

Police (Complaints and Conduct) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as HL Bill 68 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Taylor of Holbeach has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Police (Complaints and Conduct) Bill are compatible with the Convention rights.

Police (Complaints and Conduct) Bill

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TO

Make provision about interviews held during certain investigations under Schedule 3 to the Police Reform Act 2002; and about the application of Part 2 of that Act to matters occurring before 1 April 2004.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Interviews of serving officers during investigations

- (1) The Police Reform Act 2002 is amended as follows.
- (2) In Schedule 3 (handling of complaints and conduct matters etc) after paragraph 19E insert—

“Interview of persons serving with the police etc during certain investigations 5

19F (1) This paragraph applies to an investigation of a complaint, recordable conduct matter or DSI matter which—

- (a) is carried out by the appropriate authority under the management of the Commission, or
- (b) is carried out by the Commission itself. 10

(2) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with an interview which—

- (a) is held with a serving officer during the course of the investigation by the person investigating the complaint or matter, and 15
- (b) is not within paragraph 19D(1).

(3) Regulations under sub-paragraph (2) may in particular make provision—

- (a) requiring a serving officer to attend an interview,
- (b) for determining how the time at which an interview is to be held is to be agreed or decided, 20

- (c) about the information that must be provided to a serving officer being interviewed,
- (d) for enabling a serving officer to be accompanied at the interview by a person of a prescribed description.
- (4) “Serving officer” means a person who – 5
- (a) is serving with the police, or
- (b) is serving with an additional police body.
- (5) A person is serving with an additional police body if the person is a member of, or is employed or otherwise engaged for the purposes of, that body (subject to sub-paragraph (6)). 10
- (6) The Secretary of State may by regulations provide, in relation to an additional police body, that a person is serving with that body only if the person –
- (a) is a member of, or is employed or otherwise engaged for the purposes of, that body, and 15
- (b) is of a prescribed description.
- (7) An “additional police body” means –
- (a) a body of constables which is maintained by an authority other than a local policing body and is prescribed in regulations made by the Secretary of State under this sub-paragraph, or 20
- (b) a body required by section 26A or 26B to enter into an agreement with the Commission.
- (8) The Secretary of State must obtain the consent of the Northern Ireland Assembly before making provision in regulations under this paragraph which would be within the legislative competence of the Northern Ireland Assembly. 25
- (9) But consent under sub-paragraph (8) is not required in relation to a provision if –
- (a) a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and 30
- (b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act).
- (10) Nothing in this paragraph prevents or restricts the holding of interviews to which regulations under this paragraph do not apply during the course of any investigation under this Schedule.” 35
- (3) In paragraph 19D(2) of Schedule 3 (interview in certain cases of police officer or special constable whose conduct is being investigated) before paragraph (a) insert – 40
- “(za) requiring the person concerned to attend an interview,”.
- (4) In section 108(7) (provisions of Act which extend to the United Kingdom) before paragraph (a) insert –
- “(za) the provision contained in paragraph 19F of Schedule 3 (and any interpretative or other supplementary provision as it has effect for the purposes of that provision);” 45

2 Application of Part 2 of the Police Reform Act 2002 to old cases

(1) The Police Reform Act 2002 is amended as follows.

(2) After section 28 insert—

“28A Application of Part 2 to old cases

- (1) The Commission may, if it considers that there are exceptional circumstances— 5
- (a) direct that a relevant transitional provision does not apply in relation to a pre-commencement matter, and
 - (b) direct the appropriate authority to record the matter under this Part. 10
- (2) A “pre-commencement matter” means a matter which—
- (a) is a complaint or a conduct matter,
 - (b) relates to conduct which took place, or circumstances which occurred, before 1 April 2004, and
 - (c) (apart from this section) is prevented by a relevant transitional provision from being recorded under this Part as a complaint or a conduct matter. 15
- (3) “Relevant transitional provision” means article 2, 3 or 4 of the Independent Police Complaints Commission (Transitional Provisions) Order 2004 (S.I. 2004/671). 20
- (4) The Commission may, if it considers that there are exceptional circumstances, direct that a matter to which subsection (5) applies should be treated as a conduct matter or a DSI matter.
- (5) This subsection applies to a matter which—
- (a) relates to conduct which took place, or circumstances which occurred, before 1 April 2004, 25
 - (b) has been the subject of a relevant complaint, and
 - (c) would be a conduct matter or a DSI matter if it had not been the subject of a relevant complaint.
- (6) “Relevant complaint” means— 30
- (a) a complaint made before 1 April 2004, or
 - (b) a complaint made on or after that date to which a relevant transitional provision applied.
- (7) Where under subsection (1)(a) the Commission directs that a relevant transitional provision does not apply in relation to a pre-commencement matter, that provision does not apply in relation to that matter. 35
- (8) The appropriate authority must comply with a direction under subsection (1)(b).
- (9) Where under subsection (4) the Commission directs that a matter should be treated as a conduct matter or a DSI matter, the matter is (subject to any regulations under subsection (10)) to be treated as a conduct matter or a DSI matter for the purposes of this Part (including subsections (1) and (2)) and any provision made under it. 40

- (10) The Secretary of State may by regulations provide for this Part or any provision made under it to apply with such modifications as the Secretary of State thinks fit to a matter in relation to which the Commission has made a direction under subsection (1) or (4)."
- (3) In section 12 (definitions of "conduct matter" and "DSI matter")— 5
- (a) in subsection (2), after "this section," insert "section 28A and any regulations made under it," and
- (b) in subsection (2A), after "means" insert "(subject to section 28A and any regulations made under it)".
- (4) In section 29(1), in the definition of "recordable conduct matter", after paragraph (a) (and the "or" which follows) insert— 10
- "(aa) a conduct matter that is required to be recorded by the appropriate authority under section 28A(8) or has been so recorded;".
- 3 Extent, commencement and short title** 15
- (1) Section 1 (except for subsection (3)) and this section extend to England and Wales, Scotland and Northern Ireland.
- (2) Sections 1(3) and 2 extend to England and Wales only.
- (3) This Act comes into force on the day on which it is passed.
- (4) This Act may be cited as the Police (Complaints and Conduct) Act 2012. 20

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To make provision about interviews held during certain investigations under Schedule 3 to the Police Reform Act 2002; and about the application of Part 2 of that Act to matters occurring before 1 April 2004.

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