1989 No. 472

POLICE

Royal Ulster Constabulary Reserve (Part-Time) (Discipline and Disciplinary Appeals) (Amendment) Regulations 1989

Made . . . . . *6th December 1989*

Coming into operation . . *1st January 1990*

To be laid before Parliament

The Secretary of State, in pursuance of section 26 of the Police Act (Northern Ireland) 1970(**a**) and Article 14(6) of the Police (Northern Ireland) Order 1987(**b**), and after consulting the Police Authority and the Police Association in accordance with section 34(2) of the said Act of 1970, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Royal Ulster Constabulary Reserve (Part-Time) (Discipline and Disciplinary Appeals) (Amendment) Regulations 1989 and shall come into operation on 1st January 1990.

Interpretation

2. In these regulations any reference to the principal regulations is a reference to the Royal Ulster Constabulary Reserve (Part-Time) (Discipline and Disciplinary Appeals) Regulations 1988(**c**).

Personal explanation

3. In the principal regulations the following provision shall be substituted for regulation 5:—

"5. The investigating officer shall, as soon as is practicable (without prejudicing his or any other investigation of the matter) in writing inform the member subject to investigation of the report, allegation or complaint and shall:—

(*a*) in all cases give him in writing the caution set out in paragraph 1 of Schedule 1A,

(*b*) where he reasonably believes that the presence of any object, substance or mark found on the person of the member subject to investigation or in or on his clothing, footwear or otherwise in his possession or in any place in which the member was present at a time material to the subject-matter of the report, allegation

(**a**) 1970 c. 9 (N.I.) as amended by S.I. 1977/53 (N.I. 2) and S.I. 1987/938 (N.I. 10) and modified by S.I. 1973/2163 and S.I. 1981/1670
(**b**) S.I. 1987/938 (N.I. 10)
(**c**) S.R. 1988 No. 8

or complaint may be attributable to the participation of the member in the commission of a dsiciplinary offence specified by him, inform the member that he so believes and give him in writing the caution set out in paragraph 2 of Schedule 1A,

(*c*) where he reasonably believes that the presence of the member subject to investigation at a place at or about the time the disciplinary offence was alleged to have been committed may be attributable to his participation in the commission of the offence, inform the member that he so believes and give him in writing the caution set out in paragraph 3 of Schedule 1A.''.

Procedure at hearing

4. In regulation 15 of the principal regulations after paragraph (11) there shall be inserted the following provision:—

''(12) Where evidence is given that the accused, while subject to investigation—

(*a*) after having been given in writing the caution set out in paragraph 1 of Schedule 1A failed to mention any fact relied on in his defence at the hearing, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention during the investigation, or

(*b*) after having been given in writing the caution set out in paragraph 2 of Schedule 1A failed or refused to account for any object, substance or mark or any mark on any such object, or

(*c*) after having been given in writing the caution set out in paragraph 3 of Schedule 1A failed or refused to account for his presence at a particular place,

the officer conducting the hearing may draw such inferences from the failure or refusal as appear proper:

Provided that no such inferences may be drawn if the failure or refusal occurred before 1st January 1990.''.

Codes of practice

5. In the principal regulations after paragraph 3(*b*) of Schedule 1 there shall be inserted:—

''; or

(*c*) fails to comply with any requirement of a code of practice for the time being in force under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989(**a**), unless such proceedings are precluded by Article 22 of the Order of 1987.''.

Interpretation and application

6. In regulation 2 of the principal regulations for the words '' 'offence or disciplinary offence' '' there shall be substituted:—

'' 'offence' or 'disciplinary offence' ''.

(a) S.I. 1989/1341 (N.I. 12)

Remission of cases

7. In regulation 12(1) of the principal regulations for the word "who" there shall be substituted:—

"as".

P. L. Brooke
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
6th December 1989

SCHEDULE Regulation 3

In the principal regulations after Schedule 1 there shall be inserted the following Schedule:—

"SCHEDULE 1A Regulation 5

CAUTIONS

1. You do not have to say anything unless you wish to do so but I must warn you that if you fail to mention any fact which you rely on in your defence in any subsequent disciplinary proceedings, your failure to take the opportunity to mention it at this time may be treated at the disciplinary proceedings as supporting any relevant evidence against you. You may, if you so desire, make a written or oral statement to the investigating officer or the chief constable or the Police Authority, as appropriate. Any such statement may be used in subsequent disciplinary proceedings.

2. You do not have to say anything unless you wish to do so but what you say may be given in evidence in any subsequent disciplinary proceedings.

On ..... at ..... a ..... was found on your person/in or on your clothing or footwear/in your possession/in ..... where you were at the time/a mark was found on such object, that is ...../and I have reason to believe that this was attributable to your participation in a disciplinary offence of ..... .

I therefore request you to account for this ..... .

I must warn you that if you fail or refuse to do so such inferences may be drawn at any subsequent disciplinary proceedings from your failure or refusal as appear proper.

3. You do not have to say anything unless you wish to do so but what you say may be given in evidence.

On ..... at ..... about the time the disciplinary offence of ..... is alleged to have been committed I have reason to believe your presence at that time may be attributable to your participation in the commission of that offence.

I therefore request you to account for your presence at ..... at that time.

I must warn you that if you fail or refuse to do so, such inferences may be drawn at any subsequent disciplinary proceedings from your failure or refusal as appear proper.".

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. Regulations 3 and 4 introduce changes made necessary by the Criminal Evidence (Northern Ireland) Order 1988.

2. Regulation 3 makes provision for notification of an officer against whom a complaint has been made and sets out the appropriate caution or cautions to be given to him.

3. Regulation 4 amends regulation 15 of the principal regulations to permit inferences to be drawn from the accused's failure, while subject to investigation, to mention any fact relied on in his defence at the hearing.

4. Regulation 5 introduces to the Code of Discipline a new offence of failure to comply with a code of practice issued under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989.

5. Regulations 6 and 7 make minor amendments to the principal regulations to correct printing or drafting errors.