STATUTORY INSTRUMENTS

1967 No. 1021 (S. 80)

POLICE

The Police (Discipline) (Scotland) Regulations 1967

Made - - - -	*5th July* 1967
Laid before Parliament	*17th July* 1967
Coming into Operation	*1st August* 1967

In exercise of the powers conferred on me by section 11 of the Police (Scotland) Act 1956(**a**) as amended by the Police Act 1964(**b**) I hereby make the following Regulations:—

PART I

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police (Discipline) (Scotland) Regulations 1967 and shall come into operation on 1st August 1967.

(2) In these Regulations, unless the context otherwise requires:—

"beat" means the area to which a constable is assigned for duty either generally or for a particular period of hours;

"complainer" means the person who, aggrieved by the action of a constable, originates a complaint which gives rise to a disciplinary hearing notwithstanding that the complaint is made through some other person or body; and

"constable" has the like meaning as "regular constable" in the Police (Scotland) Act 1956.

(3) Any reference to the Police (Scotland) Regulations 1956(**c**) shall be construed as a reference to those Regulations as amended by any other Regulations.

(4) The Interpretation Act 1889(**d**) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

PART II

Procedure in relation to all constables

2. Where a report or allegation is made from which it may reasonably be inferred that a constable has committed a criminal offence, such report or allegation shall as soon as possible be referred by the deputy chief constable, or such other constable as the chief constable may authorise, to the procurator fiscal of the sheriff court.

PART III

Procedure in relation to constables other than chief constables, deputy chief constables or assistant chief constables

3.—(1) Where a report or an allegation is made from which it may reasonably be inferred that a constable of a police force has committed one or more of the disciplinary offences set out in the Discipline Code in Schedule 1 hereto the deputy chief constable of that force shall appoint a constable (hereafter in these

(**a**) 1956 c. 26. (**b**) 1964 c. 48.
(**c**) S.I. 1956/1999 (1956 II, p. 1766). (**d**) 1889 c. 63.

Regulations referred to as "the investigating officer") who shall, unless he is instructed otherwise by the deputy chief constable in accordance with paragraph (2) of this Regulation, inform the alleged offender as soon as possible of the report or allegation on a form (hereafter in these Regulations referred to as an "investigation form") of the report or allegation. After serving the investigation form the investigating officer shall give the alleged offender an opportunity of making any oral or written statement which he may wish to make concerning the report or allegation and of providing the names and addresses of any persons whom he may desire to give statements on his behalf, and the investigating officer shall inform him that there is no obligation to give any explanation or provide such names and addresses at this stage but that, if a statement is made, it may be used in evidence in any disciplinary proceedings. A copy of any written statement made or a record of any oral statement made shall be given to the constable by the investigating officer. A statement which a constable is ordered to make in the course of duty shall not be admissible in any disciplinary proceedings in respect of that constable except in relation to offences involving the making of a false, misleading or inaccurate statement.

(2) Notwithstanding anything in paragraph (1) of this Regulation, where a report or an allegation that a constable has committed a criminal offence has been referred to the procurator fiscal, the deputy chief constable may decide not to appoint an investigating officer, or that an investigating officer whom he has appointed shall not serve an investigation form, in respect of any disciplinary offence arising out of or referred to in that report or allegation insofar as it might be the subject of criminal proceedings until the procurator fiscal has intimated whether or not proceedings are to be taken in respect of any alleged criminal offence. Where the procurator fiscal has intimated that criminal proceedings are to be taken against a constable in respect of an alleged criminal offence, the deputy chief constable shall arrange in any case where an investigation form has not been served for the constable to be warned that disciplinary proceedings in respect of the alleged disciplinary offence may follow the criminal proceedings.

(3) This Regulation shall not apply where the disciplinary offence is the offence set out in paragraph 13 of the Discipline Code.

4.—(1) The investigating officer shall after due investigation in which he shall take all reasonable steps to obtain statements from witnesses, submit to the deputy chief constable a report on the alleged disciplinary offence, together with:—

(*a*) the investigation form;

(*b*) a copy of any written statement which the constable may have made under Regulation 3(1) or a record of any oral statement so made; and

(*c*) any statements obtained from witnesses.

(2) The deputy chief constable after considering this report shall decide whether or not the constable shall be charged with a disciplinary offence and, if he decides that the constable shall be so charged, he shall as soon as possible cause to be entered on a form (hereafter in these Regulations referred to as a "discipline form") the disciplinary offence with which the constable is to be charged and such particulars as will indicate the precise nature of the alleged offence and shall sign the discipline form.

(3) Notwithstanding anything in paragraph (2) of this Regulation, where the alleged disciplinary offence has accompanied an alleged criminal offence which has been reported to the procurator fiscal in terms of Regulation 2, the deputy chief constable may determine to delay a decision on the service of the discipline form until the procurator fiscal has intimated whether or not criminal proceedings are to be taken in respect of the alleged criminal offence and, if he so

determines, he shall arrange for the constable to be informed to this effect. Where the procurator fiscal has intimated that criminal proceedings are to be taken, the deputy chief constable may determine to delay a decision on the service of the discipline form until the results of these proceedings are known but in that event he shall arrange for the constable to be informed that disciplinary proceedings in respect of the alleged disciplinary offence may follow the criminal proceedings.

(4) Where the deputy chief constable decides that the constable shall not be charged with a disciplinary offence, his decision shall be intimated to the constable as soon as possible.

(5) The deputy chief constable may decide that a constable shall be charged with a disciplinary offence in respect of an act referred to in a report or allegation submitted to the procurator fiscal but in relation to which report or allegation it has been intimated that no criminal proceedings are to be taken.

(6) Notwithstanding any provision in this or the preceding Regulation, the deputy chief constable may, when he receives a report or allegation that a constable has committed a disciplinary offence, including that set out in paragraph 13 of the Discipline Code, or a report from an investigating officer on such a report or allegation, arrange for the constable to be dealt with by a warning from an officer superior in rank, if he is satisfied that the offence concerned is a trivial one.

5.—(1) Where a constable is charged with a disciplinary offence, the deputy chief constable shall arrange for the accused to be supplied as soon as possible with:—

(*a*) a copy of the discipline form;

(*b*) a copy of the report or allegation on which the charge is founded and any reports thereon even if they may be confidential; and

(*c*) the name and address of each witness who may be called and a copy of any statement which he may have made.

(2) Notwithstanding anything in paragraph (1)(*b*) of this Regulation the deputy chief constable may withhold a report from the accused if he is satisfied that considerations of national security require it not to be supplied.

6.—(1) The accused shall state in writing on the discipline form:—

(*a*) whether he admits or denies the charge; and

(*b*) the names and addresses of any witnesses whom he may desire to give evidence at the hearing.

(2) The investigating officer shall take all reasonable steps to obtain statements from the witnesses referred to in paragraph (1)(*b*) of this Regulation and shall supply to the accused a copy of any such statements.

(3) The deputy chief constable shall make the necessary arrangements for the hearing and, where the accused has requested the assistance in presenting his case of a constable of a police force other than his own, the deputy chief constable shall inform the chief constable of that other force of that request and of the time and place of the hearing.

(4) The deputy chief constable shall take all reasonable steps to secure the attendance of witnesses at the hearing.

(5) Where the hearing arises out of a complaint by a member of the public the deputy chief constable shall, if the accused has denied the charge, inform the complainer of the time and place of the hearing and shall draw the complainer's attention to the provisions of Regulation 7(12).

7.—(1) The accused shall be ordered to appear at the hearing and at any adjournment thereof.

(2) The accused shall be entitled to have a constable selected by himself to assist him in presenting his case.

(3) Subject to the provisions of paragraph (5) of this Regulation and of Regulations 18, 19 and 20, in any proceedings under these Regulations the chief constable shall hear the case unless he is interested otherwise than as chief constable or is a material witness.

(4) It shall be the duty of the chief constable to inform the accused by notice in writing where he has an interest in the case, otherwise than as chief constable, or where he is a material witness, and any such notice shall draw the attention of the accused to the provisions of paragraph (5) of this Regulation.

(5) Where the chief constable is interested as aforesaid or is a material witness, he or the accused may elect that, instead of the chief constable hearing the case, it shall be heard by that chief constable who shall be first available on a rota of all chief constables prepared and maintained for the purposes of this Regulation by the President of the Chief Constables' (Scotland) Association; any reference in these Regulations to the chief constable in relation to the hearing of a case shall be construed accordingly.

(6) If the accused wishes to make objections to the competency or relevancy of the charge, he shall present them in writing to the chief constable at least 48 hours before the time of the hearing.

(7) At the beginning of the hearing the chief constable shall determine any objections to the competency or relevancy of the charge.

(8) The case against the accused shall be presented by a constable of rank equal to or above that of the accused, other than the chief constable, the deputy chief constable, the investigating officer or a witness.

(9) If the accused admits the charge, the chief constable, after giving the accused an opportunity of making a statement, may dispose of the case forthwith.

(10) The accused shall be entitled to cross-examine all witnesses called in support of the case against him, to call witnesses in his defence, to give evidence and to make representations in his defence.

(11) The hearing shall be held in private:

Provided that, when a child is giving evidence, the chief constable may allow a parent or guardian to be present and, when any witness is giving evidence, the chief constable may, subject to consideration of any objections raised by the accused, allow such other persons to be present as may seem reasonable to him because of special circumstances.

(12) Notwithstanding anything in paragraph (11) of this Regulation, where the hearing arises out of a complaint made by a member of the public and the accused denies the charge or any part thereof, the complainer may be present at the hearing while witnesses are giving evidence but he shall not be entitled to put questions to the accused or, except when giving evidence as a witness, to participate in the proceedings in any way:

Provided that, when the complainer is himself a witness, he may be present to hear the taking of evidence only after he himself has given evidence:

Provided also that the chief constable may, if he thinks fit, exclude the complainer from the whole or any part of the hearing and without prejudice to the foregoing generality shall exclude him during any period when confidential matters are being dealt with or if he conducts himself in a disorderly manner.

(13) A verbatim record of the proceedings at the hearing shall be taken. If the accused so requests, in order to consider the submission of an appeal, the verbatim record shall be transcribed and a copy shall be furnished to the accused as soon as possible. On completion of any appeal or on a decision not to appeal, the accused shall return the transcription to the chief constable who shall retain it for three years. Where no transcription is made the verbatim record shall be retained by the chief constable for three years.

8.—(1) The chief constable at the conclusion of the hearing, or where the case is heard by another chief constable in accordance with the provisions of Regulation 20 on receiving the report of that chief constable, shall reach a decision on the case.

(2) The finding of the chief constable and any punishment imposed shall be recorded on the discipline form and be communicated to the accused.

(3) Where the hearing arises out of a complaint made by a member of the public the finding of the chief constable, but not the punishment imposed, shall be communicated to the complainer.

9. A disciplinary offence may be punished by:—

(*a*) dismissal;

(*b*) a requirement to resign either forthwith or at such date as may be specified in the decision as an alternative to dismissal;

(*c*) reduction in rank;

(*d*) reduction in rate of pay for a definite period not exceeding 12 months as may be specified in the decision;

(*e*) fine;

(*f*) reprimand;

(*g*) caution;

Provided that the punishment of a reduction in rate of pay or of a fine shall not be imposed for the offence set out in paragraph 13 of the Discipline Code.

10.—(1) A fine or reduction in rate of pay without reduction in rank shall not result in any increment in pay being retarded or withheld.

(2) The amount of a fine in respect of any one case, no matter how many are the charges, shall not in the aggregate exceed 1 week's pay and shall be recovered by stoppage of pay in amounts not exceeding a seventh of his weekly pay except in the event of a constable leaving the force when the whole amount of any fine then unpaid may be deducted from any pay then due.

(3) A reduction in rate of pay without reduction in rank shall not reduce the rate of pay by more than two increments:

Provided always that a reduction in rate of pay without reduction in rank shall not reduce the rate of pay below the minimum of the scale of pay for the rank in the force.

11. In considering which punishment is to be imposed when a charge is found to be proved the chief constable:—

(*a*) shall have regard to the accused's personal record; and

(*b*) may invite a constable of the force superior in rank to the accused, to give an oral report on the character of the accused provided that, where such oral report is made, the accused or his representative shall be given the opportunity to comment thereon.

12.—(1) If the accused refuses or fails to attend at the time and place appointed for hearing the case, or if he is serving a sentence of imprisonment, the case may

be proceeded with and concluded in his absence provided that, where the accused expresses a desire to appear before the chief constable, the chief constable shall hear him before reaching a decision.

(2) Where owing to the absence of the accused it is impossible for the procedure described in Regulations 3, 4, 5 and 6 of these Regulations to be followed, the case may be proceeded with and concluded in the absence of the accused as though the procedure set out in these Regulations had been complied with.

13. The chief constable may adjourn the hearing to a later time or date if it appears to him that for any reason the ends of justice may be prejudiced unless the hearing is delayed.

14.—(1) A constable against whom a report or allegation has been made from which it may reasonably be inferred that a criminal offence or a disciplinary offence has been committed by him may be suspended from duty by any constable of the force senior in rank to him.

(2) The deputy chief constable may terminate a suspension imposed under paragraph (1) of this Regulation with effect from the date of the constable's suspension or from any subsequent date, and shall do so when he has decided that the constable shall not be charged with a disciplinary offence, unless the constable has submitted his resignation, or when disciplinary proceedings have been taken but have not resulted in a punishment of dismissal or requirement to resign.

(3) Where the deputy chief constable has terminated the suspension of a constable, that constable may not be suspended again in respect of the report or allegation which led to the suspension which has been terminated.

(4) A constable suspended from duty shall in respect of the period of suspension be paid a suspension allowance of two-thirds of his pay:

Provided that in the case of a constable who:—

(*a*) has been found guilty of a criminal offence, no suspension allowance shall be payable in respect of any period of imprisonment;

(*b*) has absented himself from duty and whose whereabouts are unknown to the deputy chief constable no suspension allowance shall be payable in respect of the period during which his whereabouts are unknown unless the deputy chief constable so directs.

(5) A constable suspended from duty shall not in respect of the period of suspension be entitled to pay, or to any allowances under the Police (Scotland) Regulations 1956 except a rent allowance, supplementary allowance or compensatory grant.

(6) A constable who, having been suspended from duty, returns to duty shall receive for the period of his suspension the difference between the allowances paid to him in terms of paragraphs (4) and (5) of this Regulation and the pay and allowances to which he would have been entitled under the Police (Scotland) Regulations 1956 but for his suspension from duty:

Provided that a constable who has been charged with a disciplinary offence and has been punished with dismissal, requirement to resign, reduction in rank or reduction in rate of pay for a period of 12 months, shall receive in respect of any period of suspension only those allowances referred to in paragraphs (4) and (5) of this Regulation to which he is entitled.

(7) The Police (Scotland) Regulations 1956 and these Regulations shall apply to a constable suspended from duty.

15. There shall be kept in the office of the chief constable a discipline book in which shall be entered every charge made against a constable which proceeds to a

hearing together with the finding of the chief constable and any punishment imposed and the result of any appeal against the finding or punishment.

16. There shall be kept in the headquarters office of the force or, where the force is divided into divisions, in the headquarters office of each division a headquarters discipline book or a divisional discipline book, as the case may be, in which shall be entered details of every report or allegation suggesting the commission of a disciplinary offence by any constable of the force or of the division together with the action taken in connection therewith. Where a report or allegation results in a constable being charged with a disciplinary offence which is heard by the chief constable, this shall be recorded together with the finding of the chief constable.

17. There shall be kept in the headquarters office of the force or, where the force is divided into divisions, in the headquarters office of each division a headquarters complaint book or a divisional complaint book, as the case may be, in which shall be entered every complaint made by a member of the public against a constable together with an account of the action taken in connection therewith.

18. Where a report or allegation is made from which it may reasonably be inferred that constables of two or more police forces acting together have committed one or more disciplinary offences, the deputy chief constables of these forces may appoint one investigating officer to deal with the report or allegation in accordance with the provisions of Regulation 3.

19. Where two or more deputy chief constables decide after considering the report of the investigating officer that constables of their forces should be charged with committing a disciplinary offence while acting together, they may arrange for the case to be heard by the chief constable who shall be first available on a rota of all chief constables prepared and maintained for the purposes of Regulation 7 by the President of the Chief Constables' (Scotland) Association other than the chief constables of the forces of which the accused are constables.

20.—(1) Subject to paragraph (2) hereof, Regulations 7, 11, 12, and 13 shall apply to cases remitted to a chief constable under Regulation 19 as they apply in relation to a hearing in accordance with Regulation 7(3).

(2) The chief constable to whom a case has been remitted under Regulation 19 shall as soon as possible after the hearing submit to the chief constables of the police forces of which the accused are constables:—

(*a*) the discipline form;

(*b*) a statement as to the charge or charges found to be proved;

(*c*) if any charges are found to be proved, a recommendation as to the proper punishment which in his opinion, having regard to the personal record of the accused, should be imposed;

(*d*) if the chief constable of any force of which any of the accused is a constable so requests, a transcription of the verbatim record of the proceedings.

21. Regulations 3 to 20 of these Regulations shall not apply to offences committed by a chief constable, deputy chief constable or assistant chief constable.

22. In this Part of these Regulations, unless the context otherwise requires:—

(*a*) any reference to the chief constable shall include a reference to the deputy chief constable when acting as chief constable and any reference to the deputy chief constable shall include a reference to a constable acting in the place of the deputy chief constable: Provided that the deputy chief constable shall not, without the written agreement of the accused, act as

chief constable to hear a case in which he himself has decided that the accused should be charged;

(*b*) the expression "investigating officer" means such constable of or above the rank of inspector (other than a chief constable or deputy chief constable) equal in rank to, or above the rank of, the constable against whom a report or allegation is made, as the deputy chief constable may appoint to investigate that report or allegation; Provided that the deputy chief constable shall not appoint as investigating officer any constable who is a material witness or is interested in that report or allegation otherwise than as a constable and accordingly he shall ask any constable considered for appointment, and that constable shall declare whether he is such a witness or is so interested, before an appointment is made.

PART IV

Procedure in relation to chief constables

23.—(1) Where a report or allegation is made against a chief constable from which it may reasonably be inferred that a disciplinary offence has been committed by him, he shall be informed in writing by the police authority of the report or allegation, he shall state whether or not he admits that he has committed a disciplinary offence, and he shall be given an opportunity of making any oral or written statement which he may wish to make about the report or allegation and of giving the names and addresses of any persons whom he may desire to give statements on his behalf:

Provided that an opportunity of making any such statement or of giving names and addresses need not be given if the offence is the offence set out in paragraph 13 of the Discipline Code.

(2) Notwithstanding anything in paragraph (1) of this Regulation, the police authority when they receive a report or allegation that a chief constable has committed a disciplinary offence including that set out in paragraph 13 of the Discipline Code may determine that he shall not be charged with a disciplinary offence if they are satisfied that the offence concerned is a trivial one.

24.—(1) If the chief constable admits that he has committed a disciplinary offence, the police authority may impose a punishment of caution without the case being heard in accordance with the following provisions of this Part of these Regulations.

(2) If the police authority think fit, after taking into consideration any statement which the chief constable may have made under Regulation 23, they shall instruct counsel or a solicitor, not being a member, officer or servant of the police authority or of any local authority which appoints or elects any member of the police authority or, where an amalgamation scheme is in force, of the joint police committee to enter on a discipline form the disciplinary offence with which the chief constable is charged and such particulars as will indicate the precise nature of the alleged offence.

25.—(1) Where a chief constable is charged with a disciplinary offence he shall be supplied with:—

(*a*) a copy of the discipline form;

(*b*) a copy of any written statement which he may have made under Regulation 23 or a record of any oral statement so made;

(*c*) a copy of the report or allegation on which the charge is founded and any reports thereon even if they may be confidential; and

(*d*) the name and address of each witness who may be called and a copy of any statement which he may have made.

(2) Notwithstanding anything in paragraph (1)(*b*) of this Regulation a report may be withheld from the chief constable if considerations of national security require it not to be supplied.

26.—(1) The chief constable shall state in writing on the discipline form whether he admits or denies the charge.

(2) The chief constable shall state in writing the names and addresses of any witnesses whom he may desire to give evidence at the hearing and the police authority shall take all reasonable steps to have statements taken from these witnesses.

(3) A copy of any statements made by witnesses shall be made available to the chief constable.

(4) All reasonable steps shall be taken to secure the attendance of witnesses at the hearing.

(5) Where the hearing arises out of a complaint by a member of the public, the police authority shall if the accused has denied the charge inform the complainer of the time and place of the hearing and draw the complainer's attention to the provisions of Regulation 29(2).

27.—(1) The case shall be heard by a tribunal which shall consist of such person as the police authority shall select from a list of persons nominated by the Lord President of the Court of Session.

(2) To assist the tribunal on matters pertaining to the police there shall also be appointed by the police authority an assessor who shall be such person as the police authority with the approval of the tribunal shall select, being a person who is or has been a chief constable other than a person who is one of Her Majesty's Inspectors of Constabulary.

28.—(1) The case against the chief constable shall be presented by counsel or a solicitor not being a member, officer or servant of the police authority or of any local authority which appoints or elects any member of the police authority or, where an amalgamation scheme is in force, of the joint police committee.

(2) The chief constable shall be entitled to cross-examine all witnesses called in support of the case against him, to call witnesses in his defence, to give evidence and to make representations in his defence.

(3) The chief constable shall be entitled to have counsel or a solicitor or a constable selected by himself to assist him in presenting his case.

29.—(1) The hearing shall be held in private unless the tribunal otherwise directs.

(2) Notwithstanding anything in paragraph (1) of this Regulation, where the hearing arises out of a complaint made by a member of the public and the accused denies the charge or any part thereof, the complainer may be present at the hearing while the witnesses are giving evidence but he shall not be entitled to put questions to the accused or, except when giving evidence as a witness, to participate in the proceedings in any way:

Provided that, when the complainer is himself a witness, he may be present to hear the taking of evidence only after he himself has given evidence:

Provided also that the tribunal may, if it thinks fit, exclude the complainer from the whole or any part of the hearing and without prejudice to the foregoing generality shall exclude him during any period when confidential matters are being dealt with or if he conducts himself in a disorderly manner.

30. A verbatim record of the proceedings at the hearing shall be taken. If the chief constable so requests, in order to consider the submission of an appeal, the verbatim record shall be transcribed and a copy shall be furnished to the chief constable as soon as possible. On completion of any appeal or on a decision not to appeal, the chief constable shall return the transcription to the police authority who shall retain it for three years. Where no transcription is made, the verbatim record shall be retained by the police authority for three years.

31. The tribunal may adjourn the hearing to a later time or date if it appears to the tribunal that for any reason the ends of justice may be prejudiced unless the hearing is delayed.

32. If the chief constable refuses or fails to attend at the time and place appointed for the hearing, or if he is serving a sentence of imprisonment, the case may be proceeded with and concluded in his absence.

33. The tribunal shall as soon as possible after the hearing submit a report to the police authority setting out:—

(*a*) a statement of the facts admitted or found to be proved so far as they are material to the case;

(*b*) a statement as to the charge or charges found to be proved;

(*c*) if any charge is found to be proved, a recommendation as to the proper punishment which in the opinion of the tribunal, having regard to the chief constable's record of service, should be imposed;

(*d*) a recommendation as to whether the chief constable should be required to pay the whole or any part of his own expenses relative to the hearing;

(*e*) any other matter arising out of the hearing which it desires to bring to the notice of the police authority.

34. The police authority shall pay the expenses relative to the hearing reasonably incurred by the chief constable, and shall not require the chief constable to pay a greater part of his own expenses than is recommended by the tribunal under Regulation 33(*d*).

35.—(1) The police authority having considered the tribunal's report, shall record their finding and any punishment imposed on the discipline form and communicate them to the chief constable.

(2) Where the hearing arises out of a complaint made by a member of the public the finding of the police authority, but not the punishment imposed, shall be communicated to the complainer.

36.—(1) A disciplinary offence may be punished by:—

(*a*) dismissal;

(*b*) a requirement to resign either forthwith or at such date as may be specified in the decision as an alternative to dismissal;

(*c*) reprimand; or

(*d*) caution.

(2) In considering which punishment is to be imposed when a charge is found to be proved the police authority shall have regard to the chief constable's record of service.

37. A copy of the report of the tribunal together with the finding of the police authority and any punishment imposed shall be transmitted by the police authority to the Secretary of State.

38.—(1) A chief constable against whom a report or allegation has been made from which it may reasonably be inferred that a criminal offence or a disciplinary offence has been committed by him may be suspended from duty by the police authority.

(2) The police authority may terminate a suspension imposed under paragraph (1) of this Regulation with effect from the date of the chief constable's suspension or from any subsequent date, and shall do so when they have decided that he shall not be charged with a disciplinary offence, unless the chief constable has submitted his resignation, or when disciplinary proceedings have been taken but have not resulted in a punishment of dismissal or requirement to resign.

(3) Where the police authority have terminated the suspension of the chief constable, he may not be suspended again in respect of the report or allegation which led to the suspension which has been terminated.

(4) A chief constable suspended from duty shall in respect of the period of suspension be paid a suspension allowance of two-thirds of his pay:

Provided that, in the case of a chief constable who:—

(*a*) has been found guilty of a criminal offence, no suspension allowance shall be payable in respect of any period of imprisonment;

(*b*) has absented himself from duty and whose whereabouts are unknown to the police authority no suspension allowance shall be payable in respect of the period during which his whereabouts are unknown to that police authority unless they so direct.

(5) A chief constable suspended from duty shall not in respect of the period of suspension be entitled to pay, or to any allowances under the Police (Scotland) Regulations 1956 except a rent allowance, supplementary allowance or compensatory grant.

(6) A chief constable who, having been suspended from duty, returns to duty shall receive for the period of his suspension the difference between the allowances paid to him in terms of paragraphs (4) and (5) of this Regulation and the pay and allowances to which he would have been entitled under the Police (Scotland) Regulations 1956 but for his suspension from duty:

Provided that a chief constable who has been charged with a disciplinary offence and has been punished by a punishment of dismissal or requirement to resign, shall receive in respect of any period of suspension only those allowances referred to in paragraphs (4) and (5) of this Regulation to which he is entitled.

(7) The Police (Scotland) Regulations 1956 and these Regulations shall apply to a chief constable suspended from duty.

PART V

Procedure in relation to deputy chief constables and assistant chief constables

39. Where a report or allegation is made against a deputy chief constable or assistant chief constable from which it may reasonably be inferred that a disciplinary offence has been committed by him, Part IV of these Regulations shall apply with the substitution, except in Regulation 27(2) of these Regulations, of a reference to the deputy chief constable or assistant chief constable, as the case may be, for any reference to the chief constable.

PART VI

Miscellaneous Provisions

40.—(1) An investigation form shall be in the form set out in Schedule 2 hereto or in a form to the like effect.

(2) A discipline form shall be in the form set out in Schedule 3 hereto or in a form to the like effect.

41.—(1) The Police (Discipline) (Scotland) Regulations 1952(**a**), the Police (Discipline) (Scotland) Regulations 1955(**b**), and the Police (Discipline) (Scotland) Regulations 1956(**c**) are hereby revoked but without prejudice to proceedings begun or other action taken thereunder prior to the coming into operation of these Regulations.

(2) These Regulations shall not apply to a constable who before the date on which these Regulations come into force has been charged with a disciplinary offence under the provisions of the Regulations revoked by paragraph (1) of this Regulation.

(3) Subject to paragraph (2) of this Regulation any proceedings initiated, suspension from duty ordered, or punishment imposed in respect of any offence or alleged offence in accordance with the provisions of the Regulations revoked by paragraph (1) of this Regulation shall be deemed to have been initiated, ordered or imposed under these Regulations.

William Ross,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
5th July 1967.

SCHEDULE 1

Discipline Code

1. *Discreditable conduct or conduct prejudicial to discipline*, including—

(*a*) conduct likely to bring discredit on the police force or service;

(*b*) disorderly conduct;

(*c*) uncleanliness, untidiness or improper dress while on duty or in uniform in public;

(*d*) abusive language towards any constable;

(*e*) incivility towards any member of the public;

(*f*) lending money to any superior in rank or borrowing from any inferior in rank;

(*g*) soliciting or receiving any present or testimonial without the consent of the disciplinary authority; and

(*h*) anonymous communications on police matters to any person whether within the police service or not.

2. *Wilful or careless neglect of duty*, including—

(*a*) disobedience to lawful orders;

(*b*) contravention of Regulation 2 of, or Schedule 4 to, the Police (Scotland) Regulations 1956;

(*c*) absence from duty, or being late for duty;

(*d*) failure to attend promptly and diligently to anything which is his duty;

(**a**) S.I. 1952/1356 (1952 II, p. 2582). (**b**) S.I. 1955/347 (1955 II, p. 1884).
(**c**) S.I. 1956/1998 (1956 II, p. 1800).

(*e*) failure to stay at place of duty or to work beat in accordance with orders without sufficient cause;

(*f*) permitting a prisoner to escape;

(*g*) failure to report the whereabouts of an offender, when known, or to make due exertions to bring him to justice;

(*h*) failure to report any matter which it is his duty to report, including any evidence for or against any prisoners; and

(*i*) failure to make any necessary entry in any official document.

3. *Insubordination and oppression*, including—

(*a*) insubordination by word, act or demeanour towards another constable; and

(*b*) oppressive conduct towards another constable.

4. *Wilful or careless falsehood*, including—

(*a*) making false, misleading or inaccurate statements, whether written or oral; and

(*b*) without sufficient cause destroying or altering any entry in an official document.

5. *Discreditable behaviour in relation to drink*, including—

(*a*) unfitness for duty through drink while on duty or in uniform;

(*b*) drinking or accepting liquor while on duty or in uniform without the consent of a superior officer; and

(*c*) entering or remaining in licensed premises while on duty or in uniform when his presence there is not required in the execution of duty.

6. *Breach of confidence*, including—

(*a*) revealing any matter which it is police duty to keep secret;

(*b*) revealing to any person that a warrant or summons is to be issued against him, except in the lawful service of such warrant or summons; and

(*c*) without proper authority, revealing to the press or any person any matter connected with the service.

7. *Corrupt practice*, including—

(*a*) using or attempting to use the office of constable for private advantage;

(*b*) incurring a pecuniary obligation to any person holding or applying for any certificate, permit or licence which is subject to police inquiry;

(*c*) without the consent of the chief constable, supporting any application for a certificate, permit or licence which is subject to police inquiry; and

(*d*) failure to account for any money or property received officially.

8. *Canvassing*, including—

(*a*) attempting to influence a member of any police authority for personal advantage in a matter related to the police force or service;

(*b*) signing or circulating any petition or statement to the chief constable or police authority except through the authorised channels; and

(*c*) calling or attending unauthorised meetings to discuss police matters.

9. *Suppression of complaints*, including—

(*a*) suppression or falsification of a complaint from any source against a constable.

10. *Unlawful or unnecessary exercise of authority*, including—

(*a*) causing or making an unlawful or unnecessary arrest; and

(*b*) using unnecessary force to any prisoner or other person.

11. *Malingering*, including—

(*a*) feigning, inducing or exaggerating sickness or injury to evade duty; and

(*b*) any act or omission calculated to retard return to duty.

12. *Damage to official property*, including—

(*a*) loss of or damage to police authority property;

(*b*) loss of or damage to any property within police care; and

(*c*) failure to report such loss or damage.

13. *Conviction by a Court of Law of a criminal offence.*

14. *Being an accessory to a disciplinary offence.*

SCHEDULE 2

THE POLICE (DISCIPLINE) (SCOTLAND) REGULATIONS 1967

INVESTIGATION FORM

Rank and Name.....Reg. No.....

.....Division

1. You are hereby informed that the following report or allegation has been made against you.

(Signed).....Investigating Officer

Date.....

2. Although you are not obliged to give any explanation at this stage, you may make an oral or written statement *which may be used in evidence if disciplinary proceedings are taken.* You will be given a copy of any statement you may make. Although you are not obliged to do so at this stage, you may provide the names and addresses of any persons whom you may desire to give statements on your behalf. The investigating officer will take all reasonable steps to obtain statements from these witnesses.

(*a*) Do you wish to make an oral statement?

(*b*) Do you wish to make a written statement?
(If so, the statement should be written on a separate sheet.)

(*c*) Do you wish to provide the names and addresses of witnesses to give statements on your behalf?

.....

.....

.....

(Signature).....

(Date).....

SCHEDULE 3

POLICE (DISCIPLINE) (SCOTLAND) REGULATIONS 1967

DISCIPLINE FORM

Charge Against—Rank and Name.....

Division.....Reg. No.....Rate of Pay.....

Rank and Name of Investigating Officer.....

Signature of Deputy Chief Constable.....Date.....

Offence against discipline of which constable is accused

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Particulars of alleged offence, including time, date and place

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.....

Names and Addresses of Witnesses to be called

.....

.....

.....

There are attached copies of—

(*a*) the report or allegation on which the charge is founded;

(*b*) the related reports by (i).....

(ii).....

(iii).....

(*c*) the statements of witnesses listed above.

QUESTIONS TO BE ANSWERED BY THE ACCUSED

1. Do you admit or deny the charge?.....
2. Do you wish to offer any explanation? (If so, the explanation should be written on a separate sheet and attached hereto).....
3. Do you wish to select a constable to assist you in presenting your case? If so, give his name, rank and police force.* If not, write "No" .....

.....

4. If you desire any witnesses to give evidence at the hearing of the case you must give their names and addresses on this form.† If not, write "None".

.....

.....

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.....

.....

Date..... Signature of Accused.....

* If the accused so desires, he may furnish this information at a later date.

† The investigating officer will take all reasonable steps to obtain statements from these witnesses and will provide you with a copy and the deputy chief constable will take all reasonable steps to secure their attendance at the hearing.

Hearing

Date..... Time..... Place.....

Notified to accused at.....Time.

Date..... .....Initials of Accused

By whom..... .....Date.....

Date(s) of any continuation ..... Time(s)..... Place(s).....

Notified to accused at .....Time.

Date..... .....Initials of Accused

By whom..... .....Date.

Chief Constable's Decision

I find the accused guilty/not guilty of the disciplinary offence with which he has been charged. I have had regard to the personal record of the accused.

Punishment imposed.....

.....

.....

.....

.....

.....

.....

Date..... Signature.....

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate, with amendments, the Police (Discipline) (Scotland) Regulations 1952 and the amending Regulations of 1955 and 1956.

They prescribe a code of offences against discipline, the procedure to be followed in dealing with a report or allegation from which it may reasonably be inferred that a criminal or disciplinary offence has been committed and in formulating and proceeding with charges in respect of disciplinary offences, and the punishments which may be imposed. They also make provision for cases of suspension from duty and for the keeping of records relating to complaints and disciplinary matters.

The principal changes are as follows.

Regulation 2 provides for the reporting to the procurator fiscal of the sheriff court of cases where it appears that a police officer may have committed a criminal offence.

Included in Regulations 3 and 4 are provisions that disciplinary proceedings may be taken in respect of a matter which has been reported to the procurator fiscal if the accused is given due warning that such proceedings may follow.

Regulations 6 and 29 provide that where a hearing of a disciplinary charge arises out of a complaint made by a member of the public, and the accused denies the charge, the complainer may attend during the hearing of the evidence unless the person taking the hearing thinks it appropriate to exclude him.

Provision is made in Regulations 18, 19 and 20 for there to be one investigation and one disciplinary hearing where officers from more than one force are accused of committing disciplinary offences while acting together.

The Discipline Code in Schedule 1 has been recast with clarification of the provisions relating to unfitness for duty through drink and to canvassing.

STATUTORY INSTRUMENTS

1967 No. 1021 (S. 80)

POLICE

The Police (Discipline) (Scotland) Regulations 1967

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