

SCHEDULES

SCHEDULE 7

Section 29

DISCIPLINARY PROCEEDINGS: FORMER MEMBERS OF MOD POLICE, BRITISH TRANSPORT POLICE AND CIVIL NUCLEAR CONSTABULARY

Ministry of Defence Police Act 1987 (c. 4)

- 1 The Ministry of Defence Police Act 1987 is amended as follows.
- 2 (1) Section 3A (regulations relating to disciplinary matters) is amended as follows.
 - (2) After subsection (1A) insert—
 - “(1B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (1A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—
 - (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the chief constable of the Ministry of Defence Police, the Ministry of Defence Police Committee, the Independent Police Complaints Commission, the Police Investigations and Review Commissioner or the Police Ombudsman for Northern Ireland,
 - (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of the Ministry of Defence Police, and
 - (c) condition A, B or C is satisfied in relation to the person.
 - (1C) Condition A is that the person ceases to be a member of the Ministry of Defence Police after the allegation first comes to the attention of a person mentioned in subsection (1B)(a).
 - (1D) Condition B is that the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a) but the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) does not exceed the period specified in regulations under this section.
 - (1E) Condition C is that—
 - (a) the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a),
 - (b) the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) exceeds the period specified for the purposes of condition B, and

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(c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of the Ministry of Defence Police.

(1F) Regulations made by virtue of subsection (1B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—

- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
- (b) the impact of the allegation on public confidence in the police, and
- (c) the public interest.

(1G) Regulations made by virtue of subsection (1B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (1F)(a) to (c).

(1H) Regulations made by virtue of subsection (1B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or by virtue of section 26 of the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a member of the Ministry of Defence Police.”

(3) In subsection (2), for “The regulations” substitute “Regulations under this section”.

3 In section 4 (representation etc at disciplinary proceedings), in subsection (4)—

(a) in the definition of “the officer concerned”, after “member” insert “or, as the case may be, the former member”;

(b) in the definition of “relevant authority”—

(i) after paragraph (a) insert—

“(aa) where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was not a senior officer, the chief constable for the Ministry of Defence Police;”;

(ii) after paragraph (b) insert—

“(c) where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was a senior officer, the Ministry of Defence Police Committee;”.

4 In section 4A (appeals against dismissal etc), in subsection (1)(a), after “member” insert “, or former member,”.

5 Regulations made in pursuance of section 3A(1B) of the Ministry of Defence Police Act 1987 (as inserted by paragraph 2)—

- (a) may not make provision in relation to a person who ceases to be a member of the Ministry of Defence Police before the coming into force of paragraph 2 of this Schedule;
- (b) may make provision in relation to a person who ceases to be a member of the Ministry of Defence Police after the coming into force of paragraph 2 of this Schedule even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of that paragraph, but only if the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of the Ministry of Defence Police.

Railways and Transport Safety Act 2003 (c. 20)

6 The Railways and Transport Safety Act 2003 is amended as follows.

7 In section 36 (police regulations: general), after subsection (1) insert—

“(1A) To the extent that subsection (1) concerns regulations made in pursuance of section 50(3A) of the Police Act 1996, or matters that could be dealt with by such regulations, the reference in subsection (1) to constables or other persons employed in the service of the Police Force includes former constables and other persons formerly employed in the service of the Police Force.”

8 In section 37 (police regulations: special constables), after subsection (1) insert—

“(1ZA) To the extent that subsection (1) concerns regulations made in pursuance of section 51(2B) of the Police Act 1996, or matters that could be dealt with by such regulations, the reference in subsection (1) to special constables of the Police Force includes former special constables of the Police Force.”

9 In section 42 (police regulations by Secretary of State), in subsection (3)—

- (a) after “50(3)” insert “or (3A)”;
(b) after “51(2A)” insert “or (2B)”.

10 Regulations made under section 36, 37 or 42 of the Railways and Transport Safety Act 2003 that make provision that applies regulations made in pursuance of section 50(3A) or 51(2B) of the Police Act 1996, or that deals with matters that could be dealt with by such regulations, in relation to former constables, and former special constables, of the British Transport Police Force and other persons formerly employed in the service of the British Transport Police Force—

- (a) may not make provision that would not be permitted in relation to former members of a police force and former special constables by section 29(7)(a);
(b) may make provision that would be permitted in relation to former members of a police force and former special constables by section 29(7)(b).

Energy Act 2004 (c. 20)

11 The Energy Act 2004 is amended as follows.

12 In section 58 (government, administration and conditions of service of Civil Nuclear Constabulary), in subsection (1)(a), after “members” insert “or former members”.

Status: This is the original version (as it was originally enacted).

- 13 (1) In Schedule 13 (directions by Secretary of State about Civil Nuclear Constabulary), paragraph 3 (government, administration and conditions of service) is amended as follows.
- (2) After sub-paragraph (2) insert—
- “(2A) To the extent that sub-paragraph (2) concerns provision that may be made in pursuance of section 50(3A) of the Police Act 1996, the reference in sub-paragraph (1) to members of the Constabulary includes former members.”
- 14 Provision made by the Civil Nuclear Police Authority that relates to former members of the Civil Nuclear Constabulary and matters which are the subject of regulations made in pursuance of section 50(3A) of the Police Act 1996—
- (a) may not be provision that would not be permitted in relation to former members of a police force and former special constables by section 29(7)(a);
 - (b) may be provision that would be permitted in relation to former members of a police force and former special constables by section 29(7)(b).