



Northern
Ireland
Office

Consultation Document for

Draft Policing (Miscellaneous Provisions)
(Northern Ireland) Order 2007

The public consultation period commenced on Monday 4
December 2006 and will end on Monday 22 January 2007

Introduction

On 9 January 2006, the then Policing Minister, Shaun Woodward, agreed to a proposed Policing (Miscellaneous Provisions) (Northern Ireland) Order in order to amend existing Northern Ireland policing legislation and introduce new subject areas in line with England and Wales.

2. Since then, officials have been working closely with PSNI colleagues and other key stakeholders on the following policy areas to be included in the draft Order:

- a) Provisions for providing further opportunities for the Police Service of Northern Ireland to civilianise posts, by way of: extending, in line with England and Wales, the range of powers and duties otherwise available to police officers by way of designation to Investigating Officers, Detention Officers and Escort Officers; and introducing two categories of designated civilian, namely Staff Custody Officer and Police Community Support Officer (PCSO);
- b) Provisions for streamlining the police trainee recruitment process to allow the PSNI to make provisional police trainee appointments, subject to the satisfactory completion of medical tests and security vetting;
- c) Provisions for changing the recruitment procedures for police support staff in line with those proposed for police trainees; and including a power to allow Government to bring forward regulations to satisfy concerns that designated civilians should be vetted to the same standard as police trainees;
- d) Provisions for the re-introduction of legislative provisions to enable the PSNI to address an acute shortage of detective constables, by way of the recruitment of experienced constables with the required skills from other forces;

- e) Provisions for the Police Ombudsman to make application to the PPS to allow for the re-investigation of police officers previously acquitted of a qualifying offence, where new evidence has been obtained;
- f) Provisions for the police to wholly or partly close or divert roads or prohibit or restrict the use of a road or waterway, if considered necessary for the preservation of the peace or the maintenance of public order; and
- g) Provisions for the police to examine documents and electronic records in order to establish whether or not they contain evidence that someone has committed or is preparing to commit serious crime.

3. The Policing Board and the Chief Constable are keen for us to introduce some of these provisions as a matter of urgency as they will result in significant cost savings and assist the police to increase public confidence in policing on the ground by tackling crime and the fear of crime.

4. In order to meet the tight legislative timeframe, Government has therefore opted for a shortened public consultation period of 7 weeks, commencing Monday 4 December. In view of this Ministers are proposing to engage in a transparent and proactive consultation process with all interested parties, for example, the Minister of State has asked the Transitional Assembly to consider the terms of the draft Order and will be meeting with political parties and other interested bodies, on request. The consultation period will end on Monday 22 January 2007.

5. We have also taken on board that some of the provisions within the Order are being consulted on separately, for instance, the Policing Board has commenced its own consultation process with local District Policing Partnerships, local council representatives and police commanders regarding our proposed introduction of Police Community Support Officers.

Overview of the Provisions

6. More detail is given below on each of the provisions in the draft Order, as well as outlining the reasons why it is necessary to move forward urgently with these proposals.

Designation of Police Support Staff

These provisions for designation of police support staff provide further opportunities for the Police Service of Northern Ireland to civilianise posts, by way of: extending, in line with GB, the range of powers and duties otherwise available to police officers by way of designation to Investigating Officers, Detention Officers and Escort Officers; and introducing two categories of designated civilian, namely Staff Custody Officer and Police Community Support Officers (PCSOs)

7. These provisions will replicate the powers made available to investigation officers, detention officers and escort officers, in line with England and Wales. These provisions will also provide PCSOs with some of the powers and duties otherwise only available to police officers by way of designation.

8. The introduction of PCSO's, similar to those introduced in GB, has been the subject of consideration by Ministers in Northern Ireland for quite some time. The Policing Board and PSNI are keen to recruit approximately 400 PCSOs with a recruitment campaign scheduled to be launched for the first 100 officers in April 2007, with the intent of having them operational in January 2008. The Secretary of State has also made public commitments about the introduction of PCSOs.

9. The following powers will be made available to PCSOs, however only some will be available on introduction. Others will be drawn down by Commencement Order, as and when necessary:

- (a) powers in relation to issuing fixed penalty notices for certain road traffic offences;
- (b) powers for acquiring name and address for relevant offences;

- (c) powers for acquiring name and address for certain road traffic offences;
- (d) powers to detain a person;
- (e) powers to confiscate alcohol at public processions and from young people;
- (f) powers for the confiscation of tobacco from young people;
- (g) powers for search and seizure of alcohol and tobacco;
- (h) powers to seize and retain controlled drugs;
- (i) powers of entry to save lives or prevent serious damage to property;
- (j) power to enter and inspect licensed premises and to investigate licensing offences;
- (k) power to stop vehicles;
- (l) power to direct traffic and place traffic signs;
- (m) power to carry out road checks;
- (n) power to enforce cordoned off areas;
- (o) power to stop and search vehicles in authorised areas; and
- (p) power to request and inspect a licence for fireworks.

10. The Policing Board has already commenced a number of public consultation events involving local District Policing Partnerships, local council representatives and local police representatives on the introduction of PCSOs in Northern Ireland.

11. In order to inform the debate, PCSOs from Merseyside and Lancashire Constabularies have visited Northern Ireland for these events to share their experiences and knowledge. The Board will use these events to inform its response to the Government's consultation on these proposals.

12. The provision of additional powers for designated civilians, and the introduction of PCSOs, will be a valuable tool in assisting the PSNI to increase public confidence in policing on the ground and will provide a further opportunity to demonstrate the diversity of the wider policing family. It is therefore essential that we introduce the proposed legislation into the parliamentary process, without

delay, in order that the Policing Board and PSNI can move forward with their recruitment plans.

Recruitment

Police Trainees

These provisions streamline the police trainee recruitment process to allow the PSNI to make provisional police trainee appointments, subject to the satisfactory completion of medical tests and security vetting

13. These provisions will amend the Police (Northern Ireland) Act 2000 and change the police trainee recruitment procedures to allow the medical assessment and security vetting processes to take place after the merit pool of candidates is established, instead of beforehand.

14. As there are only a finite number of police trainee places available (440 per year), a large majority of candidates (at least 1800 per year) are not considered for a position as they fail to score high enough in merit order to be offered one of the limited number of places. These candidates are nevertheless subjected unnecessarily to the security vetting and medical assessment processes.

15. The policy objective of this proposal is to allow the Chief Constable to make provisional police trainee appointments subject to the satisfactory completion of medical tests and security vetting. Should a candidate fail either part of these processes, the Chief Constable can provisionally appoint the next applicant on the merit order list to replace the failed candidate.

16. This will obviate the need for a large number of candidates, who will not be offered a police trainee position, being subjected unnecessarily to the medical assessment and security vetting processes.

17. Both the PSNI and Policing Board hold the view that undertaking security vetting and medical examination of a large group of candidates to satisfy the “qualified applicant” criteria, when at the conclusion of the recruitment process only some of that group will have been successful, is both costly and time consuming.

18. Each applicant costs approximately £300 to process through the security vetting and medical assessment processes. A figure of at least £540,000 per annum is indicative of the savings to be achieved if 1800 fewer candidates were security vetted and medically assessed.

19. As well as obviating the need for a large number of candidates to be subjected to the medical assessment and security vetting processes, the following efficiencies and advantages will be achieved as a result of this change:

- Tangible annual cash savings of at least £540,000;
- Non-tangible opportunity costs in terms of time delays and staff time. The overall PSNI recruitment process will be significantly streamlined and made more efficient e.g. the Patten Report recommended that the recruitment process is completed within 6 months. PSNI currently find this target challenging;
- It is critical that current recruitment processes are streamlined as much as possible before a recruitment contracting-out tender exercise is finalised in September 07; and
- The current difficulty in maintaining the supply of qualified personnel to undertake such a large number of medical examinations will be alleviated.

20. Failure to move forward with this proposal in the draft Order will prevent PSNI realising financial savings in this area, which currently represents a significant unnecessary spend of public funds, as well as the opportunity costs in terms of potential efficiencies in time delays and staff time.

21. Additionally, it is now critical that the current processes are streamlined as much as possible to take account of these cash and opportunity efficiencies before a further contracting-out tender exercise is completed and another external recruitment provider takes over.

Police Support Staff

We are also proposing provisions for changing the recruitment procedures for police support staff in line with those proposed for police trainees; and including a power to allow us to bring forward regulations to satisfy Policing Board concerns that designated civilians should be vetted to the same standard as police trainees

22. These provisions provide for changes to the recruitment procedures for police support staff in line with those proposed for police trainees, outlined previously.

23. They will give the Secretary of State the power to provide in regulations as to the suitability for appointment of persons who are appointed with a view to their being designated under Section 30 or 30 A of the Police (Northern Ireland) Act 2003.

24. In other words, these provisions will include a power to allow Government to bring forward regulations to satisfy a Ministerial commitment, in response to concerns, that designated civilians will be vetted to the same standard as police trainees.

Appointment of Constables with special policing skills

These provisions reintroduce legislative provisions to enable the PSNI to address an acute shortage of detective constables by way of the recruitment of experienced constables with the required skills from other police forces

25. These provisions will specifically reintroduce Section 23 of the Police (NI) Act 2003 allowing for the appointment of constables who have a specified policing skill, namely the recruitment of experienced detective constables from

other police forces. In this regard, the provisions will also allow derogation for these appointments from the normal police trainee recruitment process.

26. There are currently 97 vacancies at Detective Constable level which the PSNI is keen to fill. Both the Policing Board and Chief Constable are pressing for these provisions to be brought forward as a matter of urgency.

Police Ombudsman: Investigation following acquittal

These provisions enable the Police Ombudsman to make application to the PPS to allow for the re-investigation of police officers previously acquitted of a qualifying offence where new evidence has been obtained

27. These provisions ensure that the Police Ombudsman can, with the consent of the DPP, re-investigate cases of a serious criminal nature where new evidence has come to hand.

28. The Criminal Justice Act 2003 provides for application to be made to the DPP by the Chief Constable to allow him to re-investigate persons acquitted of a qualifying offence where new evidence has been obtained i.e. the Double Jeopardy rule. However, where that person is a police officer the proper investigative authority is the Police Ombudsman. Equivalent provision for the Police Ombudsman was unfortunately overlooked whenever the Criminal Justice Act was being drafted, therefore these provisions will rectify that position by introducing a new Section 86A to the Criminal Justice Act 2003.

29. There are already some cases requiring re-investigation by the Ombudsman, which have either been forwarded by the Chief Constable or where a complaint has already been received.

30. To facilitate the re-investigation procedure, provisions also amend Section 56 of the Police (Northern Ireland) Act 1998 to enable the Police Ombudsman to appoint an officer of the Ombudsman to conduct such an investigation.

31. In essence, these provisions ensure that a common and equitable approach is adopted towards the closure of all such cases requiring re-investigation regardless of whether they are conducted by the Chief Constable or the Police Ombudsman.

Police Powers

We are proposing to bring forward provisions for the police to wholly or partly close or divert roads or prohibit or restrict the use of a road or waterway, if considered necessary for the preservation of the peace or the maintenance of public order.

32. These provisions will provide the police with the immediate power to wholly or partly close or divert roads or prohibit or restrict the use of a road or waterway, if considered necessary for the preservation of the peace or the maintenance of public order. It also will make it an offence to interfere with works, apparatus or equipment used in connection with the exercise of the power.

33. This power is necessary to enable the police to carry out various functions including the effective management of the marching season. It will also help with the management of serious incidents, for example by enabling the police to protect the safety of the public by diverting traffic away from danger.

34. The PSNI is keen to have these provisions on the statute book as soon as possible, and this draft Order provides the earliest and most suitable opportunity for bringing them forward.

We are also proposing provisions for the police to examine documents and electronic records in order to establish whether or not they contain evidence that someone has committed or is preparing to commit serious crime

35. These provisions will provide police with the power to examine documents and electronic records in order to establish whether or not they contain evidence that someone has committed or is preparing to commit serious crime. Police will be able to take documents and records away for further examination for up to 48

hours (extendable to 96 hours) if that is necessary. This power is needed because of the increasingly sophisticated nature of serious crime.

36. The evidential value of a document or electronic record may not be immediately apparent and an item cannot be seized as evidence under the Police and Criminal Evidence (Northern Ireland) Order 1989 unless the police officer has reasonable suspicion that it is evidence and its retention is necessary. For example, a document or record may require translation from a foreign language before a police officer can make a judgement about its evidential value. These provisions will enable this work to be carried out.

37. These provisions will also create appropriate safeguards to protect the rights of the public. As well as the time limit on the retention of documents, items believed to be subject to legal privilege are exempted from examination and a record must be made of any examination.

38. The PSNI is also keen to have these provisions in place, and this draft Order provides a suitable opportunity for bringing them forward.



EXPLANATORY MEMORANDUM

Draft

Proposal for a Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007

£3.00

**PROPOSAL FOR A POLICING (MISCELLANEOUS PROVISIONS)
(NORTHERN IRELAND) ORDER 2007**

EXPLANATORY MEMORANDUM

Comments on the proposal are invited and should be made in writing to
the address below before 22 January 2007

**Policing Policy Branch
Policing Division
Northern Ireland Office
Room B4.22
Block B, Level 4
Castle Buildings
Stormont Estate
BELFAST
BT4 3SU**

NORTHERN IRELAND OFFICE

PROPOSAL FOR A DRAFT ORDER IN COUNCIL UNDER PARAGRAPH 1(1) OF THE SCHEDULE TO THE NORTHERN IRELAND ACT 2000

DRAFT POLICING (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 2007

EXPLANATORY DOCUMENT

The above Order is being made under the Northern Ireland Act 2000 and is subject to affirmative resolution.

The Explanatory Memorandum has been prepared by the Northern Ireland Office to assist the reader in understanding the proposed Order and to help inform consideration of the proposals. It does not form part of the Order. It is not, and is not intended to be, a comprehensive description of the Order. Where an Article or part of an Article does not seem to require explanation or comment none is given.

Comments on the proposals should be submitted in writing, **to arrive no later than 22 January 2007**, to:

**Policing Policy Branch
Policing Division
Northern Ireland Office
Room B4.22
Block B, Level 4
Castle Buildings
Stormont Estate
BELFAST
BT4 3SU**

**Or by Telephone: 028 90523376;
Fax: 028 9023322; or
Email to: policingorder@nio.x.gsi.gov.uk**

Further copies of the proposal and this document can be obtained free of charge from the above address. They may also be viewed or downloaded from the Northern Ireland Office publications website: www.nio.gov.uk

The proposal and this document can also be made available in different formats, for individuals with particular needs, on request. A text-phone facility is also available by phoning 028 90527668.

The Northern Ireland Office is committed to publishing a list of those who comment on these proposals and to make available, to anyone who asks for it, a copy of the comments and of our response to them. If you do not wish your comments to be published in this way, you must make this clear in any response you submit.

If you have any questions concerning the documentation process please contact Policing Policy Branch who will be pleased to assist you.

If you have any complaints or concerns about the consultation process, you should contact the Northern Ireland Office's consultation co-ordinator, Donna Knowles on (028) 90527015, or by email at donna.knowles@nio.x.gsi.gov.uk. Alternatively, you may write to her at the address below:

Central Management Unit
Northern Ireland Office
Stormont House
Stormont Estate
Belfast
BT4 3SH

BACKGROUND AND POLICY OBJECTIVES

The draft Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 makes provision for the amendment of existing Northern Ireland policing legislation, principally the Police (Northern Ireland) Act 2000.

It also updates the designated civilian provisions contained within the Police (Northern Ireland) Act 2003 with the primary aim of bringing designated civilian provisions in Northern Ireland into line with GB, reflecting amendments made by various pieces of legislation, including, inter alia, the Serious Organised Crime and Police Act 2005.

2. OVERVIEW OF THE PROVISIONS OF THE DRAFT ORDER

The draft Order includes provisions for:-

- (a) providing further opportunities for the Police Service of Northern Ireland to civilianise posts, by way of: extending, in line with GB, the range of powers and duties otherwise available to police officers by way of designation to investigating officers, detention officers and escort officers; introducing two new categories of designated civilian, namely Staff Custody Officers and Police Community Support Officers similar to that which is in force in GB;
- (b) streamlining the police trainee recruitment process to allow the Police Service of Northern Ireland to make provisional police trainee appointments, subject to the satisfactory completion of medical tests and security vetting;
- (c) changing the recruitment procedures for police support staff in line with those proposed for police trainees; and bringing forward regulations providing for the requirement that designated civilians are vetted to the same standard as police trainees;
- (d) the reintroduction of legislative provisions to enable the Police Service of Northern Ireland to address an acute shortage of detective constables by way of the recruitment of experienced constables with the required skills from other forces;
- (e) the Police Ombudsman to make application to the DPP to allow for the re-investigation of police officers previously acquitted of a qualifying offence where new evidence has been obtained;
- (f) the police to wholly or partly close or divert roads or prohibit or restrict the use of a road or waterway, if considered necessary for the preservation of the peace or the maintenance of public order; and

- (g) the police to examine documents and electronic records in order to establish whether or not they contain evidence that someone has committed or is preparing to commit serious crime.

3. CONSULTATION

As part of the development of each policy area, the Northern Ireland Office held extensive discussions with the Police Service of Northern Ireland, the Northern Ireland Policing Board, the Police Ombudsman and other main stakeholders. This section will be updated following public consultation on the proposals.

4. EUROPEAN CONVENTION ON HUMAN RIGHTS

The provisions of the Order are compatible with the Convention on Human Rights.

5. EQUALITY IMPACT ASSESSMENT

Equality impact assessment screenings were carried out on each of the policy proposals. The screening on each concluded that a full equality impact assessment was not required. There would, therefore, be no significant adverse impact on any of the groups listed in Section 75 of the Northern Ireland Act 1998.

6. SUMMARY OF THE REGULATORY IMPACT

The proposals are not considered likely to impose a new cost or saving on businesses, charities or the voluntary sector. Therefore, in line with Cabinet Office guidance, a Regulatory Impact Assessment is considered unnecessary.

7. COMMENTARY ON PROVISIONS

Articles 3, 4, 5, 6 and 7: Designation of police support staff

Articles 3, 4, and 5 extend the range of powers and duties otherwise available to police officers by way of designation to investigating officers, detention officers and escort officers. Articles 6 and 7 introduce two further categories of designated civilian, namely Staff Custody Officers and Police Community Support Officers and associated powers.

Article 8: Recruitment of police trainees

This Article amends the Police (Northern Ireland) Act 2000 and changes the police trainee recruitment procedures to allow the medical assessment and security vetting processes to take place after the merit order pool of candidates is established, instead of

beforehand. The policy objective is to allow the Chief Constable to make provisional police trainee appointments subject to the satisfactory completion of medical tests and security vetting. Should a candidate fail either part of these processes, the Chief Constable can provisionally appoint the next applicant on the merit order list to replace the failed candidate. This will obviate the need for a large number of candidates, who will not be offered a police trainee position as they failed to score high enough in merit order, being subjected unnecessarily to the medical assessment and security vetting processes.

Article 9: Recruitment of police support staff

This Article provides for changes to the recruitment procedures for police support staff in line with those proposed for police trainees, outlined in Article 8. This Article also gives the Secretary of State the power to provide in regulations as to the suitability for appointment of persons who are appointed with a view to their being designated under Section 30 or 30 A of the Police (Northern Ireland) Act 2003.

Article 10: Appointment of constables with special policing skills

This Article reintroduces Section 23 of the Police (NI) Act 2003. This provides for the appointment of constables who have a specified policing skill, namely the recruitment of experienced detective constables from other police forces. In this regard, the Article also allows derogation for these appointments from the normal police trainee recruitment process.

Article 11: Investigation of Police Ombudsman following acquittal

Article 11(1) introduces a new Section 86A to the Criminal Justice Act 2003. It provides for the Police Ombudsman to make application to the DPP to allow for the re-investigation of police officers previously acquitted of a qualifying offence where new evidence has been obtained. This provides the Police Ombudsman with the necessary powers to investigate certain criminal matters concerning police officers. Current legislation provides for application to be made to the DPP by the police to allow them to re-investigate persons acquitted of a qualifying offence where new evidence has been obtained i.e. the Double Jeopardy rule. However where that person is a police officer the proper investigative authority is the Police Ombudsman for whom there is no equivalent provision in current legislation. This Article provides the Police Ombudsman with the necessary powers to apply for a re-investigation of a case where none currently exists. Although this provision may be used infrequently, the absence of such powers would present problems in terms of addressing fairly all acquittal cases where new evidence has been obtained. Article 11(2) amends section 56 of the Police (Northern Ireland) Act 1998 and enables the Police Ombudsman to appoint an officer of the Ombudsman to conduct an investigation authorised by virtue of the powers provided under Part (1) of this Article.

Article 12: Closure of roads etc

This Article provides the police with the immediate power to wholly or partly close or divert roads or prohibit or restrict the use of a road or waterway, if considered necessary

for the preservation of the peace or the maintenance of public order. It also makes it an offence to interfere with works, apparatus or equipment used in connection with the exercise of the power. This power is necessary to enable the police to carry out various functions including the effective management of the marching season. It will also help with the management of serious incidents, for example by enabling the police to protect the safety of the public by diverting traffic away from danger.

Article 13: Powers to examine documents or records

This Article provides police with the power to examine documents and electronic records in order to establish whether or not they contain evidence that someone has committed or is preparing to commit serious crime. Police will be able to take documents and records away for further examination for up to 48 hours (extendable to 96 hours) if that is necessary. This power is needed because of the increasingly sophisticated nature of serious crime. The evidential value of a document or electronic record may not be immediately apparent and an item cannot be seized as evidence under the Police and Criminal Evidence (Northern Ireland) Order 1989 unless the police officer has reasonable suspicion that it is evidence and its retention is necessary. For example, a document or record may require translation from a foreign language before a police officer can make a judgement about its evidential value. This Article will enable this work to be carried out. This Article also creates appropriate safeguards to protect the rights of the public. As well as the time limit on the retention of documents, items believed to be subject to legal privilege are exempted from examination and a record must be made of any examination.

Schedule 1: Investigating officers

Schedule 1 details the amendments to Part 1 of Schedule 2 of the Police (NI) Act 2003 conferring some of the powers and duties otherwise only available to police officers by way of a designation to investigating officers. It also provides provision for persons accompanying investigating officers. These provisions replicate additional powers made available to investigating officers in GB.

Schedule 2: Detention officers

Schedule 2 details the amendments to Part 2 of Schedule 2 of the Police (NI) Act 2003 conferring some of the powers and duties otherwise only available to police officers by way of a designation to detention officers. It also relates to specific powers in relation to taking impressions of footwear, powers in respect of detained persons, the use of reasonable force in relation to detained persons, and powers in relation to information about intimate search, x-ray and ultrasound. These provisions also replicate additional powers made available to detention officers in GB.

Schedule 3: Escort officers

Schedule 3 details the amendments to Part 3 of Schedule 2 of the Police (NI) Act 2003 conferring some of the powers and duties otherwise only available to police officers by way of a designation to escort officers. Again these provisions replicate additional powers made available to escort officers in GB.

Schedule 4: Staff custody officers

Schedule 4 details the amendments to the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) conferring some of the powers and duties otherwise only available to police officers by way of a designation to staff custody officers. It also relates to specific powers in relation to the exercise of functions of staff custody officer: powers in respect of detained persons, and powers in relation to information about intimate searches, x-ray and ultrasound.

Schedule 5: Powers and duties of Community Support Officers

Schedule 5 refers to a Schedule relating to community support officers to be inserted as Schedule 2A to the 2003 Act and details the powers and duties of Community Support Officers to be inserted as Schedule 2A of the Police (NI) Act 2003. It relates to some of the powers and duties otherwise only available to police officers by way of a designation to community support officers:

- (a) powers in relation to issuing fixed penalty notices for certain road traffic offences;
- (b) powers for acquiring name and address for relevant offences;
- (c) powers for acquiring name and address for certain road traffic offences;
- (d) powers to detain a person;
- (e) powers to confiscate alcohol at public processions and from young people;
- (f) powers for the confiscation of tobacco from young people;
- (g) powers for search and seizure of alcohol and tobacco;
- (h) powers to seize and retain controlled drugs;
- (i) powers of entry to save lives or prevent serious damage to property;
- (j) power to enter and inspect licensed premises and to investigate licensing offences;
- (k) power to stop vehicles;
- (l) power to direct traffic and place traffic signs;
- (m) power to carry out road checks;
- (n) power to enforce cordoned off areas;
- (o) power to stop and search vehicles in authorised areas; and
- (p) power to request and inspect a licence for fireworks.

8. COMMENCEMENT

The provisions of this Order will come into force one month after the day in which the Order is made, or on a day or days to be appointed by Commencement Order, whichever is appropriate.



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Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2007 No. (N.I.)

NORTHERN IRELAND

**The Policing (Miscellaneous Provisions) (Northern
Ireland) Order 2007**

Made - - - - 2007

Coming into operation in accordance with Article 1(2) to (4)

ARRANGEMENT OF ORDER

Introductory

1. Title and commencement
2. Interpretation

Designation of police support staff

3. Investigating officers
4. Detention officers
5. Escort officers
6. Staff custody officers
7. Community support officers

Recruitment

8. Recruitment of police trainees
9. Recruitment of police support staff

Appointment of constables with special policing skills

10. Appointment of constables with special policing skills

Police Ombudsman: investigation following acquittal

11. Investigation by Police Ombudsman following acquittal

Police powers.

12. Closure of roads, etc.
13. Police powers to examine documents or records

Policing (Miscellaneous Provisions)

SCHEDULES:

| | |
|------------|--|
| Schedule 1 | Investigating officers |
| Schedule 2 | Detention officers |
| Schedule 3 | Escort officers |
| Schedule 4 | Staff custody officers |
| Schedule 5 | Schedule to be inserted as Schedule 2A to the 2003 Act |

Policing (Miscellaneous Provisions)

At the Court at Buckingham Palace, the ** day of ** 2007

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c.1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007.

(2) The following provisions come into operation on such day or days as the Secretary of State may by order appoint—

- (a) Article 6 (with Schedule 4);
- (b) Article 12;
- (c) Article 13; and
- (d) Schedule 5, except in so far as it relates to paragraphs 2, 4, 6, 13 and 15 of the inserted Schedule 2A to the 2003 Act.

(3) The other provisions of this Order come into operation one month after the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order “the 2003 Act” means the Police (Northern Ireland Act 2003 (c.6).

Designation of police support staff

Investigating officers

3. Schedule 1 contains amendments to Part 1 of Schedule 2 to the 2003 Act relating to investigating officers.

Detention officers

4. Schedule 2 contains amendments to Part 2 of Schedule 2 to the 2003 Act relating to detention officers.

Escort officers

5. Schedule 3 contains amendments to Part 3 of Schedule 2 to the 2003 Act relating to escort officers.

Staff custody officers

6.—(1) In section 30 of the 2003 Act (police powers for designated police support staff) in subsection (1) after paragraph (c) add—

“(d) staff custody officer.”.

(2) Schedule 4 contains amendments relating to staff custody officers.

Community support officers

7.—(1) The 2003 Act is amended as set out in subsections (2) to (8).

(2) After section 30 insert—

“Community support officers

30A.—(1) The Chief Constable may designate a member of the police support staff as a community support officer.

(2) The Chief Constable may designate a person under this section only if he is satisfied that—

- (a) the person is a suitable person to carry out the functions of a community support officer;
- (b) the person is capable of effectively carrying out those functions; and
- (c) the person has received adequate training in the carrying out of those functions.

(3) A person designated under this section has, by virtue of the designation, the powers and duties set out in Schedule 2A (and references in any statutory provision to the powers and duties conferred or imposed on him by his designation shall be construed accordingly).

(4) A person designated under this section is not authorised or required by virtue of his designation to engage in any conduct otherwise than in the course of his employment as a member of the police support staff.

(5) Where any power conferred on a person by his designation under this section is a power which, if exercised by a police officer, includes or is supplemented by a power to use reasonable force, the designated person

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has the same entitlement to use reasonable force in exercising that power as a police officer would have if the power were exercised by him.

(6) Where any power conferred on a person by his designation under this section includes power to use force to enter any premises, that power is exercisable by the person only—

- (a) in the company of a police officer and under the supervision of a police officer; or
- (b) for the purpose of saving life or limb or preventing serious damage to property.

(7) A power exercisable by any person in reliance on his designation under this section shall be exercisable only when he is wearing such uniform as may be—

- (a) determined or approved for the purposes of this section by the Chief Constable; and
- (b) identified or described in the designation.

(8) The Secretary of State may by order amend Schedule 2A.”.

(3) In section 33(1) and (4) after “30” insert “, 30A”.

(4) In section 34(1)(a) and (3) after “30” insert “, 30A”.

(5) In section 35(1)(a) and (b) after “30” insert “ or 30A”.

(6) In section 36(1) and (2) after “30” insert “, 30A”.

(7) In section 37(1) and (3) after “30” insert “, 30A”.

(8) After Schedule 2 insert the Schedule set out in Schedule 5 to this Order.

(9) In Article 66(8A) and (9)(c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) after “30” insert “, 30A”.

(10) In sections 66(3B) and 67(6) of the Police (Northern Ireland) Act 1998 (c.32) after “30” insert “, 30A”.

(11) In section 101(5A) and (7A) of the Terrorism Act 2000 (c.12) after “30” insert “, 30A”.

Recruitment

Recruitment of police trainees

8.—(1) The Police (Northern Ireland) Act 2000 (c.32) is amended in accordance with paragraphs (2) to (5).

(2) In section 46 (discrimination in appointments) for subsections (1) and (2) substitute—

“(1) Subject to subsection (2), in making appointments under section 39 on any occasion, the Chief Constable shall proceed as set out in subsections (1A) to (1F).

(1A) He shall provisionally appoint from the pool of applicants formed by virtue of section 44(5) an even number of persons of whom—

- (a) one half shall be persons who are treated as Roman Catholic; and

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(b) one half shall be persons who are not so treated.

(1B) Where following the provisional appointment of any person under subsection (1A) it is determined in accordance with regulations under section 44 that the person—

- (a) is physically and mentally fitted for appointment; and
- (b) is not ineligible for appointment; and
- (c) is not unsuitable for appointment;

the Chief Constable shall confirm the appointment.

(1C) Paragraphs (1D), (1E) and (1F) apply where following the provisional appointment of any person under subsection (1A) it is determined in accordance with regulations under section 44 that the person—

- (a) is not physically and mentally fitted for appointment; or
- (a) is ineligible for appointment; or
- (b) is unsuitable for appointment.

(1D) The provisional appointment of that person (the unsuccessful applicant) shall cease to be of any effect.

(1E) The Chief Constable shall provisionally appoint from the pool of applicants formed by virtue of section 44(5) a person to replace the unsuccessful applicant being a person who—

- (a) is treated as Roman Catholic, where the unsuccessful applicant was so treated; or
- (b) is not so treated, where the unsuccessful applicant was not so treated.

(1F) Subsections (1B) to (1E) apply in relation to a person provisionally appointed under subsection (1E) as they apply in relation to a person provisionally appointed under subsection (1A).

(1G) In subsections (1B) and (1C) references to a person being “physically and mentally fitted for appointment”, “ineligible for appointment” and “unsuitable for appointment” have such meanings as may be prescribed by regulations under section 41(3).

(2) The Secretary of State may, after consultation with the Board and the Chief Constable, by order amend any of the preceding subsections in their application to the making of appointments under section 39 on any occasion specified in the order.”.

(3) In section 46—

- (a) in subsection (3)(a) for “subsection (1) (as originally enacted)” substitute “subsections (1) to (1F);
- (b) in subsection (8) for “subsections (1), (4) and (5)” substitute “this section”.

(4) After section 41(3) (regulations as to police trainees) insert—

“(3A) Regulations under subsection (3) may make provision as to qualifications and suitability for appointment as a police trainee or police reserve trainee; and such regulations may in particular make provision—

- (a) imposing requirements as to nationality, age, skills, competencies and physical and mental fitness;
- (b) as to the grounds on which a person is ineligible for appointment.”.

(5) In section 44(5) (formation of pool of qualified applicants) omit “qualified” and for “section 46(1)” substitute “section 46(1A) and (1E)”.

(6) In each of the following (which provide an exception for acts in compliance with section 46(1) of Police (Northern Ireland) Act 2000)—

- (a) section 71A(1) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (NI 21);
- (b) Article 40A(1) of the Race Relations (Northern Ireland) Order 1997 (NI 6), for “section 46(1) substitute “section 46(1) to (1F)”.

Recruitment of police support staff

9.—(1) The Police (Northern Ireland) Act 2000 (c.32) is amended in accordance with paragraphs (2) to (5).

(2) After section 4(3) (appointment of certain police support staff) insert—

“(3A) Regulations may make provision as to the suitability for appointment under subsection (3) of persons who are so appointed with a view to their being designated under section 30 or 30A.”.

(3) In section 46 (discrimination in appointments) for subsections (5) and (6) substitute—

“(5) Subject to subsection (6), in making appointments to relevant posts in the police support staff under subsection (3) of section 4 on any occasion, the Chief Constable (acting by virtue of subsection (5) of that section) shall proceed as set out in subsections (5A) to (5F).

(5A) He shall provisionally appoint from the pool of applicants formed by virtue of section 44(6) an even number of persons of whom—

- (a) one half shall be persons who are treated as Roman Catholic; and
- (b) one half shall be persons who are not so treated.

(5B) Where following the provisional appointment of any person under subsection (5A) it is determined in accordance with regulations under section 44 that the person—

- (a) is physically and mentally fitted for appointment; and
- (b) is not unsuitable for appointment;

the Chief Constable shall confirm the appointment.

(5C) Paragraphs (5D), (5E) and (5F) apply where following the provisional appointment of any person under subsection (5A) it is determined in accordance with regulations under section 44 that the person—

- (a) is not physically and mentally fitted for appointment; or
- (b) is unsuitable for appointment.

(5D) The provisional appointment of that person (the unsuccessful applicant) shall cease to be of any effect.

(5E) The Chief Constable shall provisionally appoint from the pool of applicants formed by virtue of section 44(6) a person to replace the unsuccessful applicant being a person who—

- (a) is treated as Roman Catholic, where the unsuccessful applicant was so treated; or
- (b) is not so treated, where the unsuccessful applicant was not so treated.

(5F) Subsections (5B) to (5E) apply in relation to a person provisionally appointed under subsection (5E) as they apply in relation to a person provisionally appointed under subsection (5A).

(6) The Secretary of State may, after consultation with the Board and the Chief Constable, by order amend any of subsections (5) to (5F) in their application to the making of appointments under section 4(3) on any occasion specified in the order.”.

(4) In section 46(7) for “subsection (5) (as originally enacted)” substitute “subsections (5) to (5F)”.

(5) In section 44(6) (formation of pool of qualified applicants) omit “qualified” and for “section 46(5)” substitute “section 46(5A) and (5E)”.

(6) In each of the following (which provide an exception for acts in compliance with section 46(5) of Police (Northern Ireland) Act 2000)—

- (a) section 71A(2) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (NI 21);
- (b) Article 40A(2) of the Race Relations (Northern Ireland) Order 1997 (NI 6),

for “section 46(5)” substitute “section 46(5A) to (5F)”.

Appointment of constables with special policing skills

Appointment of constables with special policing skills

10.—(1) Subsections (1) to (5) of section 23 of the 2003 Act (which, in accordance with subsection (6) of that section, have expired) shall again come into force on the date on which this Article comes into operation.

(2) In subsection (6) of that section for “this Act is passed” substitute “Article 10 of the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 comes into operation”.

Police Ombudsman: investigation following acquittal

Investigation by Police Ombudsman following acquittal

11.—(1) After section 86 of the Criminal Justice Act 2003 (c.44) insert—

“Application of sections 85 and 86 to investigations by the Police Ombudsman

86A.—(1) Sections 85 and 86 apply in relation to an investigation by an officer of the Police Ombudsman for Northern Ireland with the following modifications.

(2) References in section 85(2), (3) and 86(1) to an officer shall be read as references to an officer of the Ombudsman.

(3) Section 85(4) has effect as if for the words from “an officer who” to the end there were substituted “the Ombudsman”.

(4) Section 85(5) has effect as if for “An officer” there were substituted “The Ombudsman”

(4) Section 85(7) does not apply.

(6) Section 86(3) has effect as if for “An officer of the rank of superintendent or above” there were substituted “A senior officer of the Ombudsman”.

(7) Section 86(6) has effect as if for “an officer of the rank of superintendent or above” there were substituted “a senior officer of the Ombudsman”.

(8) References to a senior officer of the Ombudsman are to an officer of the rank of senior investigating officer or above.

(2) In section 56 of the Police (Northern Ireland) Act 1998 after subsection (1) insert—

“(1A) Where an investigation is authorised by virtue of section 85 (read with section 86A) of the Criminal Justice Act 2003 (investigation of the commission of certain offences by persons acquitted), the Ombudsman shall appoint an officer of the Ombudsman to conduct the investigation.”.

Police powers.

Closure of roads, etc.

12.—(1) If a constable considers it immediately necessary for the preservation of the peace or the maintenance of order, he may—

- (a) wholly or partly close a road;
- (b) divert or otherwise interfere with a road or the use of a road;
- (c) prohibit or restrict the exercise of a right of way;
- (d) prohibit or restrict the use of a waterway.

(2) A person commits an offence if he interferes with—

- (a) works executed in connection with the exercise of the power conferred by paragraph (1); or
- (b) any apparatus, equipment or other thing used in connection with the exercise of that power.

(3) It is a defence for a person charged with an offence under paragraph (2) to prove that he had a reasonable excuse for his interference.

(4) A person guilty of an offence under paragraph (2) shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 6 months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(5) Proceedings for an offence under this Article shall not be instituted without the consent of the Director of Public Prosecutions for Northern Ireland.

(6) In this Article —

“road” has the same meaning as in the Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2);

“waterway” has the same meaning as in the Water (Northern Ireland) Order 1999 (NI 6).

Police powers to examine documents or records

13.—(1) A constable who performs a lawful search of any premises or person—

- (a) may examine any document or record found in order to ascertain whether it contains information relating to the commission or proposed commission of serious crime; and
- (b) if necessary or expedient for the purpose of sub-paragraph (a), may remove the document or record to another place and retain it there until the examination is completed.

(2) Paragraph (1) shall not permit a person to examine a document or record if he has reasonable cause to believe that it is an item subject to legal privilege.

(3) Where the document or record examined under paragraph (1)(a) is stored in any electronic form, the constable may require it to be produced in a form in which it can be removed under paragraph (1)(b) and in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(4) Subject to paragraphs (5) and (6), a document or record may not be retained by virtue of paragraph (1)(b) for more than 48 hours.

(5) A police officer who is of at least the rank of chief inspector may authorise a constable to retain a document or record for a further period or periods.

(6) Paragraph (5) does not permit the retention of a document or record after the end of the period of 96 hours beginning with the time when it was removed for examination under paragraph (1)(b).

(7) Where a document or record is examined under this Article—

- (a) it shall not be photographed or copied, and
- (b) the person who examines it shall make a written record of the examination as soon as is reasonably practicable.

(8) The record shall—

- (a) describe the document or record,
- (b) specify the object of the examination,
- (c) state the address of the premises where the document or record was found,

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- (d) where the document or record was found in the course of a search of a person, state the person's name,
 - (e) where the document or record was found in the course of a search of any premises, state the name of a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found,
 - (f) where the document or record is removed for examination from the place where it was found, state the date and time when it was removed; and
 - (g) where the document or record was examined at the place where it was found, state the date and time of examination;
 - (h) identify the constable by whom the examination was carried out by reference to his police number, and
- (9) Where a person makes a record of a search in accordance with this Article, he shall as soon as is reasonably practicable supply a copy—
- (a) in a case where the document or record was found in the course of a search of a person, to that person, and
 - (b) in a case where the document or record was found in the course of a search of any premises, to a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found.
- (10) In this Article—
- “item subject to legal privilege” and “premises” have the same meanings as in the Police and Criminal Evidence (Northern Ireland) Order 1989(NI 12)).
 - “serious crime” has the meaning given by section 85(2) and (3) of the Regulation of Investigatory Powers Act 2000 (c.23);
 - “document or record” includes a document or record stored in any electronic form.

SCHEDULES

Article 3

SCHEDULE 1

INVESTIGATING OFFICERS

1. Part 1 of Schedule 2 to the 2003 Act is amended as follows.

2. After paragraph 2 insert—

“2A. Where a designation applies this paragraph to any person—

(a) the persons to whom a warrant may be addressed under section 25 of the Theft Act (Northern Ireland) 1969 (search for stolen goods) shall include that person; and

(b) in relation to such a warrant addressed to him, that person shall have the powers under subsection (3) of that section.

2B. Where a designation applies this paragraph to any person, subsection (3), and (to the extent that it applies subsection (3)) subsection (3A), of section 23 of the Misuse of Drugs Act 1971 (powers to search and obtain evidence) shall have effect as if the reference to a constable included a reference to that person.”

3. In paragraph 6 (access and copying in case of things seized by constables) after “by a constable” insert “or by a person authorised to accompany him under Article 18(2) of that Order”.

4. In paragraph 8 (power to transfer persons into custody of investigating officers) in sub-paragraph (3)—

(a) in paragraph (b) after “duty” insert “ to keep that person under control and”;

(b) in paragraph (c) at the end add “and under his control”.

5. After paragraph 8 insert—

“Powers in respect of detained persons

“8A. Where a designation applies this paragraph to any person, he shall be under a duty, when in the course of his employment he is present at a police station—

(a) to assist any officer or other designated person to keep any person detained at the police station under control; and

(b) to prevent the escape of any such person,

and for those purposes shall be entitled to use reasonable force.”

6. After paragraph 10 insert—

“Persons accompanying investigating officers

10A—(1) This paragraph applies where a person (“an authorised person”) is authorised by virtue of Article 18(2) of the 1989 Order to

accompany an investigating officer designated for the purposes of paragraph 2 (or 3) in the execution of a warrant.

(2) The reference in paragraph 2(h) (or 3(g)) to the seizure of anything by a designated person in exercise of a particular power includes a reference to the seizure of anything by the authorised person in exercise of that power by virtue of Article 18(2A) of the 1989 Order.

(3) In relation to any such seizure, paragraph 2(h) (or 3(g)) is to be read as if it provided for the references to a constable in Article 23(1) and (2) of the 1989 Order to include references to the authorised person.

(4) The reference in paragraph 2(i) (or 3(h)) to anything seized by a designated person in exercise of a particular power includes a reference to anything seized by the authorised person in exercise of that power by virtue of Article 18(2A) of the 1989 Order.

(5) In relation to anything so seized, paragraph 2(i)(ii) (or 3(h)(ii)) is to be read as if it provided for—

- (a) the references to the supervision of a constable in paragraphs (3) and (4) of Article 23 of the 1989 Order to include references to the supervision of a person designated for the purposes of paragraph 2 (or paragraph 3), and
- (b) the reference to a constable in paragraph (5) of that Article to include a reference to such a person or an authorised person accompanying him.

(6) Where an authorised person accompanies an investigating officer who is also designated for the purposes of paragraph 10, the references in sub-paragraphs (1)(a) and (b) of that paragraph to the designated person include references to the authorised person.”.

SCHEDULE 2

Article 4

DETENTION OFFICERS

1. Part 2 of Schedule 2 to the 2003 Act is amended as follows.

2. After paragraph 20 insert—

“Taking of impressions of footwear

20A.—(1) Where a designation applies this paragraph to any person—

- (a) he shall, at any police station, have the powers of a constable under Article 61A of the 1989 Order (impressions of footwear) to take impressions of a person’s footwear without the appropriate consent; and
- (b) the requirement by virtue of Article 61A(5)(a) of the 1989 Order that a person must be informed by an officer that an impression of his footwear may be the subject of a speculative search shall be capable of being discharged, in the case of a person at such a station, by his being so informed by the person to whom this paragraph applies.

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Powers in respect of detained persons

20B. Where a designation applies this paragraph to any person, he shall be under a duty, when in the course of his employment he is present at a police station—

- (a) to keep under control any person detained at the police station and for whom he is for the time being responsible;
- (b) to assist any officer or other designated person to keep any other person detained at the police station under control; and
- (c) to prevent the escape of any such person as is mentioned in paragraph (a) or (b),

and for those purposes shall be entitled to use reasonable force.

Use of reasonable force in relation to detained persons

20C. Where a designation applies this paragraph to any person, he shall be entitled to use reasonable force when—

- (a) securing, or assisting an officer or another designated person to secure, the detention of a person detained at a police station, or
- (b) escorting within a police station, or assisting an officer or another designated person to escort within a police station, a person detained there.

Powers in relation to information about intimate search, x-ray and ultrasound

20D.—(1) Where a designation applies this paragraph to any person, he is authorised to carry out the duty under—

- (a) Article 56 of the 1989 Order of informing a person who is to be subject to an intimate search under that Article of the matters of which he is required to be informed in pursuance of paragraph (3B) of that Article;
- (b) Article 56A of that Order of informing a person who is to be subject to x-ray or ultrasound (as the case may be) under that section of the matters of which he is required to be informed in pursuance of paragraph (3) of that Article.”.

Article 5

SCHEDULE 3

ESCORT OFFICERS

1. Part 3 of Schedule 2 to the 2003 Act is amended as follows.

2.—(1) Paragraph 22 (power to take arrested person to a police station) is amended as follows.

(2) In sub-paragraph (1)(c)—

- (a) in paragraph (ii) after “duty” insert “ to keep that person under control and”;
- (b) in paragraph (iii) at the end add “and under his control”.

(3) After sub-paragraph (1)(c) add—

- “(d) a person who has taken another person to a police station in exercise of the power conferred by virtue of paragraph (a)—
- (i) shall be under a duty to remain at the police station until he has transferred control of the other person to the custody officer at the police station;
 - (ii) until he has so transferred control of the other person, shall be treated for all purposes as having that person in his lawful custody;
 - (iii) for so long as he is at the police station or in its immediate vicinity in compliance with, or having complied with, his duty under sub-paragraph (i), shall be under a duty to prevent the escape of the other person and to assist in keeping him under control; and
 - (iv) shall be entitled to use reasonable force for the purpose of complying with his duty under sub-paragraph (iii).”

3.—(1) Paragraph 23 (escort of persons in police detention) is amended as follows.

(2) In sub-paragraph (2)—

- (a) in paragraph (b) after “duty” insert “ to keep that person under control and”;
- (b) in paragraph (c) at the end add “and under his control”.

(3) After sub-paragraph (2) insert—

- “(2A) A person who has escorted another person to a police station or other place in accordance with an authorisation under sub-paragraph (1)—
- (a) shall be under a duty to remain at the police station or other place until he has transferred control of the other person to a custody officer or other responsible person;
 - (b) until he has so transferred control of the other person, shall be treated for all purposes as having that person in his lawful custody;
 - (c) for so long as he is at the police station or other place or in its immediate vicinity in compliance with, or having complied with, his duty under sub-paragraph (a), shall be under a duty to prevent the escape of the other person and to assist in keeping him under control; and
 - (d) shall be entitled to use reasonable force for the purpose of complying with his duty under paragraph (c).”

SCHEDULE 4

Article 6

STAFF CUSTODY OFFICERS

The Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

1.—(1) Article 37 is amended as follows.

(2) For paragraph (3) substitute—

“(3) No person may be appointed a custody officer unless—
(a) he is a police officer of at least the rank of sergeant; or
(b) he is a staff custody officer.”.

(3) In paragraph (5) for “an officer” substitute “an individual”.

(4) In paragraph (7)—

(a) in sub-paragraph (a)—

(i) after “by an officer” insert “or a staff custody officer”;

(ii) for “such an officer” substitute “such a person”;

(b) in sub-paragraph (b) for “such officer” substitute “such person”.

(5) In paragraph (8)—

(a) after “in” insert “Article 35 or in”;

(b) for “an officer” substitute “a person”.

(6) After paragraph (10) add—

“(11) In this Article “staff custody officer” means a person who has been designated as such under section 30 of the Police (Northern Ireland) Act 2003.”.

2. In Article 40—

(a) in paragraph (6)(a) after “custody officer” insert “(or, if the custody officer is a staff custody officer, any police officer or any member of the police support staff)”;

(b) after paragraph (6) add—

“(7) In paragraph (6)—

“police support staff” has the meaning given by section 4(6) of the Police (Northern Ireland) Act 2000;

“staff custody officer” has the same meaning as in Part 2 of the Police (Northern Ireland) Act 2003.”.

The 2003 Act

3. In section 30(6) after paragraph (c) insert—

“(d) Part 3A, in the case of a person designated under this section as a staff custody officer.

4. In section 30 after subsection (10) add—

“(11) References in this section, section 33 or section 66(3A) of the Police (Northern Ireland) Act 1998 to powers and duties conferred or imposed on a designated person, or to a designated person’s being authorised or required to do anything by virtue of a designation under this section, or to a power or duty exercisable by a designated person in reliance on or by virtue of a designation under this section are, in the case of a staff custody officer at a police station designated under Article 36(1) of the 1989 Order, references to those things in relation to him after his appointment as a custody officer for that police station under Article 37(2) of that Order.”.

5. After Part 3 of Schedule 4 insert—

“PART 3A

STAFF CUSTODY OFFICERS

Exercise of functions of custody officer

23A.—(1) Where a designation applies this paragraph to any person, he may (subject to sub-paragraph (2)) perform all the functions of a custody officer under the 1989 Order (except those under Article 46A(4) of that Order) and under any other statutory provision which confers functions on such a custody officer.

(2) But in relation to a police station designated under Article 36(1) of the 1989 Order, the person must first also be appointed a custody officer for that police station under Article 37(2) of that Order.

(3) A person performing the functions of a custody officer by virtue of a designation under this paragraph (together with, if appropriate, an appointment as such) shall have all the powers and duties of a custody officer.

(4) Except in Articles 37 and 46A(4) of the 1989 Order, references in any statutory provision to a custody officer within the meaning of that Order include references to a person performing the functions of a custody officer by virtue of a designation under this paragraph.

Powers in respect of detained persons

23B. Where a designation applies this paragraph to any person, he shall be under a duty, when in the course of his employment he is present at a police station—

- (a) to keep under control any person detained at the police station and for whom he is for the time being responsible;
- (b) to assist any officer or other designated person to keep any other person detained at the police station under control; and
- (c) to prevent the escape of any such person as is mentioned in sub-paragraph (a) or (b),

and for those purposes shall be entitled to use reasonable force.

Powers in relation to information about intimate search, x-ray and ultrasound

23C. Where a designation applies this paragraph to any person, he is authorised to carry out the duty under—

- (a) Article 56 of the 1989 Order of informing a person who is to be subject to an intimate search under that Article of the matters of which he is required to be informed in pursuance of paragraph (3B) of that Article;
- (b) Article 56A of that Order of informing a person who is to be subject to x-ray or ultrasound (as the case may be) under that

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Article of the matters of which he is required to be informed in pursuance of paragraph (3) of that Article.”.

Article 7

SCHEDULE 5

SCHEDULE TO BE INSERTED AS SCHEDULE 2A TO THE 2003 ACT

“SCHEDULE 2A

POWERS AND DUTIES OF COMMUNITY SUPPORT OFFICER

Powers to issue fixed penalty notice

1. A CSO shall have the power of a constable in uniform to give a fixed penalty notice under Article 60 of the Road Traffic Offenders (Northern Ireland) Order 1996 (fixed penalty notices) to any person who he has reason to believe has committed an offence under Article 42 or 43 of the Road Traffic (Northern Ireland) Order 1995 (dangerous, careless or inconsiderate cycling).

Power to require name and address: relevant offences

2.—(1) Subject to sub-paragraph (2), where a CSO has reason to believe that another person has committed a relevant offence, he may require that other person to give him his name and address.

(2) The power to impose a requirement under sub-paragraph (1) in relation to an offence under a relevant byelaw is exercisable only in, or in the vicinity of, a place to which the byelaw relates.

(3) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

(4) In this paragraph and paragraph 3 “relevant offence” means—

- (a) an offence under section 3 of the Vagrancy (Ireland) Act 1847;
- (b) an offence under section 24 of the Children and Young Persons Act (Northern Ireland) 1968;
- (c) an offence under Article 18 of the Public Order (Northern Ireland) Order 1987;
- (d) an offence under Article 3 or 4 of the Litter (Northern Ireland) Order 1994;
- (e) an offence under any of Articles 3, 30(9), 41, 50 or 60 to 64 of the Licensing (Northern Ireland) Order 1996;
- (f) an offence under a relevant byelaw;

(5) In this paragraph and paragraph 3 “relevant byelaw” means a byelaw included in a list of byelaws which—

- (a) have been made by a relevant body with authority to make byelaws for any place; and
- (b) the Chief Constable and the relevant body have agreed to include in the list.

(6) The list must be published by the Chief Constable in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.

(7) A list of byelaws mentioned in sub-paragraph (6) may be amended from time to time by agreement between the Chief Constable and the relevant body in question, by adding byelaws to it or removing byelaws from it, and the amended list shall also be published by the Chief Constable as mentioned in sub-paragraph (6).

(8) A relevant body for the purposes of sub-paragraph (5) is—

- (a) a district council;
- (b) any other body specified in an order made by the Secretary of State.

(9) An order under sub-paragraph (8) may provide, in relation to any body specified in the order, that the agreement mentioned in sub-paragraph (5)(b) and (7) is to be made between the Chief Constable and the Secretary of State (rather than between the Chief Constable and the relevant body).

Power to require name and address: road traffic offences

3. A CSO shall have the powers of a constable—

- (a) under Article 177 of the Road Traffic (Northern Ireland) Order 1981 to require a person to give information about certain offences;
- (b) under Article 178 of that Order to require a pedal cyclist to give his name and address;
- (c) under Article 179 of that Order to require a pedestrian to give his name and address

Power to detain etc

4.—(1) Where, in a case in which a requirement has been imposed on another person under paragraph 2(1) or by virtue of paragraph 3—

- (a) that other person fails to comply with the requirement, or
- (b) the CSO who imposed the requirement has reasonable grounds for suspecting that the other person has given him a name or address that is false or inaccurate,

the CSO who imposed the requirement may require the other person to wait with him, for a period not exceeding 30 minutes, for the arrival of a constable.

(2) Sub-paragraph (1) does not apply if the requirement was imposed in connection with an offence under the Licensing (Northern Ireland) Order 1996 believed to have been committed on licensed premises (within the meaning of that Order).

(3) Where by virtue of paragraph 2 a CSO has the power to impose a requirement under sub-paragraph (1) of that paragraph in relation to an offence under a relevant byelaw, the CSO shall also have any power a constable has under the relevant byelaw to remove a person from a place.

(4) Where a CSO has reason to believe that another person is committing an offence under section 3 of the Vagrancy (Ireland) Act 1847, and requires him to stop doing whatever gives rise to that belief, the CSO may, if the other person

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fails to stop as required, require him to wait with the CSO, for a period not exceeding 30 minutes, for the arrival of a constable.

(5) A person who has been required under sub-paragraph (1) or (4) to wait with a CSO may, if requested to do so, elect that (instead of waiting) he will accompany the CSO imposing the requirement to a police station. .

(6) A person who—

(a) makes off while subject to a requirement under sub-paragraph (1) or (4),
or

(b) makes off while accompanying a person to a police station in accordance with an election under sub-paragraph (5),

is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Confiscation of alcohol: public processions

5. A CSO shall have the powers of a constable in uniform under section 13 of the Public Processions (Northern Ireland) Act 1998 (control of alcohol at public processions)—

(a) to impose a requirement under subsection (1) or (3) of that section; and

(b) to dispose under subsection (5) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by a CSO as if the references to a constable (except in subsection (8) (power to stop vehicles)) were references to that person.

Confiscation of alcohol: young persons

6. A CSO shall have the powers of a constable under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (c 33) (confiscation of intoxicating liquor)—

(a) to impose a requirement under subsection (1) of that section; and

(b) to dispose under subsection (2) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by a CSO as if the references to a constable in subsections (1) and (4) (but not the reference in subsection (5) (arrest)) were references to the CSO.

Confiscation of tobacco etc

7.—(1) A CSO shall have the power to seize anything that a constable has power to seize under Article 5(1) of the Health and Personal Social Services (Northern Ireland) Order 1978 (NI 26) (seizure of tobacco etc from young persons).

(2) Article 5(2) of that Order (disposal) applies to anything seized by virtue of sub-paragraph (1) as it applies to anything seized by a constable under Article 5(1) of that Order.

Search and seizure powers: alcohol and tobacco

8.—(1) Where—

- (a) in exercise of the powers referred to in paragraph 5 or 6 a CSO has imposed, under section 13 of the Public Processions (Northern Ireland) Act 1998 or under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997, a requirement on a person to surrender alcohol;
 - (b) that person fails to comply with that requirement; and
 - (c) the CSO reasonably believes that the person has alcohol in his possession,
- the CSO may search him for it.

(2) Where—

- (a) in exercise of the powers referred to in paragraph 7 a CSO has sought to seize something which by virtue of that paragraph he has a power to seize;
 - (b) the person from whom he sought to seize it fails to surrender it; and
 - (c) the CSO reasonably believes that the person has it in his possession,
- the CSO may search him for it.

(3) The power to search conferred by sub-paragraph (1) or (2)—

- (a) is to do so only to the extent that is reasonably required for the purpose of discovering whatever the CSO is searching for; and
- (b) does not authorise the CSO to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear or gloves.

(4) A person who without reasonable excuse fails to consent to being searched is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5) A CSO who proposes to exercise the power to search a person under sub-paragraph (1) or (2) must inform him that failing without reasonable excuse to consent to being searched is an offence.

(6) If the person in question fails to consent to being searched, the CSO may require him to give the CSO his name and address.

(7) Paragraph 4 applies in the case of a requirement imposed under paragraph (6) as it applies in the case of a requirement under paragraph 2(1).

(8) If on searching the person the CSO discovers what he is searching for, he may seize it and dispose of it.

Powers to seize and retain: controlled drugs

9.—(1) If a CSO—

- (a) finds a controlled drug in a person's possession (whether or not he finds it in the course of searching the person by virtue of any other paragraph of this Schedule); and
- (b) reasonably believes that it is unlawful for the person to be in possession of it,

the CSO may seize it and retain it.

(2) If a CSO—

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- (a) finds a controlled drug in a person's possession (as mentioned in sub-paragraph (1)); or
 - (b) reasonably believes that a person is in possession of a controlled drug, and reasonably believes that it is unlawful for the person to be in possession of it, the CSO may require him to give the CSO his name and address.
- (3) If in exercise of the power conferred by sub-paragraph (1) the CSO seizes and retains a controlled drug, he must—
- (a) if the person from whom it was seized maintains that he was lawfully in possession of it, tell the person where inquiries about its recovery may be made; and
 - (b) comply with a constable's instructions about what to do with it.
- (4) A person who fails to comply with a requirement under sub-paragraph (2) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) Paragraph 3 applies in the case of a requirement imposed by virtue of sub-paragraph (2) as it applies in the case of a requirement under paragraph 2(1).
- (6) In this paragraph, "controlled drug" has the same meaning as in the Misuse of Drugs Act 1971.

Entry to save life or limb or prevent serious damage to property

10. A CSO shall have the powers of a constable under Article 19 of the 1989 Order to enter and search any premises for the purpose of saving life or limb or preventing serious damage to property.

Entry to investigate licensing offences

11.—(1) A CSO shall have the powers of a constable under Article 71(1)(b) of the Licensing (Northern Ireland) Order 1996 to enter and inspect premises.

(2) Except as mentioned in sub-paragraph (3), a CSO shall not, in exercise of the power conferred by sub-paragraph (1), enter any premises except in the company, and under the supervision, of a constable.

(3) The prohibition in sub-paragraph (2) does not apply in relation to premises in respect of which the CSO reasonably believes that a licence under the Licensing (Northern Ireland) Order 1996 authorises the sale of intoxicating liquor for consumption off the premises.

Power to stop vehicles

12. A CSO shall have the power of a constable in uniform under Article 180(1) of the Road Traffic (Northern Ireland) Order 1981 to require a person driving a vehicle or riding a pedal cycle to stop.

Power to direct traffic and place traffic signs

13.—(1) A CSO shall have—

- (a) the power of a constable engaged in the regulation of traffic in a road to direct a person driving or propelling a vehicle to stop the vehicle or to make it proceed in, or keep to, a particular line of traffic;

(b) the power of a constable in uniform engaged in the regulation of vehicular traffic in a road to direct a person on foot to stop proceeding along or across the carriageway.

(2) A CSO shall also have the power of a constable, for the purposes of a traffic survey, to direct a person driving or propelling a vehicle to stop the vehicle, to make it proceed in, or keep to, a particular line of traffic, or to proceed to a particular point on or near the road.

(3) Article 49 of the Road Traffic (Northern Ireland) Order 1995 (offences of failing to comply with directions of constable in uniform) shall have effect in relation to the exercise of the powers mentioned in sub-paragraphs (1) and (2), for the purposes for which they may be exercised and by a CSO, as if the references to a constable in uniform were references to a CSO.

(4) A CSO shall have the powers of a constable under Article 32 of the Road Traffic Regulation (Northern Ireland) Order 1997 to place traffic signs.

(5) Article 49 of the Road Traffic (Northern Ireland) Order 1995 (contravention of indication given by traffic sign) shall apply to signs placed in the exercise of the powers conferred by virtue of sub-paragraph (4).

Carrying out of road checks

14. A CSO shall have the power to carry out any road check the carrying out of which by a police officer is authorised under Article 6 of the 1989 Order (road checks).

Cordoned areas

15. A CSO shall, in relation to any cordoned area have all the powers of a constable in uniform under section 36 of the Terrorism Act 2000 (c 11) (enforcement of cordoned area) to give orders, make arrangements or impose prohibitions or restrictions.

Power to stop and search vehicles etc in authorised areas

16.—(1) A CSO shall, in any authorised area, have all the powers of a constable in uniform by virtue of section 44(1)(a) and (d) and (2)(b) and 45(2) of the Terrorism Act 2000 (powers of stop and search)—

- (a) to stop and search vehicles;
- (b) to search anything in or on a vehicle or anything carried by the driver of a vehicle or any passenger in a vehicle;
- (c) to search anything carried by a pedestrian; and
- (d) to seize and retain any article discovered in the course of a search carried out by him or by a constable by virtue of any provision of section 44(1) or (2) of that Act.

(2) References to a constable in subsections (1) and (4) of section 45 of that Act (which relate to the exercise of those powers) shall have effect in relation to the exercise of any of those powers by a CSO as references to a CSO.

(3) A CSO shall not exercise any power of stop, search or seizure by virtue of this paragraph except in the company, and under the supervision, of a constable.

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Powers in relation to fireworks

17. A CSO shall have the powers of a constable under—

- (a) Article 3 of the 1989 Order in relation to any firework to which paragraph (9A) of that Article applies;
- (b) regulation 7(4) of the Explosives (Fireworks) Regulations (Northern Ireland) 2002.

Interpretation

18.—(1) In this Schedule—

“a CSO” means a person designated as a community support officer under section 30A;

“the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989.

(2) Expressions used in this Schedule and in the 1989 Order have the same meaning in this Schedule as in that Order.

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