crime Squad or a member of NCIS or of a police force to investigate it formally.

(6) If the Director General requests the chief officer of a police force or the Director General of NCIS to provide a member of that force or, as the case may be, of NCIS for appointment under paragraph (4) or (5), the chief officer or Director General to whom the request is made shall comply with that request.

(7) No member of the National Crime Squad or of NCIS or of a police force of a rank lower than inspector, or of a rank lower than that of the member whose conduct is the subject of the complaint, may be appointed under paragraph (4) or (5).

(8) As soon as practicable after appointing an investigating officer under paragraph (4) or (5), the Director General shall ensure that the seconded police member whose conduct is the subject of the investigation is given written notice of the nature of the complaint and informed–

(a) that he is not obliged to say anything concerning the matter, but that he may, if he so desires, make a written or oral statement concerning the matter to the investigating officer or to the Director General,

(b) that if he makes such a statement it may be used in any subsequent disciplinary proceedings,

(c) that he has the right to seek advice from his staff association, and

(d) that he has the right to be accompanied by a member of the National Crime Squad or a member of NCIS or of a police force, who shall not be an interested party, to any meeting or interview.

(9) Unless an investigation under this regulation is supervised by the PCA under regulation 22, the investigating officer shall submit his report on it to the Director General.

(10) The Director General shall inform the chief officer of police with whose consent the member whose conduct is the subject of the complaint is engaged with the National Crime Squad–

(a) of the appointment of an investigating officer under paragraph (4) or (5); and

(b) of the outcome of the investigation.

References of complaints to the PCA

20.—(1) The Director General–

(a) shall refer to the PCA–

(i) any complaint regarding a seconded police member of the National Crime Squad alleging that the conduct complained of resulted in the death of, or serious injury to, some other person, and

(ii) any complaint regarding a seconded police member of the National Crime Squad which is of the same description as a complaint specified in regulations made by the Secretary of State for the purposes of section 70 of the Police Act 1996, and

(b) may refer to the PCA any complaint which is not required to be referred to them.

(2) The PCA may require the submission to them for consideration of any complaint regarding the conduct of a seconded police member of the National Crime Squad not referred to them by the Director General; and the Director General shall comply with any such requirement not later than the end of the specified period.

(3) For the purposes of paragraph (2) the specified period shall be the period which is specified in regulations made by the Secretary of State for the purpose of subsection (2) of section 70 of the Police Act 1996.

(4) Where a complaint falls to be referred to the PCA under paragraph (1)(a), it shall be the duty of the Director General to refer it to them not later than the end of the period specified for the purpose of subsection (1) of section 70 of the Police Act 1996 in regulations made by the Secretary of State.

Reference of other matters to the PCA

21.—(1) The Director General may refer to the PCA any matter to which this regulation applies, if it appears to the Director General that the matter ought to be referred by reason–

(a) of its gravity, or

(b) of its exceptional circumstances.

(2) This regulation applies to any matter which–

(a) appears to the Director General to indicate that a seconded police member of the National Crime Squad may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings, and

(b) is not the subject of a complaint.

Supervision of investigation by PCA

22.—(1) The PCA shall supervise the investigation of–

(a) any complaint alleging that the conduct of a seconded police member of the National Crime Squad resulted in the death of, or serious injury to, some other person,

(b) any other complaint which is of the same description as a complaint specified for the purposes of section 72 of the Police Act 1996 in regulations made by the Secretary of State under that Act, and

(c) any complaint which is not within paragraph (a) or (b) and any matter referred to the PCA under regulation 21, if the PCA determine that it is desirable in the public interest that they should do so.

(2) Where the PCA have made a determination under paragraph (1)(c), they shall notify it to the Director General.

(3) Where an investigation is to be supervised by the PCA, they may require–

(a) that no appointment is made under regulation 19(4) or (5) unless they have given notice to the Director General that they approve the person he proposes to appoint, or

(b) if such an appointment has already been made and the PCA are not satisfied with the person appointed, that–

(i) the Director General, as soon as reasonably practicable, appoint another member of the National Crime Squad or of NCIS or of a police force and notify the PCA that he proposes to appoint him, and

(ii) the appointment is not made unless the PCA give notice to the Director General that they approve that person.

(4) Where the Secretary of State, by regulations made under section 72(4) of the Police Act 1996, authorises the PCA to impose requirements as to a particular investigation additional to any requirement imposed by subsection (3) of that section then, in addition to any requirement imposed by paragraph (3) above, the PCA may impose the like additional requirements, subject to any restrictions or conditions specified in those regulations, in relation to any investigation under this Part of these Regulations.

(5) A member of the National Crime Squad or of NCIS or of a police force shall comply with any requirement imposed upon him by virtue of the application of paragraph (4).

Reports on investigations etc.

23.—(1) At the end of an investigation which the PCA have supervised, the investigating officer shall–

(a) submit a report on the investigation to the PCA, and

(b) send a copy of the report to the Director General.

(2) After consideration of a report submitted to them under paragraph (1) the PCA shall submit an appropriate statement to the Director General.

(3) If it is practicable to do so, the PCA, when submitting the appropriate statement under paragraph (2), shall send a copy of it to the seconded police member of the National Crime Squad whose conduct has been investigated.

(4) If–

(a) the investigation related to a complaint, and

(b) it is practicable to do so,

the PCA shall also send a copy of the appropriate statement to the person by or on behalf of whom the complaint was submitted.

(5) The power to issue an appropriate statement includes power to issue separate statements in respect of the disciplinary and criminal aspects of the investigation.

(6) No disciplinary proceedings shall be brought before the appropriate statement is submitted to the Director General.

(7) Subject to paragraph (8), neither the Director General nor the Director of Public Prosecutions shall bring criminal proceedings before the appropriate statement is submitted to the Director General.

(8) The restriction imposed by paragraph (7) does not apply if it appears to the Director of Public Prosecutions that there are exceptional circumstances which make it undesirable to wait for the submission of the appropriate statement.

(9) In this regulation "appropriate statement" means a statement–

(a) as to whether the investigation was or was not conducted to the PCA's satisfaction,

(b) specifying any respect in which it was not so conducted, and

(c) dealing with any other matters which are matters of the kind provided for in regulations made under section 72 of the Police Act 1996 for the purposes of that section.

Steps to be taken after investigation

24.—(1) On receiving–

(a) a report concerning the conduct of a seconded police member of the National Crime Squad which is submitted to him under regulation 19(9), or

(b) a copy of a report concerning the conduct of such a member which is sent to him under regulation 23(1)(b),

the Director General shall determine whether the report indicates that a criminal offence may have been committed by a seconded police member of the National Crime Squad.

(2) If the Director General determines that the report indicates that a criminal offence may have been committed by a seconded police member of the National Crime Squad, he shall send a copy of the report to the Director of Public Prosecutions.

(3) After the Director of Public Prosecutions has dealt with the question of criminal proceedings, the Director General shall send the PCA a memorandum which–

(a) is signed by the Director General,

(b) states whether he considers that disciplinary proceedings should be brought in pursuance of section 97(6)(a) of the Police Act 1996**(a)** in respect of the conduct which was the subject of the investigation, and

(c) if he does not consider that such proceedings should be brought, gives his reasons.

(4) If the Director General considers that the report does not indicate that a criminal offence may have been committed by a seconded police member of the National Crime Squad, he shall send the PCA a memorandum to that effect which–

(a) is signed by the Director General,

(b) states whether he considers that disciplinary proceedings should be brought in pursuance of section 97(6)(a) of the Police Act 1996 in respect of the conduct which was the subject of the investigation, and

(c) if he does not consider that such proceedings should be brought, gives his reasons.

(5) Where the investigation–

(a) related to conduct which was the subject of a complaint, and

(b) was not supervised by the PCA,

the Director General shall, at the same time as he sends the PCA a memorandum under paragraph (3) or (4), send them a copy of the complaint, or of the record of the complaint, and a copy of the report of the investigation.

(6) Where the Director General has sent a memorandum to the PCA under paragraph (3) or (4) which states that he considers that disciplinary proceedings should be brought–

(a) he shall take steps to ensure that the temporary service with the National Crime Squad of the seconded police member whose conduct was the subject of the investigation is completed as soon as is practicable, and

(b) he shall inform the chief officer of police with whose consent that member was engaged on such service that he considers that disciplinary proceedings should be brought in pursuance of section 97(6)(a) of the Police Act 1996 in respect of that member's conduct.

(a) Section 97(6)(a) was amended by paragraph 86(3) of Schedule 9 to the Police Act 1997.

Powers of PCA as to disciplinary proceedings

25.—(1) Where a memorandum under regulation 24 states that the Director General does not consider that disciplinary proceedings should be brought in pursuance of section 97(6)(a) of the Police Act 1996, the PCA may recommend him to take such steps as are referred to in paragraph (6)(a), and inform the chief officer of police in accordance with paragraph (6)(b), of that regulation.

(2) If after the PCA have made a recommendation under this regulation and consulted the Director General he is still unwilling to proceed in accordance with regulation 24(6)(a) and (b), they may direct him to do so.

(3) Where the PCA gives the Director General a direction under this regulation, they shall supply him with a written statement of their reasons for doing so.

(4) Subject to paragraph (5), it shall be the duty of the Director General to comply with such a direction.

(5) The PCA may withdraw a direction given under this regulation.

(6) The Director General shall–

(a) advise the PCA and the chief officer of police referred to in regulation 24(6)(b) of what action he has taken in response to a recommendation or direction under this regulation, and

(b) supply the PCA with such other information as they may reasonably require for the purposes of discharging their functions under this regulation.

Reports by PCA

26.—(1) The PCA may make a report to the Secretary of State on any matters coming to their notice under these Regulations to which they consider that his attention should be drawn by reason of their gravity or of other exceptional circumstances.

(2) The PCA shall send a copy of any report under paragraph (1) to the NCS Service Authority and the Director General.

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

(4) The PCA shall send to the NCS Service Authority–

(a) a copy of every report made under subsection (4) of section 79 of the Police Act 1996, and

(b) any statistical or other general information which relates to the year dealt with by the report and which the PCA consider should be brought to the NCS Service Authority's attention in connection with its functions under section 84 of the 1997 Act.

Restriction on disclosure of information

27.—(1) No information received by the PCA in connection with any of their functions under this part of these Regulations shall be disclosed by any person who is or has been a member, officer or servant of the PCA except–

(a) to the Secretary of State or to a member, officer or servant of the PCA or, so far as may be necessary for the proper discharge of the functions of the PCA, to other persons,

(b) for the purposes of any criminal, civil or disciplinary proceedings, or

(c) in the form of a summary or other general statement made by the PCA which does not identify the person from whom the information was received or any person to whom it relates.

(2) Any person who discloses information in contravention of this regulation shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Regulations

28. Where the Secretary of State makes regulations under section 81 of the Police Act 1996 as to the procedure to be followed under Chapter I of Part IV of that Act then the procedures provided for by those regulations shall be the procedures to be followed under this Part of these Regulations with the following modifications–

(i) references to "appropriate authority" and "chief officer" shall be interpreted as references to the Director General;

(ii) references to a "complaint" shall be interpreted as references to a complaint under this Part of these Regulations, and references to a complainant shall be construed accordingly;

(iii) references to a "member of a police force" shall be interpreted as references to a seconded police member of the National Crime Squad;

(iv) references to provisions of the Police Act 1996 shall be interpreted as references to the equivalent provisions in this Part of these Regulations.

Admissibility of statements in subsequent proceedings

29.—(1) Subject to paragraph (2), no statement made by a person for the purpose of the informal resolution of a complaint shall be admissible in any subsequent criminal, civil or disciplinary proceedings.

(2) A statement is not rendered inadmissible by paragraph (1) if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.".

Home Office
29th April 1999

Paul Boateng
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Crime Squad (Complaints) Regulations 1998 (the 1998 Regulations) in relation to complaints against seconded police members.

Regulation 3 amends and inserts certain definitions in regulation 2 of the 1998 Regulations. Regulation 5 inserts a new Part III in the 1998 Regulations which makes provision for the procedures for handling complaints relating to the conduct of police members of the National Crime Squad who are engaged on temporary service under section 97 of the Police Act 1996 ("seconded police members"). Part III generally mirrors Chapter I of Part IV of that Act in its application to members of police forces other than senior officers. Regulation 4 makes minor and consequential amendments to Part I of the 1998 Regulations.

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