

EXPLANATORY MEMORANDUM

POLICE (TESTING FOR SUBSTANCE MISUSE) REGULATIONS (NORTHERN IRELAND) 2008 SR 2008 No 325

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 This instrument will, subject to annulment in either House, come into force on 1 September 2008, and make revisions to the Police Trainee Regulations (Northern Ireland) 2001, the Police Service of Northern Ireland Regulations 2005, the Police Service of Northern Ireland (Secondment) (Garda Siochana) Regulations 2004, the Police Reserve Trainee Regulations (Northern Ireland) 2004, the Police Service of Northern Ireland Reserve (Part Time) Regulations 2004, and the Royal Ulster Constabulary Reserve (Full Time) (Appointment and Conditions of Service) Regulations 1996.

2.2 These revisions provide a power to test police officers serving in the PSNI and PSNI Reserve, including police trainees, police reserve trainees and police officers seconded from the Garda Siochana for drug and alcohol misuse. They also provide that before appointment to the PSNI or PSNI Reserve candidates be required to pass a drug test.
3. **Matters of special interest to the Joint Committee on Statutory Instruments/Select Committee on Statutory Instruments**

3.1 These regulations are similar to the Police (Amendment) Regulations 2005 laid by the Home Office on 17 October 2005 for England and Wales.
4. **Legislative Background**

4.1 These regulations are made under sections 25 and 26 of the Police (Northern Ireland) Act 1998, and sections 41 and 44 of the Police (Northern Ireland) Act 2000.

5. Extent

5.1 These regulations extend to Northern Ireland. They provide similar powers to those introduced by regulations made for England and Wales.

6. European Convention on Human Rights

6.1 No statement required.

7. Policy Background

7.1 The purpose of the policies introduced by these regulations is to detect and prevent alcohol and substance misuse in the Police Service of Northern Ireland through the provision of education and support programmes, and the introduction of a compulsory drug-testing regime, with disciplinary measures available, as appropriate, to deal with instances where there is evidence of misuse.

7.2 In addition to potentially impairing officers' judgement and hindering their performance, the PSNI is aware that any instance of drug misuse by a PSNI officer also has the potential to adversely affect service delivery and police safety, and the public perception of the PSNI.

7.3 The policy seeks to manage inappropriate use of any legal substance as well as the use of any substance defined as illegal by statute. The main aims are to provide a safe and healthy work environment for all staff; to assist in maintaining public confidence in the PSNI; to enable staff to perform their duties in a manner which does not bring risk to themselves, to colleagues or to members of the public; to prevent substance misuse in the PSNI; and to provide support and rehabilitation, or disciplinary action, where appropriate.

7.4 A controlled drug has the same meaning as in the Misuse of Drugs Act. Testing will be undertaken by suitably qualified and experienced staff, using techniques designed to ensure access to samples is carefully controlled. Drug testing will be carried out on the following groups:

- candidates for appointment to the PSNI;
- all probationer constables, at least once during probation;
- all serving officers at all ranks, on a random basis;
- 'with cause' testing for police officers where there is 'reasonable suspicion' that they have used drugs;

and will form part of the investigative protocols for incidents involving police officers, with regular testing of officers who have entered into a rehabilitation contract.

7.5 The PSNI's testing programme will have the option of testing samples of saliva and urine, as well as blood and hair (other than pubic hair) in accordance with procedures as may be determined by the Secretary of State. All police officers routinely carry firearms in Northern Ireland and will be subject to random testing for drugs misuse. In addition, all successful recruits will be tested prior to their appointment being confirmed, and any officer transferring into the PSNI from another force will be required to take a test in the absence of a previous satisfactory test, approved by the Chief Constable.

7.6 The regulations make provision for the PSNI to breath test serving officers and trainees for evidence of alcohol misuse in accordance with procedures as may be determined by the Secretary of State.

7.7 The Determinations made under the Regulations outline the testing procedures, and possible consequences of testing positive.

8. Consultation

8.1 In accordance with section 44 of the Police (Northern Ireland) Act 2000, the Secretary of State consulted on these regulations with the Policing Board, the Chief Constable, the Equality Commission for Northern Ireland, and the Police Association for Northern Ireland.

8.2 Consultation also took place with political parties in the Northern Ireland Assembly and the Police Ombudsman.

9. Impact

9.1 A Regulatory Impact Assessment was not prepared because no impact on the private or voluntary sector is foreseen.

10. Contact

For further information on these regulations please contact:

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