

# **POLICE (NORTHERN IRELAND) ACT 2000**

## **REVIEW OF TEMPORARY PROVISIONS**

### **INTRODUCTION**

The purpose of this paper is to provide information on the temporary provisions in place in Northern Ireland regarding the appointment of police officers and police support staff. The temporary provisions were introduced to address the religious imbalance within the police service in Northern Ireland. The information and statistics provided are aimed at demonstrating the impact of the provisions, in securing a representative police service, since they were introduced in 2000, and subsequently reviewed and renewed in 2003 and 2004 respectively.

2. The paper does not provide information on the gender or ethnic minority composition of the PSNI. Although these are acknowledged as important, the paper focuses on the need to address the imbalance of community background in the composition of the PSNI as highlighted by the Report of the Independent Commission on Policing for Northern Ireland and as legislated for in the Police (Northern Ireland) Act 2000.

### **BACKGROUND**

3. The Report of the Independent Commission on Policing for Northern Ireland (the Patten Report), published in 1999, recommended (recommendations 120 and 121) that all candidates who wished to join the police service and who reached a specified standard of merit in the selection procedure should be placed in a pool from which an equal number of Protestants and Catholics would then be drawn for appointment. Paragraph 15.10 of the Patten Report specifically envisaged the provisions would be temporary and that one half would be Catholic and one half “Protestant or undetermined”. This arrangement is commonly known as ‘50:50 recruitment’.

4. Paragraph 15.17 of the Patten Report also noted that, whilst the proportion of Catholics in the senior ranks of the police service was higher than in the service as a whole, it was nevertheless not reflective of community composition. It recommended (recommendation 127) that the recruitment agency should seek to identify and contact Catholic police officers from Northern Ireland serving in police services elsewhere, particularly those in more senior ranks, and encourage them to apply for positions in the Northern Ireland police. This arrangement is commonly known as ‘lateral entry’.

5. The Police (Northern Ireland) Act 2000 [2000 Act], Sections 44–47, gives effect to the Patten Report’s recommendations and the temporary provisions.

### **LEGISLATION**

6. The temporary provisions of the Police (Northern Ireland) Act 2000, the Race Relations (Northern Ireland) Order 1997 and the Fair Employment and

Treatment (Northern Ireland) Order 1998 will expire on 28 March 2007. Under the legislation they may be renewed by the Secretary of State, either in their entirety, or in part, in consultation with the Policing Board. The 2000 Act does not provide for the provisions to be amended. The provisions were first renewed in 2004 by the Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2004 which came into force on 29 March 2004 for a further three year period.

7. The temporary provisions are as follows:-

- Sections 44(5) to (7), 45 and 46 of the Police (Northern Ireland) Act 2000;
- Article 40A of the Race Relations (Northern Ireland) Order 1997; and
- Article 71A of the Fair Employment and Treatment (Northern Ireland) Order 1998.

8. With the exception of section 45 of the 2000 Act, the temporary provisions give effect to the 50:50 recruitment arrangements for police trainees and police support staff. Section 45 provides for the appointment to the PSNI of external candidates at the ranks of sergeant and above i.e. lateral entry.

### **50:50 Recruitment**

9. Section 44(5) of the 2000 Act requires that applicants who meet the qualifying standard for appointment as police trainees should form a pool (commonly known as 'the merit pool') of applicants for the purposes of section 46(1).

10. Section 44(6) of the 2000 Act requires that applications for appointment as police support staff should form a pool of applicants for the purposes of section 46(5).

11. Section 44(7) of the 2000 Act provides that section 44(6) is relevant, only where there are six or more posts of similar nature and level to be filled at about the same time.

12. Section 46 of the 2000 Act requires that, in making appointments of police trainees and police support staff, the Chief Constable shall appoint an even number of persons from the pool, one half of whom are treated as Roman Catholic, and one half of whom are not.

13. Section 46 also provides for the Secretary of State to make orders in Parliament to adjust the 50:50 ratio for recruitment of police trainees in two sets of circumstances:

(i) Set-aside

Where there is an insufficient number of candidates of either community background to meet the number of trainees which the Chief

Constable requires to be appointed on that occasion, the Secretary of State may make an order to 'set aside' 50:50 (Section 46(2) and (3)); and

(ii) Aggregation

Where at least one such set aside order has been made in the previous three years, the Secretary of State may make an order to 'aggregate' the quota, subject to a maximum of 75% (i.e. no more than 75% of those appointed from the pool may be of the one community background), for the purpose of redressing, or partly redressing, any imbalance which has arisen as a result (Section 36(3) and (4)).

14. With the exception of the aggregation provision, these arrangements also apply to recruitment of police support staff as per sections 44(6) to 44(7) and 46 of the 2000 Act.

15. Before making any such order, the Secretary of State has a statutory duty to consult the Policing Board. To date, no such order has been required due to the high level of interest and application rates from both sides of the community (paragraph 19 refers).

16. Article 40A of the Race Relations (Northern Ireland) Order 1997, and Article 71A of the Fair Employment and Treatment (Northern Ireland) Order 1998 ensure that the application of the 50:50 selection procedures does not conflict with these elements of anti-discrimination legislation. Separately the Government obtained an exemption from European Directive 2000/78/EC on employment equality, to allow for these exceptional recruitment arrangements.

### **Lateral Entry**

17. Whilst lateral entry already happens between UK police forces, section 45 of the 2000 Act provides the basis for a wider degree of lateral entry, including from the Garda. It makes provision for the Policing Board, for senior officers, and the Chief Constable, for other than senior officers, to encourage suitably qualified external candidates to apply to the PSNI.

### **OPERATIONAL PROGRESS**

18. When considering whether the temporary provisions should be renewed for a further period, not exceeding three years, the Secretary of State will have regard to the progress made since the 2000 Act came into force. Subject to any issues arising in the review process, it is currently the Government's intention to renew these provisions so that the target of 30% Catholic representation in PSNI will be met by 2010/11.

### **Police Trainees**

19. The police recruitment agent, Consensia, has run eleven police recruitment competitions for regular officers to date under the 50:50 arrangements. The average application rate from the Catholic community has been 35%; the highest achieved prior to Patten was 22%. The application details are set out in Table 1.

20. At the time of the first review of these provisions in 2003, the PSNI's aim was to appoint trainees into the training college every five weeks, in alternating intakes of 48 and 60. Their target annual intake for 2004/05 was 540. Since then the PSNI annual intake has changed to a target of 440 per annum with 439 being appointed in the 2005/06 financial year. The PSNI have confirmed that they are on schedule to reach a target of 440 for 2006/07.

21. Table 2 sets out the changes to the composition of the PSNI since the introduction of the current arrangements. At the time of the first review of the provisions the percentage of Catholics in the police service had increased from 8.23% in September 2001 to 12.99% at 1 August 2003. Since that review and the subsequent introduction of the 2004 Renewal Order, that figure has now increased to 20.28% as at 20 August 2006. The Government's target of increasing Catholic representation of regular police officers is 30% by 2010/11. This demonstrates steady progress towards meeting this target and, if maintained, it is envisaged this will be the final review.

### **Police Support Staff**

22. The agent responsible for police support staff recruitment has run twenty competitions to date on a 50:50 basis. The details showing the declared number of vacancies and the total number of appointable candidates are set out in Table 3. At the time of the first review of the provisions the percentage of directly recruited Catholic police support staff had increased from 13.76% in January 2002 to 17.35% at April 2004. Since that review and the subsequent introduction of the 2004 Renewal Order, that figure has now increased to 19.15% in July 2006. Table 4 sets out the changes to the composition of the police support staff since the introduction of the current arrangements.

### **Lateral entry**

23. This aspect has been taken forward as part of a package of measures on North/South policing co-operation. An Intergovernmental Agreement on policing co-operation was signed by representatives of both the British and Irish governments on 29 April 2002, and provides for protocols to be developed between the two police services on various aspects of policing co-operation, including lateral entry. Selection will be based on open competition and merit as Patten recommended. The arrangements will be broadly reciprocal.

24. In considering ways in which to encourage applications from external candidates under lateral entry, a number of legislative and non-legislative

steps have been taken. At the time of the review in 2003, police recruitment legislation had been amended to require the advertising of police trainees and police support staff to have regard to the Patten recommendations, and, in the case of police trainees, advertising such posts would go beyond Northern Ireland. In addition to this, legislation for police trainees was in the process of being amended to remove restrictions, for example nationality of persons for appointment, and to allow the Chief Constable to consider previous service, training and qualifications for police trainees with previous policing experience. This legislation is now in force.

25. Since then, developments have also been made to facilitate appointments through training, especially at senior level, for example by the signing of a PSNI and Garda Memorandum of Understanding, in June 2005, to develop interchange and co-operation. Further legislative amendments are also currently being considered to allow the Chief Constable to waive the probationary period of an officer who joins the PSNI from any other police force, including the Garda. This is currently the case for officers joining from a GB police force. Until then, the Secretary of State has given the Chief Constable administrative approval to implement this.

26. In progressing lateral entry, the transfer of pensions between jurisdictions has been identified as a key disincentive to potential relevant officers. To identify and consider the possible options available to removing or reducing this disincentive, the Government commissioned a report on this issue. This report is due shortly and will provide information which will make provisions for the completion of draft Regulations to facilitate lateral entry from the Garda at ranks above inspector. As such, no appointments have been made on this basis to date.

## **CONSULTATION**

27. In considering whether to renew the provisions, the Secretary of State must take account of progress towards securing that membership of the police and the police support staff is representative of the community in Northern Ireland. An Order under Section 47(3) of the 2000 Act, to renew all or any of the provisions, is subject to affirmative resolution in both Houses.

28. Before bringing such an Order, the Secretary of State is statutorily obliged to consult with the Policing Board. However to ensure the views of interested parties are taken into consideration, this three month consultation, commencing week of 4 September to 27 November, is also extended to seek the views from a wide range of organisations.

**TABLE 1: POLICE TRAINEES – APPLICATION RATES**

<b>Competition (Launch Date)</b>	<b>Applications received by closing date</b>	<b>% Catholic</b>
One (Mar 2001)	7518	35%
Two (Sept 2001)	4915	38.5%
Three (Mar 2002)	4674	35%
Four (Sept 2002)	4410	34%
Five (Mar 2003)	6044	36%
Six (Sept 2003)	5419	35%
Seven (Mar 2004)	4977	34%
Eight (Sept 2004)	5695	35%
Nine (Mar 2005)	6106	34%
Ten (Sept 2005)	7691	37%
Eleven (Mar 2006)	7861	36%

**TABLE 2: COMPOSITION OF THE REGULARS**

<b>Date</b>	<b>Police Officers % RC</b>	<b>Police Officers % Non RC</b>
September 2001	8.23	91.77
November 2001	8.28	91.72
January 2002	8.86	91.14
March 2002	9.50	90.50
May 2002	9.77	90.23
July 2002	10.33	89.67
September 2002	10.83	89.17
November 2002	11.38	88.62
January 2003	11.69	88.31
March 2003	12.02	87.98
July 2003	12.80	87.20
September 2003	13.30	86.70
March 2004	14.38	85.62
September 2004	15.70	84.30
March 2005	17.18	82.82
September 2005	18.41	81.59
May 2006	19.86	80.14
June 2006	20.05	79.95
August 2006	20.28	79.72

The overall composition of the Regulars as at 20 August 2006 was:

RC: 20.28% (1532)

Non-RC: 79.72% (6024)

**TABLE 3: POLICE SUPPORT STAFF – 50:50 RECRUITMENT**

<b>Competition Title</b>	<b>No of declared vacancies</b>	<b>Total No appointable on a 50:50 basis</b>
Press Officer	8	14
Driving Instructor	6	8
IT Specialist	16	28
Trainee Police Analyst	10	22
Station Enquiry Assistants	56	92
Business Managers	14	30
Personnel Managers	14	12
Telecommunications Engineering Technician	14	14
Project Manager	6	8
Project Manager (fixed term)	6	10
Programmer Analyst	14	22
Systems Analyst	12	12
Armourer	6	6
Crime Scene Investigator	6	16
Trainee Police Analyst	6	*
Finance Administration Officer	10	12
Firearms Instructor	28	16
Training Support Officer	6	10
Station Enquiry Assistant	50	50
Enquiry Officer – Firearms	28	*

\* CB Breakdowns not available at time of going to print

**TABLE 4: POLICE SUPPORT STAFF – COMPOSITION**

<b>Date</b>	<b>Direct Recruit % RC</b>	<b>Direct Recruit % Non RC</b>
January 2002	13.76	86.24
January 2003	15.08	84.92
January 2004	16.85	83.15
January 2005	17.63	82.37
January 2006	18.06	81.94
July 2006	19.15	80.85

The overall composition of the directly recruited police support staff, as at July 2006 was:

RC: 19.15%% ( 339 )

Non-RC: 80.85% ( 1431 )