



# **Isle of Man**

*Ellan Vannin*

**AT 11 of 1993**

## **POLICE ACT 1993**





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### Index

Section	Page
<hr/>	
	<b><i>The police force etc</i></b>
1	Duties of Department of Home Affairs .....5
2	Appointment etc of Chief Constable.....6
3	Functions of Chief Constable .....7
	<b><i>Appointment etc of constables</i></b>
4	Reports to and directions by Department.....8
4A	Annual report by Chief Constable .....9
	<b><i>Appointment etc of constables</i></b>
5	Appointment of constables.....9
6	Functions of constables .....10
7	Status of members of force .....10
	<b><i>Police regulations</i></b>
8	Police regulations.....10
8A	Regulations for special constables.....11
8B	Regulations for police cadets .....11
8C	Regulations as to standard and provision of equipment.....12
8D	Regulation of procedures and practices .....13
8E	Regulations to establish negotiation bodies.....13
8F	Regulations: supplementary .....13
8G	Revocation and saving of regulations.....13
	<b><i>Complaints against the police</i></b>
9	Complaints against the police .....14
	<b><i>Police cadets</i></b>
10	Police cadets .....14
11	[Repealed] .....15
	<b><i>Representation of police officers</i></b>
12	Police Federation.....15
13	Membership of trade unions .....15
	<b><i>Civil liability</i></b>
	<b>16</b>

14	Liability for wrongful acts of constables.....	16
	<i>Offences</i>	<b>16</b>
15	Unauthorised use of police uniform.....	16
16	Impersonation of police officer .....	17
17	Causing disaffection etc.....	17
	<i>Supplemental</i>	<b>17</b>
18	Advisory and consultative committees.....	17
19	Financial provision.....	18
20	Regulations.....	18
21	Interpretation .....	18
22	Transitional provisions, amendments and repeals.....	18
23	Short title and commencement.....	19
<b>SCHEDULE 1</b>		<b>21</b>
COMPLAINTS AGAINST THE POLICE		21
<b>SCHEDULE 1A</b>		<b>28</b>
<b>SCHEDULE 2</b>		<b>29</b>
AMENDMENT OF ENACTMENTS		29
<b>SCHEDULE 3</b>		<b>29</b>
ENACTMENTS REPEALED		29
<b>ENDNOTES</b>		<b>31</b>
TABLE OF LEGISLATION HISTORY		31
TABLE OF RENUMBERED PROVISIONS		31
TABLE OF ENDNOTE REFERENCES		31

**Isle of Man***Ellan Vannin*

## POLICE ACT 1993

*Received Royal Assent:* 7 July 1993  
*Passed:* 8 July 1993  
*Commenced:* See s. 23

**AN ACT** to re-enact with amendments the enactments relating to the police; to make new provision for complaints against the police; and for connected purposes.

**GENERAL NOTE:** The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

*The police force etc*

### 1 Duties of Department of Home Affairs

[1980/17/Sch 1]

- (1) Subject to the provisions of this Act, it is the duty of the Department of Home Affairs (“the Department”) to secure the maintenance of an efficient and effective police force for the Island so as to ensure the effective preservation of law and order.<sup>1</sup>
- (2) For that purpose the Department may —
  - (a) provide, maintain and manage any premises required for the efficient administration and operation of the police force, and provide for the adequate furnishing and equipment of them (except in respect of police houses);
  - (b) after consultation with the Chief Constable and the Federation and with the approval of the Treasury, determine the rates of pay and allowances of members of the police force;
  - (c) provide uniforms and other personal equipment needed by members of the police force;
  - (d) provide and maintain vehicles and scientific, technical, training and other equipment needed for the efficient execution of their duties by members of the police force;

- (e) after consultation with the Chief Constable (and subject to section 3(1)), do such other things as may be necessary for the efficient administration and operation of the police force; and
  - (f) exercise the other functions conferred on the Department by this Act.
- (3) The functions of the Department under this section apply to —
- (a) police cadets in training with the police force, and
  - (b) special constables,
- as they apply to members of the police force.
- (4) The police force maintained by the Department under this section shall continue to be named “the Isle of Man Constabulary”.

## 2 Appointment etc of Chief Constable

- (1) The Department shall, after consultation with the Council of Ministers, appoint a fit person to be the Chief Constable.
- (2) Upon any vacancy occurring in the office of Chief Constable, the Department shall —
- (a) advertise the vacancy,
  - (b) interview such applicants as may be selected by the Department in consultation with the Council of Ministers, and
  - (c) before making any appointment, give due consideration to the views of the Council of Ministers.
- (3) The Department may, with the approval of the Council of Ministers, appoint a person to be Chief Constable for a fixed term.
- (3A) Where the Department has (under subsection (3) or this subsection) appointed a person to be the Chief Constable for a fixed term which has expired or is about to expire, it may, with the approval of the Council of Ministers, appoint that person to be Chief Constable for a further fixed term.<sup>2</sup>
- (3B) Subsection (2) shall not apply to an appointment under subsection (3A).<sup>3</sup>
- (4) Without prejudice to subsections (3) to (3B), the Department may appoint as Chief Constable a member of a police force in the United Kingdom seconded for the purpose by the police authority for that force, for such term and (subject to subsections (5) to (9)) on such conditions as may be agreed between the Department, that person and that authority and approved by the Council of Ministers.<sup>4</sup>
- (4A) A person appointed to be the Chief Constable shall be sworn and empowered to act as a constable for preserving the peace, preventing the commission of offences and apprehending offenders against the public peace.<sup>5</sup>

- (5) Subject to subsections (6) to (9), if it appears to the Department to be in the interests of the efficiency and effectiveness of the police force, or otherwise in the public interest, to do so, the Department may —
- (a) dismiss the Chief Constable,
  - (b) suspend him from duty, or
  - (c) require him to resign with effect from such date as it may specify;
- and it shall be the duty of the Chief Constable to comply with a requirement under paragraph (c).
- (6) Before exercising its powers under subsection (5) the Department shall —
- (a) give the Chief Constable an opportunity to make representations, and
  - (b) consider any representations made by him, and
  - (c) if it determines to dismiss the Chief Constable, or to require him to resign, give him not less than 28 days' notice in writing of its intention to do so.
- (7) Within 28 days of the giving of a notice under subsection (6)(c) the Chief Constable may, by notice in writing to the Chief Secretary, appeal to the Council of Ministers, and in that event the Department may not dismiss him, or require him to resign, without the consent of the Council of Ministers.
- (8) If the Chief Constable appeals under subsection (7), the Council of Ministers shall appoint a person to hold an inquiry, and the appointed person shall —
- (a) invite the Department and the Chief Constable to make representations to him in writing with respect to the intended dismissal or requirement to resign;
  - (b) give the Department and the Chief Constable an opportunity to appear before him and to make oral representations to him; and
  - (c) make a report in writing to the Council of Ministers with respect to the intended dismissal or requirement to resign and the representations made to him.
- (9) The Council of Ministers shall not give its consent under subsection (7) until it has considered the report of the appointed person under subsection (8)(c), and shall cause a copy of the report to be laid before Tynwald.<sup>6</sup>

### **3 Functions of Chief Constable**

[1980/17/Sch 1; 1981/18/Sch 3]

- (1) The police force shall be under the direction and control of the Chief Constable, who shall be responsible for —

- (a) recommending to the Department all persons to be appointed as members of the police force under section 5(1);
  - (b) appointments and promotions to any rank in the police force of persons so appointed; and
  - (c) the discipline and disposition of the police force.
- (2) No appointment or promotion of a person to the rank in the police force immediately below that of Chief Constable may be made without the approval of the Department; and where the Department refuses to approve such an appointment or promotion it shall lay notification of its refusal before Tynwald.
- (3) The Chief Constable shall act in accordance with police regulations.
- (4) The Chief Constable shall have the right of direct access —
- (a) to the Department in all matters affecting the police force or relating to national security or public order; and
  - (b) to the Council of Ministers in all matters relating to national security or public order<sup>7</sup>

*Appointment etc of constables*

#### **4 Reports to and directions by Department**

- (1) The Department shall, after consultation with the Chief Constable and with the bodies established under section 18, —
- (a) determine the policies, objectives and priorities of the police force; and
  - (b) prepare and lay before Tynwald once in every year a plan specifying those policies, objectives and priorities and the means by which it is intended that they be achieved.
- (2) For the purposes of determining those policies, objectives and priorities and securing their achievement, the Department may do all or any of the following —
- (a) give to the Chief Constable, or to a body established under section 18, general directions in writing as to the exercise of his or its functions;
  - (b) require the Chief Constable or such a body —
    - (i) to furnish to the Department such information, or
    - (ii) to make such report to the Department in writing,on the exercise of such of his or its functions, or such other matters connected with the policing of the Island, as may be specified in the requirement.

- (3) No direction may be given to the Chief Constable under subsection (2)(a) with respect to the discipline or disposition of the police force.
- (4) If it appears to the Chief Constable that a report by him in compliance with a requirement under subsection (2)(b) –
  - (a) would contain information which in the public interest ought not to be disclosed, or
  - (b) is not needed for the discharge of the functions of the Department, he may request the Department to refer the requirement to the Council of Ministers; and in that case the requirement shall be of no effect unless it is confirmed by the Council of Ministers.<sup>8</sup>

#### **4A Annual report by Chief Constable**

- (1) The Chief Constable shall, as soon as possible after the 31st March in each year, submit to the Department a general report in writing on the policing of the Island during the year ending on that date.
- (2) The Department shall cause a copy of the report to be laid before Tynwald, and the Minister for Home Affairs shall, as soon as may be, move a resolution that the report be received by Tynwald.<sup>9</sup>

#### *Appointment etc of constables*

### **5 Appointment of constables**

[1980/17/3; 1981/18/3/5]

- (1) The Department shall, subject to section 3(1)(a), appoint a sufficient number of fit persons to be constables, who shall be members of the police force.
- (2) The Department, after consultation with such persons as appear to it to be appropriate, may appoint fit persons to be constables otherwise than as members of the police force.
- (3) A person appointed to be a constable shall be sworn and empowered to act as a constable for preserving the peace, preventing the commission of offences and apprehending offenders against the public peace.
- (4) A constable shall hold office –
  - (a) in the case of a constable appointed under subsection (1), subject to such terms and conditions as may be provided by or under this Act or by police regulations;
  - (b) in any other case, at the pleasure of the Department.
- (5) In this section “constable” does not include the Chief Constable.

## 6 Functions of constables

[1980/17/3]

- (1) Every constable shall use his best endeavours to prevent the commission of all offences, and may arrest without warrant any person whom he finds disturbing the public peace.
- (2) [Repealed]<sup>10</sup>
- (3) Nothing in this section prejudices any functions conferred on a constable by any other statutory provision or by the common law.

## 7 Status of members of force

A member of the police force is an officer of the Crown in right of the Island and has the powers, privileges and duties throughout the Island which a constable duly appointed has within the Island by virtue of any statutory provision or the common law.

### *Police regulations*

## 8 Police regulations

- (1) The Department may make regulations as to the government, discipline, administration and conditions of service of the police force.
- (2) The regulations may, in particular, make provision with respect to —
  - (a) the ranks to be held by members of the police force;
  - (b) the qualifications for appointment and promotion of members of the police force;
  - (c) periods of service on probation;
  - (d) voluntary retirement of members of the police force;
  - (e) the conduct, efficiency and effectiveness of members of the police force and the maintenance of discipline;
  - (f) the suspension of members of the police force from membership of the force and from their office as constable;
  - (g) the maintenance of personal records of members of the police force;
  - (h) the duties that are or are not to be performed by members of the police force;
  - (i) the treatment as occasions of police duty of attendance at meetings of the Federation and of any other body specified in the regulations;
  - (j) the hours of duty, leave, pay and allowances of members of the police force; and

- (k) the issue, use and return of police clothing, personal equipment and accoutrements.
- (3) The regulations may also establish, or make provision for the establishment of, procedures for cases in which a member of the police force may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.
- (4) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection authorises pay or allowances payable to any person to be reduced retrospectively.<sup>11</sup>

### **8A Regulations for special constables**

- (1) The Department may make regulations as to the government, discipline, administration and conditions of service of special constables.
- (2) The regulations may, in particular, make provision with respect to —
  - (a) the qualifications for appointment of special constables;
  - (b) the retirement of special constables;
  - (c) the conduct, efficiency and effectiveness of special constables and the maintenance of discipline;
  - (d) the suspension of special constables from their office as constable;
  - (e) the maintenance of personal records of special constables;
  - (f) the duties that are or are not to be performed by special constables;
  - (g) the allowances payable to special constables;
  - (h) the issue, use and return of police clothing, personal equipment and accoutrements; and
  - (i) the application to special constables, subject to such modifications as may be prescribed by the regulations, of any provisions made by or under any enactment relating to the pensions payable to or in respect of members of the police force.
- (3) If the regulations provide for the calculation of any pension payable to, or in respect of, special constables by reference to a scale of notional remuneration specified in the regulations, they may increase any such notional remuneration with retrospective effect to any date specified in the regulations.<sup>12</sup>

### **8B Regulations for police cadets**

- (1) The Department may make regulations as to the government, discipline, administration and conditions of service of police cadets.

- (2) Section 8(4) (pay and allowances) applies to regulations under this section.<sup>13</sup>

### **8C Regulations as to standard and provision of equipment**

- (1) The Department may make regulations requiring equipment provided or used for police purposes to satisfy such requirements as to design and performance as may be prescribed in the regulations.
- (2) The regulations may, in particular, make provision with respect to —
- (a) provision requiring all the police force, when using equipment for the purposes specified in the regulations to use only —
    - (i) the equipment that is specified in the regulations;
    - (ii) equipment that is of a description so specified; or
    - (iii) equipment that is of a type approved by the Department in accordance with the regulations;
  - (b) provision requiring all the police force to keep available for use the equipment falling within paragraph (a)(i) to (iii) that is specified or described in, or approved in accordance with, the regulations;
  - (c) provision prohibiting all the police force from using equipment of a type approved as mentioned in paragraph (a)(iii) except —
    - (i) if the conditions subject to which the approval was given are satisfied; and
    - (ii) in accordance with the other terms of that approval;
  - (d) provision requiring equipment used by the police force to comply, in the case of all the police force, with such conditions as may be specified in the regulations, or as may be approved by the Department in accordance with the regulations; and
  - (e) provision prohibiting all the police force from using equipment specified in the regulations, or any equipment of a description so specified.
- (3) The Department must not make any regulations under subsection (2) unless it considers it necessary to do so for the purpose of promoting the efficiency and effectiveness generally of the police force.
- (4) In this section “equipment” includes —
- (a) software;
  - (b) vehicles; and
  - (c) headgear and protective and other clothing.<sup>14</sup>

**8D Regulation of procedures and practices**

- (1) The Department may by regulations make provision requiring all the police force to adopt particular procedures or practices.
- (2) Regulations under subsection (1) may make provision in relation to the matters in that subsection by applying, adopting or incorporating, with or without modification, the provisions of any document as in operation at a particular time, or as in operation from time to time.
- (3) Subsection (2) applies even if the document mentioned in that subsection makes provision for a matter by applying, adopting or incorporating, with or without modification, another document as in operation at a particular time, or from time to time.<sup>15</sup>

**8E Regulations to establish negotiation bodies**

- (1) The Department may by regulations establish a body for the purpose of negotiating or consulting (or both) on conditions of service of the police force, special constables and police cadets in training with the police force.
- (2) Before making regulations under subsection (1), the Department must consult the Chief Constable, the superintendent (if any) and the Federation.<sup>16</sup>

**8F Regulations: supplementary**

Regulations made under sections 8, 8A, 8B and 8E may –

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Department, a negotiation body established in accordance with regulations made under section 8E, the Chief Constable or other persons; or
- (b) authorise or require the delegation by a person of functions conferred on that person by or under the regulations.<sup>17</sup>

**8G Revocation and saving of regulations**

- (1) Regulations that –
  - (a) were made, or purportedly made, for the purposes of section 5(4), 8, 8A or 11 (as in operation immediately before the commencement of this section);
  - (b) were in operation immediately before the commencement of this section; and
  - (c) are specified in Schedule 1A,continue to have effect after this section commences as if they had been made for the purposes of section 8 to 8E.

- (2) All other regulations made, or purportedly made, for the purposes of section 5(4), 8, 8A or 11 (as in operation immediately before the commencement of this section) are revoked.
- (3) An act or thing done, or purportedly done —
  - (a) by the Chief Constable before the commencement of this section;  
or
  - (b) by the Department before 14 September 2007,  
under a discretion conferred by regulations covered by subsection (1) is taken to be an act or thing validly done, to the extent that it was done, or purportedly done, in reliance on that discretion.
- (4) A decision made, or purportedly made —
  - (a) by the Chief Constable before the commencement of this section;  
or
  - (b) by the Department before 14 September 2007,  
under a power conferred by regulations covered by subsection (1) is taken to be a decision validly made, to the extent that it was made, or purportedly made, in reliance on that power.<sup>18</sup>

### *Complaints against the police*

## **9 Complaints against the police**

Schedule 1 has effect in relation to the investigation and resolution of complaints against the police.

### *Police cadets*

## **10 Police cadets**

[1982/5/Sch]

- (1) The Chief Constable may, in accordance with regulations under section 8B and subject to the approval of the Department as to number, appoint persons as police cadets to undergo training with a view to becoming members of the police force.<sup>19</sup>
- (2) Subject to such regulations, all police cadets shall be under the control of, and subject to dismissal by, the Chief Constable.
- (3) Without prejudice to subsection (2), the Department shall, for the purposes of any enactment relating to the functions of employers and of any rule of law with respect to the vicarious liability of employers, be treated as the employer of any police cadets undergoing training with the police force.

**11 [Repealed]<sup>20</sup>***Representation of police officers***12 Police Federation**

- (1) There shall continue to be an Isle of Man Police Federation (“the Federation”) for the purpose of representing members of the police force in all matters affecting their welfare and efficiency, other than questions of discipline, appointments and promotion affecting individuals.
- (2) The Department shall by regulations prescribe the constitution of the Federation, and regulations under this subsection may make provision as to —
  - (a) the constitution of a Federation Board as the representative body through which the Federation is to act, the election and tenure of office of members of the Board and the proceedings of the Board;
  - (b) conferences of the Federation and general meetings of ranks of the Federation and the proceedings of such conferences and meetings;
  - (c) the granting of leave for attendance at meetings of the Board or at conferences or general meetings referred to in paragraph (b); and
  - (d) the raising, use and management of funds of the Federation, the accounts to be kept of such funds and the audit of such accounts.
- (3) Regulations under subsection (2) shall not be made without the concurrence of the Federation given by resolution passed at a conference of the Federation.
- (4) The Federation shall be entirely independent of and unassociated with any body or person outside the police force.
- (5) References in this section to members of the police force include references to police cadets and to special constables.<sup>21</sup>

**13 Membership of trade unions**

- (1) Subject to subsection (2), it is not lawful for a member of the police force to become, or be, a member of any trade union, or of any association having for its objects, or one of its objects, to control or influence the pay, pensions or conditions of service of any police force.
- (2) Where a person was a member of a trade union before becoming a member of the police force, he may, with the consent of the Chief Constable, continue to be a member of that union during the time of his service in the police force.
- (3) Any question whether a body is a trade union or association to which this section applies shall be determined by the First Deemster.

*Civil liability***14 Liability for wrongful acts of constables**

[1980/17/3]

- (1) The Chief Constable shall be liable in respect of torts committed by constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment and, accordingly, shall, in respect of any such tort, be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid by the Department —
  - (a) any damages or costs awarded against the Chief Constable in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
  - (b) any sum required in connection with the settlement of any claim made against the Chief Constable by virtue of this section, if the settlement is approved by the Treasury.
- (3) The Department may, with the concurrence of the Treasury, pay, in such cases and to such extent as the Department thinks fit, any damages or costs awarded against a constable in proceedings for a tort committed by him, any costs incurred and not recovered by him in any such proceedings and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.
- (4) In this section “constable” means a member of the police force or a special constable.

*Offences***15 Unauthorised use of police uniform**

[1980/17/Sch 1]

- (1) Any person who, not being a constable, wears any article of police uniform in circumstances where it gives him an appearance so nearly resembling that of a member of the police force as to be calculated to deceive is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (2) Any person who, not being a member of the police force or a special constable, has in his possession any article of police uniform, unless he proves that he obtained possession of that article lawfully and has possession of it for a lawful purpose, is guilty of an offence and liable on summary conviction to a fine not exceeding £200.

- (3) In this section “article of police uniform” means any article of uniform or any distinctive badge or mark or document of identification usually issued to members of the police force or special constables, or anything having the appearance of such an article, badge, mark or document.

## **16 Impersonation of police officer**

[1980/17/1; P1964/48/52(1)]

Any person who, with intent to deceive —

- (a) impersonates a member of the police force or a special constable, or
- (b) makes any statement or does any act calculated falsely to suggest that he is such a member or constable,

is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding £5,000, or to both.

## **17 Causing disaffection etc**

[1980/17/Sch 1]

Any person who —

- (a) causes, or attempts to cause, or does any act calculated to cause disaffection amongst the members of the police force, or
- (b) induces, or attempts to induce, or does any act calculated to induce, any member of the police force to withhold his services or to commit breaches of discipline,

is guilty of an offence and liable —

- (i) on conviction on indictment to imprisonment for a term not exceeding 2 years, or to a fine, or to both; or
- (ii) on summary conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding £5,000, or to both.

### *Supplemental*

## **18 Advisory and consultative committees**

- (1) The Department shall establish —
  - (a) a body (by the name of “the Police Advisory Group”) for the purpose of advising the Department on maintaining and improving the efficiency and effectiveness of the police force; and
  - (b) a body (by the name of “the Police Consultative Forum”) for the purpose of obtaining the views of the people of the Island about the policing of the Island and the prevention of crime.
- (2) The members of the bodies established in pursuance of subsection (1) —

- (a) shall be appointed by the Council of Ministers after consultation with the Department and with such other persons or bodies of persons as the Council of Ministers considers appropriate;
  - (b) shall not include any member of the police force; and
  - (c) shall hold office in accordance with the terms of their appointment.
- (3) The Department shall consult with those bodies on all matters on which it appears to the Department that their advice would be desirable, and in exercising its functions under this Act shall have regard to any advice given (pursuant to such consultations or otherwise) by those bodies.<sup>22</sup>

## 19 Financial provision

Expenses incurred by the Department under this Act shall be defrayed out of money provided by Tynwald.

## 20 Regulations

[1980/17/Sch 1; 1982/5/Sch]

- (1) Without prejudice to section 12(3), before making any regulations under this Act the Department shall consult the Chief Constable and the Federation, and shall furnish the Federation with a draft of the regulations.
- (2) Regulations under this Act shall be laid before Tynwald as soon as may be after they are made.

## 21 Interpretation

[1981/18/Sch 5]

In this Act —

“**the Department**” means the Department of Home Affairs;

“**the Federation**” means the Isle of Man Police Federation;

“**police cadet**” means a person appointed as a police cadet under section 10(1);

“**the police force**” means the police force maintained by the Department under section 1;

“**police regulations**” means regulations under sections 8 to 8E;<sup>23</sup>

“**special constable**” means a person appointed under section 5(2) as a special constable.

## 22 Transitional provisions, amendments and repeals

- (1) A constable (other than a member of the police force) appointed under section 4 of the *Justices Act 1836* and holding office as such immediately

before the commencement of section 5 shall continue to hold such office as if he had been appointed under section 5(2).

- (2) Notwithstanding the repeal by this Act of the *Police (Isle of Man) Act 1962* —
  - (a) section 6 (disciplinary appeals) of that Act, and any regulations made thereunder and in force immediately before the commencement of that repeal, shall continue to have effect as if contained in police regulations; and
  - (b) Schedule 1 (constitution of Federation) to that Act shall continue to have effect as if contained in regulations under section 12(2);and those provisions may be amended or revoked accordingly.
- (3) The enactments specified in Schedule 2 are amended in accordance with that Schedule.
- (4) The enactments specified in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.

## **23 Short title and commencement**

- (1) This Act may be cited as the Police Act 1993.
- (2) Section 9 and Schedule 1 shall come into operation on such day as the Department may by order appoint.<sup>24</sup>
- (3) Except as provided by subsection (2), this Act shall come into operation on the expiration of 2 months beginning with the date on which it is passed.



## SCHEDULE 1

### COMPLAINTS AGAINST THE POLICE

#### Section 9

##### *Interpretation*

1. In this Schedule —

“**complainant**” means a person by whom a complaint is made;

“**complaint**” means a complaint about the conduct of a member of the police force which is submitted in writing by a member of the public, or on behalf of a member of the public and with his written consent;

“**the commissioner**” means the person appointed under paragraph 2(1);

“**investigation**” means an investigation under paragraph 4 into a complaint.

##### *The commissioner*

2. (1) The Governor, after consultation with the Department, shall appoint a person (by such title as the Department may determine) to perform the functions conferred on the commissioner under this Schedule.

(2) A person shall not be qualified to be so appointed —

(a) if he is or has at any time been a member of any police force (in the Island or elsewhere); or

(b) if he is a member of the Council or the Keys.

(3) Subject to sub-paragraphs (4) and (5), the commissioner shall hold office for a term of 3 years, but on the expiry of that term shall be eligible for reappointment.

(4) The Governor, with the consent of the Department, may remove the commissioner from office by not less than 3 months' notice in writing.

(5) The commissioner may at any time resign his office by not less than 3 months' notice in writing to the Chief Secretary.

(6) The Department shall pay to the commissioner such fees and allowances as it may with the concurrence of the Treasury determine.

(7) The Public Services Commission shall make such arrangements as it considers appropriate for the provision of staff to assist the commissioner.<sup>25</sup>

##### *Initial steps on complaint*

3. Where a complaint is submitted to the Chief Constable, he shall —

(a) record the complaint;

- (b) take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of;
- (c) furnish particulars of the complaint to the commissioner; and
- (d) consider whether the complaint is suitable for informal resolution.

*Standard procedure*

4. (1) If it appears to the Chief Constable that a complaint is not suitable for informal resolution, he shall, after consultation with the commissioner, appoint a member of the police force to investigate it formally.

(2) If it appears to the Chief Constable that a complaint is suitable for informal resolution, he shall seek to resolve it informally and may appoint a member of the police force to do so on his behalf.

(3) If it appears to the Chief Constable, after attempts have been made to resolve a complaint informally —

- (a) that informal resolution of the complaint is impossible, or
- (b) that the complaint is for some other reason not suitable for informal resolution,

he shall, after consultation with the commissioner, appoint a member of the police force to investigate it formally.

(4) A member of the police force may not be appointed to investigate a complaint formally if he has previously been appointed to act in relation to it under sub-paragraph (2).

(5) A complaint is not suitable for informal resolution unless —

- (a) the member of the public concerned gives his consent, and
- (b) the Chief Constable is satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

*Supervision of investigations*

5. (1) The commissioner shall supervise the investigation of any complaint —
- (a) alleging that the conduct of a member of the police force resulted in the death of or serious injury to some other person; or
  - (b) alleging conduct which, if shown to have occurred, would constitute —
    - (i) an offence under the *Bribery Act 2013*; or<sup>26</sup>
    - (ii) an offence of a description specified in regulations made by the Department for the purposes of this sub-paragraph.

(2) The commissioner may supervise the investigation of any complaint not falling within sub-paragraph (1) where it appears to him to be desirable in the public interest to do so; and where the commissioner decides to supervise an investigation under this sub-paragraph he shall notify the Chief Constable of his decision.

(3) Where an investigation is to be supervised by the commissioner he may require —

- (a) that no appointment shall be made under paragraph 4(1) or (3) unless he has notified the Chief Constable that he approves the member of the police force whom the Chief Constable proposes to appoint;
- (b) if such an appointment has already been made and the commissioner is not satisfied with the member of the police force appointed, that —
  - (i) the Chief Constable shall, as soon as reasonably practicable, select another member of the police force and notify the commissioner that he proposes to appoint him; and
  - (ii) the appointment shall not be made unless the commissioner gives notice to the Chief Constable that he approves that member.

(4) Subject to sub-paragraphs (5) and (6), the commissioner may where he undertakes the supervision of an investigation, issue directions imposing such additional reasonable requirements as to the conduct of the investigation as appears to him to be necessary and are specified in the directions; and it shall be the duty of the member of the police force conducting the investigation to comply with any such requirement imposed on him.

(5) Where at any stage of an investigation the possibility of criminal proceedings arises, the commissioner shall not under sub-paragraph (4) impose any requirement relating to the obtaining or preservation of evidence of a criminal offence without first obtaining the consent of the Attorney General.

(6) The commissioner shall not under sub-paragraph (4) impose any requirement relating to the resources to be made available by the Chief Constable for the purposes of an investigation without first consulting him and having regard to any representations he may make.

#### *Report on investigation*

6. (1) At the end of an investigation (except one supervised under paragraph 5) the member of the police force conducting the investigation shall submit his report on the investigation to the Chief Constable.

(2) At the end of an investigation supervised under paragraph 5 the member of the police force conducting the investigation shall —

- (a) submit his report on the investigation to the commissioner, and

(b) send a copy to the Chief Constable.

(3) After considering a report submitted under sub-paragraph (2)(a) the commissioner shall submit to the Chief Constable a statement —

- (a) whether the investigation was or was not conducted to the commissioner's satisfaction;
- (b) specifying any respect in which it was not so conducted and as to which the commissioner considers that his dissatisfaction ought to be recorded; and
- (c) dealing with such other matters relating to the investigation or the supervision of it as the commissioner considers should be —
  - (i) brought to the attention of the Chief Constable, the complainant or the officer under investigation, or
  - (ii) dealt with in the public interest.

(4) Unless it is impracticable to do so, the commissioner shall send a copy of a statement under sub-paragraph (3) to the complainant and to the officer whose conduct has been investigated.

(5) No disciplinary charge shall be brought before a statement under sub-paragraph (3) has been submitted to the Chief Constable.

(6) Neither the Chief Constable nor the Attorney General shall bring criminal proceedings before a statement under sub-paragraph (3) has been submitted to the Chief Constable, unless it appears to the Attorney General that there are exceptional circumstances which make it undesirable to wait for the submission of the statement.

#### *Steps to be taken after investigation*

7. (1) On receiving a report or a copy of a report submitted or sent to him under paragraph 6, the Chief Constable shall —

- (a) decide whether the report indicates that a criminal offence may have been committed by a member of the police force;
- (b) if he decides that it does, consider whether the offence is such that the member ought to be charged with it; and
- (c) if he considers that it is, send a copy of the report to the Attorney General.

(2) After the Attorney General has dealt with the question of criminal proceedings, the Chief Constable shall send to the commissioner a memorandum, signed by him and stating whether he has preferred disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.

(3) If the Chief Constable —

- (a) decides that the report indicates that a criminal offence may have been committed by a member of the police force, and considers

that the offence is not such that the member ought to be charged with it; or

- (b) decides that the report does not indicate that a criminal offence may have been committed by a member of the police force,

he shall send to the commissioner a memorandum to that effect, signed by him and stating whether or not he has preferred or proposes to prefer disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so or proposing to do so.

- (4) A memorandum under this paragraph shall —
  - (a) give particulars of any disciplinary charges which the Chief Constable has preferred or proposes to prefer in respect of the conduct which was the subject of the investigation; and
  - (b) state his opinion of the complaint to which it relates.

(5) Where the investigation was not supervised by the commissioner, the Chief Constable shall send with the memorandum a copy of the report of the investigation.

(6) Subject to paragraph 9(5), if a memorandum under sub-paragraph (2) states that the Chief Constable proposes to prefer, or has preferred, disciplinary charges, he shall prefer and proceed with them, or proceed with them, as the case may be.

(7) No memorandum need be sent under this paragraph if disciplinary charges have been preferred in respect of the conduct which was the subject of the investigation and the accused has admitted the charges and has not withdrawn his admission.

(8) In such a case the Chief Constable shall send to the commissioner, after the conclusion of the disciplinary proceedings —

- (a) particulars of the disciplinary charges preferred and of any punishment imposed, and
- (b) where the investigation was not supervised by the commissioner, a copy of the report of the investigation.

*Power to direct reference to Attorney General*

8. (1) When the Chief Constable has performed all the duties imposed on him by paragraph 7 in relation to the report of an investigation, the commissioner shall —

- (a) decide whether the report indicates that a criminal offence may have been committed by a member of the police force;
- (b) if he decides that it does, consider whether the offence is such that the member ought to be charged with it; and
- (c) if he considers that it is, send a copy of the report to the Attorney General.

(2) Where the commissioner sends a copy of a report to the Attorney General under sub-paragraph (1)(c) he shall —

- (a) notify the Chief Constable that he has done so, and
- (b) direct him to send to the Attorney General the information contained in the memorandum under paragraph 7.

*Power as to disciplinary charges*

9. (1) Where a memorandum under paragraph 7 states that the Chief Constable has not preferred disciplinary charges or does not propose to do so, the commissioner may recommend him to prefer such disciplinary charges as he may specify.

(2) Subject to sub-paragraph (5), the Chief Constable may not withdraw charges which he has preferred in accordance with a recommendation under sub-paragraph (1).

(3) If, after the commissioner has made a recommendation under this paragraph and consulted him, the Chief Constable is still unwilling to prefer such charges as the commissioner considers appropriate, the commissioner may direct him to prefer such charges as he may specify, and where the commissioner does so, he shall furnish him with a written statement of his reasons for doing so.

(4) Subject to sub-paragraph (5), the Chief Constable shall prefer and proceed with charges specified in a direction under sub-paragraph (3).

- (5) The commissioner may give the Chief Constable permission —
- (a) not to prefer charges which paragraph 7(6) or sub-paragraph (4) would otherwise oblige him to prefer; or
  - (b) not to proceed with charges with which paragraph 7(6) or sub-paragraph (2) or (4) would otherwise oblige him to proceed.

*Information as to manner of dealing with complaints*

10. The Department in carrying out its duties under section 1 shall keep itself informed as to the working of the foregoing provisions of this Schedule in relation to the police force.

*Reports etc*

11. (1) The Chief Constable shall furnish the commissioner with such particulars of all complaints which have been resolved informally, at such intervals, as the commissioner may direct.

(2) The commissioner shall, at the request of the Department, report to it on such matters relating generally to his functions as the Department may specify.

(3) The commissioner may make a report to the Department on any matters coming to his notice under this Schedule to which he considers that its attention should

be drawn by reason of their gravity or of other exceptional circumstances, and the commissioner shall send a copy of any such report to the Chief Constable.

(4) As soon as practicable after the end of each year the commissioner shall make to the Department a report on the performance of his functions during that year.

(5) The Department shall cause a copy of every report received by it under sub-paragraph (4) to be laid before Tynwald.

*Restriction on disclosure of information*

12. (1) No information received by the commissioner in connection with any of his functions under this Schedule or regulations under paragraph 13 shall be disclosed by the commissioner or by any member of his staff except —

- (a) to the Department or the commissioner or a member of his staff or, so far as may be necessary for the proper performance of the commissioner's functions, 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 commissioner 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 paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

*Regulations*

13. (1) The Department may make regulations as to the procedure to be followed under this Schedule.

- (2) The Department shall provide by regulations —
- (a) subject to such exceptions as may be specified by the regulations, for the furnishing of a copy of a complaint to the member of the police force against whom it is made;
  - (b) for giving a member of the police force against whom a complaint is made an opportunity to comment orally or in writing on the complaint;
  - (c) for cases in which any provision of this Schedule is not to apply where a complaint, other than a complaint which falls to be resolved informally, is withdrawn or the complainant indicates that he does not wish any further steps to be taken;
  - (d) for the notification of the outcome of any complaint to the complainant and to the member of the police force against whom it is made;

- (e) for enabling the commissioner to dispense with any requirement of this Schedule specified in the regulations;
- (f) for the commissioner to be supplied with information or documents for the purpose of performing his functions;
- (g) for the delegation by the Chief Constable of such of his functions under this Schedule as are specified in the regulations;
- (h) in such cases as may be so specified, for the investigation of a complaint by a member of a police force in the United Kingdom appointed for the purpose in accordance with arrangements made with the police authority by which the force is maintained, and for the modification of the foregoing provisions of this Schedule in relation to such a complaint.

### SCHEDULE 1A<sup>27</sup>

[Section 8G]

## REGULATIONS TAKEN TO BE REGULATIONS UNDER SECTIONS 8 TO 8D

### REGULATIONS TAKEN TO BE REGULATIONS UNDER SECTIONS 8 TO 8D

The following regulations are taken to be regulations under sections 8 to 8D for the purposes of section 8F —

- (a) Isle of Man Police (Discipline) (Senior Officers) Regulations 1980<sup>1</sup>;
- (b) Isle of Man Police (Discipline) (Amendment) Regulations 1994<sup>2</sup>;
- (c) Isle of Man Police (Discipline) Regulations 1995<sup>3</sup>;
- (d) Isle of Man Police Regulations 2000<sup>4</sup>;
- (e) Isle of Man Police (Amendment) Regulations 2001<sup>5</sup>;
- (f) Isle of Man Police (Amendment) Regulations 2002<sup>6</sup>;
- (g) Isle of Man Police (Amendment) Regulations 2003<sup>7</sup>; and
- (h) Isle of Man Police (Amendment) Regulations 2005<sup>8</sup>.

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<sup>1</sup> GC 209/80

<sup>2</sup> SD 0535/94

<sup>3</sup> SD 0336/95

<sup>4</sup> SD 0118/00

<sup>5</sup> SD 0555/01

<sup>6</sup> SD 0052/02

<sup>7</sup> SD 0713/02

<sup>8</sup> SD 0019/05

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**SCHEDULE 2**  
**AMENDMENT OF ENACTMENTS**

Section 22(3)

[Sch 2 amended by Public Sector Pensions Act 2011 Sch 3, and amends the following Acts —

Interpretation Act 1976 q.v.

Employment Act 1991 q.v.]

**SCHEDULE 3**  
**ENACTMENTS REPEALED**

Section 22(4)

[Sch 3 repeals the following Acts wholly —

Justices Act 1836

Police (Isle of Man) Act 1962

Police (Amendment) Act 1980

Police (Amendment) Act 1982

and the following Acts and Order in part —

Interpretation (Amendment) Act 1982

Road Traffic Act 1985

Treasury Act 1985

Department of Home Affairs Order 1986 (GC120/86)

Transfer of Governor's Functions Act 1992.]



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Subs(1) amended by Police (Amendment) Act 2000 s 3.

<sup>2</sup> Subs (3A) inserted by Police (Amendment) Act 2016 s 3.

<sup>3</sup> Subs (3B) inserted by Police (Amendment) Act 2016 s 3.

<sup>4</sup> Subs (4) amended by Police (Amendment) Act 2016 s 3.

<sup>5</sup> Subs (4A) inserted by Criminal Justice, Police and Courts Act 2007 s 11.

<sup>6</sup> S 2 substituted by Police (Amendment) Act 2000 s 1.

<sup>7</sup> Subs (4) substituted by Police (Amendment) Act 2000 s 2.

<sup>8</sup> S 4 substituted by Police (Amendment) Act 2000 s 3.

<sup>9</sup> S 4A inserted by Police (Amendment) Act 2000 s 3.

<sup>10</sup> Subs (2) repealed by Police Powers and Procedures Act 1998 Sch 5.

<sup>11</sup> S 8 substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)

<sup>12</sup> S 8A substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)

<sup>13</sup> S 8B inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)

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- <sup>14</sup> S 8C inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)
- <sup>15</sup> S 8D inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)
- <sup>16</sup> S 8E inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)
- <sup>17</sup> S 8F inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)
- <sup>18</sup> S 8G inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 17. (In operation 12/11/14 for the purposes of enabling the Department of Home Affairs to make and bring into operation orders, regulations and codes under the provisions amended by s 17.)
- <sup>19</sup> Subs (1) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 18.
- <sup>20</sup> S 11 repealed by Criminal Justice, Police Powers and Other Amendments Act 2014 s 19.
- <sup>21</sup> Subs (5) amended by Police (Amendment) Act 2017 s 6.
- <sup>22</sup> S 18 substituted by Police (Amendment) Act 2000 s 5.
- <sup>23</sup> Definition of “police regulations” amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 20.
- <sup>24</sup> ADO (s 9 and Sch 1) 1/6/1994 (SD232/94).
- <sup>25</sup> Subpara (7) amended by Public Services Commission Act 2015 Sch.
- <sup>26</sup> Sub-item (i) amended by Corruption Act 2008 Sch 1 and by Bribery Act 2013 Sch 1.
- <sup>27</sup> Sch 1A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 21.