

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3,154 of 2nd March, 2000

LEGAL NOTICE NO. 15 OF 2000

POLICE ACT

POLICE (DISCIPLINE) (AMENDMENT) REGULATIONS, 2000

In exercise of powers conferred on him by section 52 of the Police Act and after having received the approval of the Governor, the Commissioner of Police has made the following Regulations.

Title and commencement.

1. These Regulations which amend the Police (Discipline) Regulations 1991 (hereinafter referred to as “the principal Regulations”), may be cited as the Police (Discipline) (Amendment) Regulations, 2000 and shall come into operation on 20th March, 2000.

Amendment of regulation 5 of the principal Regulations.

2.(1) For regulation 5(c) of the principal Regulations (minor offences) there shall be substituted the following two subregulations –

“(c) where an allegation is made by someone other than a member of the Force in accordance with regulation 7, it shall be referred to a sub-committee of the Police Complaints Board established by regulation 7(h) consisting of one police officer not below the rank of chief inspector and one independent member who shall decide, taking account of the secretary’s record and any written response made under regulation 7(c), whether –

- (i) the offence is minor and, if the complainant is in agreement, shall recommend to the Deputy Commissioner of Police that the case be dealt with summarily by the line manager of the officer concerned; or

- (ii) the offence is sufficiently serious to be referred to the investigating officer appointed under regulation 7(c) for a full investigation.
- (d) The decision of the sub-committee shall be communicated to the complainant who shall have the right at any time in the proceedings, of appeal to the Police Commissioner, if he believes that his complaint should be referred to the full Police Complaints Board contrary to the sub-committee's decision.”.

Revocation of regulation 6(c) of the principal Regulations.

3. Regulation 6(c) of the principal Regulations (presence of police officer whilst statement is being taken by a complainant), is revoked.

Amendment of regulation 7 of the principal Regulations.

4. For regulation 7 of the principal Regulations (investigation of charges made by a person other than a police officer), there shall be substituted the following:

“7.

- (a) Where a report, allegation or complaint is made by anyone other than a police officer, from which it appears that an offence may have been committed by a member of the Police Force, the complaint shall be lodged with the secretary to the Police Complaints Board at his official address as published in a notice of appointment made by the Governor under paragraph 1 of Schedule 6.
- (b) where such report, allegation or complaint is made against a member of the Police Force, it shall be the duty of the secretary receiving it, to record it in writing.
- (c) the secretary shall pass the record of the report, allegation or complaint, referred to in subregulation (b) to the Deputy Commissioner of Police who shall appoint an investigating officer.
- (d) The investigating officer shall inform the police officer in writing of the report, allegation or complaint made against him and invite him to record a written response to it which, if

made, shall be passed by the investigating officer together with the secretary's record to the sub-committee referred to in regulation 5(c).

- (e) It shall be the duty of the investigating officer to inform the police officer against whom the report, allegation or complaint has been made, that information provided in the written response shall not be used against the police officer at any civil, criminal or disciplinary hearing if the police officer restricts his answers and explanations to the issues under investigation.
- (f) On a full investigation, the police officer against whom the report, allegation or complaint has been made, shall be served with full details of the case against him and on completion of the full investigation, the investigating officer shall submit the docket to the secretary for transmission to the appropriate sub-committee of the Board.
- (g) The decision of the sub-committee shall be conveyed in writing by the secretary to the Deputy Commissioner of Police."
- (h) the Police Complaints Board shall be established in accordance with Schedule 6."

Dated this 2nd day of March, 2000.

A. J. CASTREE,

Commissioner of Police.

EXPLANATORY MEMORANDUM

These Regulations amend regulations 5 and 7 of the Police (Discipline) Regulations, 1991 so as to allow a report, allegation or complaint against a police officer by anyone other than a police officer, to be lodged with the secretary to the Police Complaints Board rather than at a Police station. The requirement that the officer against whom such report, allegation or

complaint is made, shall be present while the report, etc. is made, has been removed.

Likewise, the requirement in regulation 6(c) of the principal Regulations that a police officer against whom a report, allegation or complaint is made by a police officer, shall be present while the report, etc. is made, has been revoked.

Regulation 7(d) requires the record of report, etc. to be forwarded to the police officer involved who is then invited to respond; if he does that response is referred to the sub-committee mentioned in regulation 5(c).

Regulation 5(c) of the principal Regulations is also amended so as to allow the sub-committee of the Police Complaints Board to decide, taking account of any written response made by the police officer involved, whether the matter complained of is capable of being dealt with summarily by the line manager of the officer concerned or whether it is sufficiently serious to be referred to the Deputy Commissioner of Police who has to appoint an investigating officer to carry out a full investigation. On completion of the full investigation the appropriate sub-committee is to be informed of the outcome and the sub-committee's decision conveyed to the Deputy Commissioner of Police.

Provision is made for an appeal by the complainant if he believes that his complaint should be referred to a full Police Complaints Board.