

EXPLANATORY MEMORANDUM TO
POLICE POWERS FOR DESIGNATED STAFF (COMPLAINTS AND
MISCONDUCT) REGULATIONS (NORTHERN IRELAND) 2008

S.R. 2008 No. 242

1. 1.1 This Explanatory Memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

1.2 It has been prepared by the Northern Ireland Office to assist the reader in understanding this statutory rule (SR). It does not form part of the SR.
2. **Description**
 - 2.1 The instrument makes provision to apply complaints and misconduct procedures to persons designated under Part 2 of the Police (Northern Ireland) Act 2003, including designated persons employed by contractors, acting in pursuance of designated duties in which they exercise police powers.

2.2 Part 2 of these regulations provides for Part 7 of the Police (Northern Ireland) Act 1998, which makes provision about police complaints and disciplinary proceedings, to apply with modifications to designated persons. Part 4 of the regulations set out the details of modification and additional provisions about the handling of complaints against designated persons.

2.3 The standard of conduct for persons so designated is set out in the code of ethics issued by the Northern Ireland Policing Board under section 52 of the Police (Northern Ireland) Act 2000. The Police Powers for Designated Staff (Code of Ethics) Order (Northern Ireland) 2008 (S.R. 2008 No. 243) applies the modified Code of Ethics to designated persons, including designated persons employed by contractors, in pursuance of designated duties in which they exercise police powers. The revised Code of Ethics came into operations on 10 March 2008.

2.4 The regulations make provision in respect of a person designated as a member of the police support staff and where the designated person is employed by a contractor and sets out the role of the Police Ombudsman in respect of designated staff. Part 3, regulations 5-7 provide for the suspension, modification and withdrawal of a designation. Part 4 regulations 8-26 provides for the handling of complaints, unsatisfactory performance, including the responsibilities of the Ombudsman and the Chief Constable. Part 5 explains how

regulations 27- 32 relate to an employee of a contractor. Part 6, regulations 33 – 41 set out investigation arrangements of police support staff. Misconduct proceedings and hearing procedures are explained in Part 7, regulations 42 -66.

2.5 This instrument comes into operation on 1 July 2008.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Sections 34 and 37 of the Police (Northern Ireland) Act 2003 provide for the complaints investigation procedures of Part VII of the Police (Northern Ireland) Act 1998 and the Code of Ethics issued under Section 52 of the Police (Northern Ireland) Act 2000, as modified, to apply to designated persons, including employees of contractors, in pursuance of designated duties. These arrangements deal with the unique police complaints system in Northern Ireland, overseen by the independent Police Ombudsman provided for by Part VII of the 1998 Act and the modified Code of Ethics.

4.2 The Police Service of Northern Ireland (Conduct) Amendment Regulations 2008 introduced the Code of Ethics 2008.

5. Territorial Extent and Application

5.1 These regulations apply to Northern Ireland.

6. European Convention on Human Rights

6.1 As the Instrument is subject to negative resolution procedure at Westminster and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Sections 30, 30A and 31 of the Police (NI) Act 2003 (2003 Act) gave the Chief Constable the power to designate selected police support staff and employees of selected contractors to roles in which the individuals concerned would be eligible to exercise limited police powers. This follows similar action for England & Wales, introduced by the Police Reform Act 2002, and is consistent with the Patten recommendation that posts should be civilianised wherever possible. Application of these arrangements will enable police officers to be freed up for front line duty.

7.2 The functions and powers of the designated civilians are set out in Part II and Schedules 2 and 3 of the 2003 Act. As these provisions allow civilians to carry out duties exercising policing powers, these Regulations provide that they should be subject to the same complaints procedures and ethical standards, whilst carrying out these duties, as police officers.

7.3 These regulations set out in detail the procedures to be followed in handling instances of misconduct by, and complaints against, designated persons. They also provide procedures for the unique police complaints system in Northern Ireland, whereby the Police Ombudsman has (and in the case of Designated Civilians will continue to have) independent control of the police complaints system.

7.4 The Police Powers for Designated Staff (Code of Ethics) Order (Northern Ireland) (S.R. 2008 No. 243) extends the Code of Ethics, issued to police officers by the Policing Board under section 52 of the Police (NI) Act 2000, to designated civilians. This Code outlines what behaviours are acceptable for officers, and now designated civilians. Minor modifications have been made to reflect their specific role profile, for example the removal of reference to the use of firearms which designated staff will not be required to use.

7.5 The aim of the order and the regulations together is to hold police officers and designated civilians to the same standard of conduct when they are exercising police powers.

7.6 In accordance with section 34(4) of the Police (Northern Ireland) Act 2003 the Secretary of State consulted on these Regulations with the Police Ombudsman for Northern Ireland, the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Police Association for Northern Ireland.

7.7 Consultation also took place with other persons and bodies appearing to Secretary of State to have an interest in the matter including the Equality Commission and Oversight Commission.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Coleen Doak at the Northern Ireland Office Tel: 028 90523151 or e-mail: Coleen.Doak@nio.x.gsi.gov.uk, can answer any queries regarding the instrument.