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STATUTORY INSTRUMENTS

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**2007 No. 912 (N.I. 6)**

**NORTHERN IRELAND**

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

*Made - - - - 21st March 2007  
Coming into operation in accordance with Article 1(2)  
and (3)*

At the Court at Buckingham Palace, the 21st day of March 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 [<sup>F1</sup>Department of Justice] may by order appoint—

(a) Article 6 (with Schedule 4);

(b) Article 12; [<sup>F2</sup>and]

<sup>F3</sup>(c) .....

(d) Schedule 5, except in so far as it relates to paragraphs 2, 6, 7, 10, 13, 15 and 18 of the inserted Schedule 2A to the 2003 Act.

[<sup>F4</sup>(2A) Article 13 comes into operation on such day as the Secretary of State may by order appoint.]

*Status: Point in time view as at 18/10/2012. This version of this Order contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007. (See end of Document for details)*

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

#### Textual Amendments

- F1** Words in art. 1(2) substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **15(2)(a)** (with arts. 24-28)
- F2** Word in art. 1(2)(b) inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **15(2)(b)** (with arts. 24-28)
- F3** Art. 1(2)(c) omitted (18.10.2012) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **15(2)(c)** (with arts. 24-28)
- F4** Art. 1(2A) inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **15(3)** (with arts. 24-28)

#### 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.

PROSPECTIVE

#### Staff custody officers

6.—(1) *[<sup>F5</sup>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.

#### Textual Amendments

- F5** Art. 6(1) never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

## **Community support officers**

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

(2) After section 30 insert—

### **“30A Community support officers**

(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 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 ”.

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## 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
- (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 unsuitable for appointment;

the Chief Constable shall confirm the appointment.

(1C) Subsections (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
- (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” 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—

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“(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 the Police (Northern Ireland) Act 2000)—

- (a) Article 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 of the Police (Northern Ireland) Act 2003.

(3B) Before making regulations under subsection (3), the Secretary of State shall consult—

- (a) the Board;
- (b) the Chief Constable;
- (c) the Police Association; and
- (d) any other person or body appearing to him to have an interest in the matter.”.

(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.

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(5C) Subsections (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 the Police (Northern Ireland) Act 2000)—

- (a) Article 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(5) 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—

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

(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.

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(2) References in sections 85(2) and (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 (c. 32) 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.”.

VALID FROM 25/03/2013

### *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.

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(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).

PROSPECTIVE

### 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,
- (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;



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- (g) where the document or record was examined at the place where it was found, state the date and time of examination; and
  - (h) identify the constable by whom the examination was carried out by reference to his police number.
- (9) Where a person makes a record of an examination 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.

*A.K.Galloway*  
Clerk of the Privy Council

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## SCHEDULES

### SCHEDULE 1

Article 3

#### 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 subparagraph (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.

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(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.** 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.

#### 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

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- (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.

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

### SCHEDULE 3

Article 5

#### 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).”.

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**Changes to legislation:** There are currently no known outstanding effects for the *The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007*. (See end of Document for details)

- 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).”.

PROSPECTIVE

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) <sup>F6</sup>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) <sup>F6</sup>In paragraph (5) for “an officer” substitute “ an individual ”].

(4) <sup>F6</sup>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) <sup>F7</sup>for “an officer” substitute “ a person ”].

(6) <sup>F8</sup>After paragraph (10) add—

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“(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.”].

**Textual Amendments**

- F6** Sch. 4 para. 1(2)-(4) never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**
- F7** Sch. 4 para. 1(5)(b) never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**
- F8** Sch. 4 para. 1(6) never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

2. <sup>F9</sup> .....

**Textual Amendments**

- F9** Sch. 4 paras. 2-5 never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

*The 2003 Act*

3. <sup>F10</sup> .....

**Textual Amendments**

- F10** Sch. 4 paras. 2-5 never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

4. <sup>F11</sup> .....

**Textual Amendments**

- F11** Sch. 4 paras. 2-5 never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

5. <sup>F12</sup> .....

**Textual Amendments**

- F12** Sch. 4 paras. 2-5 never in operation, repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

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## SCHEDULE 5

Article 7

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

#### Commencement Information

- II** Sch. 5 partly in force; Sch. 5 in force for specified purposes at 22.4.2007, see art. 1(2)(d)(3)

### “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 “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 4 “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.

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(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 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),



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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 the CSO.

#### ***Confiscation of alcohol: young persons***

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

(2) Paragraph 4 applies in the case of a requirement imposed by a CSO under section 1(1) of that Act of 1997 on any person to state his name and address as it applies in the case of a requirement under paragraph 2(1).

#### ***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 (seizure of tobacco etc from young persons).

(2) Article 5(2) of that Order (disposal) applies to anything seized by virtue of subparagraph (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

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(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 under sub-paragraph (1) or (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) 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 sub-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—

- (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 4 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.

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### ***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 50 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).

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### ***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 sections 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.

### ***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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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the law relating to the powers of designated police support staff, the recruitment of police officers and police support staff, the powers of the Police Ombudsman in

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relation to certain investigations and the powers of the police in relation to the closure of roads and the examination of documents

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