

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Policing etc

Independent Police Complaints Commission

Section 135: Application of IPCC provisions to contractors

373. Part 2 of the 2002 Act establishes the framework under which the IPCC operates to handle police complaints and misconduct. Section 12 of the Act sets out the complaints, matters and persons to which Part 2 of the 2002 Act applies. For the purposes of this section, persons “serving with the police” fall within IPCC oversight.
374. Currently, only certain private sector contractors who are “designated” by a chief officer in accordance with section 39 of the 2002 Act (to carry out escort and detention functions) fall within Part 2 and therefore are subject to IPCC oversight. However, the police (whether chief officers or local policing bodies) increasingly enter into agreements with private sector contractors to carry out other types of functions, including the provision of staff to operate emergency call centres, provide front counter services (dealing with members of the public who call at police stations or offices) and provide business support services as required (for example, finance and procurement, human resources, facilities management). The anomaly is, however, that although they are providing services traditionally carried out by police officers and staff, such individuals and their employees fall outside IPCC oversight as they are not, for the purposes of the 2002 Act, defined as “serving with the police”.
375. To achieve more parity between private sector contractors in these roles and police officers and staff, and to reflect this increased contracting out of functions, this section inserts a power to make regulations (subject to the negative resolution procedure) into section 12 of the 2002 Act, enabling the Secretary of State to make provision that a contractor, sub-contractor or an employee of a contractor or sub-contractor is to be treated as a person serving with the police. New section 12(10) defines a contractor as a person who contracts with a local policing body or a chief officer of police for the provision of services to the chief officer. The effect of this section is that all contractors, sub-contractors or their employees, of a class specified in regulations as providing services to a chief officer of police, will be required to cooperate with investigations by, or under the oversight of, the IPCC. In other words, the IPCC will be able to investigate specified categories of private sector contractors under the complaints and conduct framework set out in Part 2 of the 2002 Act and any regulations made thereunder.
376. Where services provided by private sector contractors have no connection to what are essentially policing functions, and where it would serve no useful purpose for Part 2, or any regulations made under it, to apply, the category of employee will be limited by regulations (section 105(4) of the 2002 Act enables regulations to make

These notes refer to the Anti-Social Behaviour, Crime and Policing Act 2014 (c.12) which received Royal Assent on 13 March 2014

different provisions for different cases). The IPCC's oversight will continue in relation to employees who are designated under section 39 of the 2002 Act and the provisions in that section about the process of designation will continue to apply. However, paragraph 94 of Schedule 11 provides for the repeal of section 39(9) to (11) of the 2002 Act which will have the effect of avoiding the future possibility of creating a different complaints system for contracted-out staff.

377. New section 12(9) of the 2002 Act enables the Secretary of State in making regulations under new section 12(8), to make modifications to Part 2 of the 2002 Act in its application to contractors. The purpose of this subsection is, amongst other things, to enable the Secretary of State to prescribe the identity of the "appropriate authority" in regulations. In relation to employees who are under the direction and control of the chief officer, the chief officer or the local policing body is likely to be prescribed as the appropriate authority. In other cases, the appropriate authority may be the contractor or the local policing body.