

**EXPLANATORY MEMORANDUM TO
POLICE (NORTHERN IRELAND) ACT 2000 (RENEWAL OF TEMPORARY
PROVISIONS) ORDER 2010**

2010 No. 112

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 the Order. It does not form part of the Order.

2. Purpose of the instrument

2.1 The purpose of the instrument is to continue in force for a further year the temporary provisions set out in the Police (Northern Ireland) Act 2000. These provisions aim to address the imbalance of community background in the composition of the Police Service of Northern Ireland (PSNI).

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

3.1 None.

4. Legislative Context

4.1 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 PSNI 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/undetermined and Catholics would then be drawn for appointment. This arrangement is commonly known as ‘50:50 recruitment’.

4.2 The Patten Report also noted that, while 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’.

4.3 The Police (Northern Ireland) Act 2000 (the 2000 Act) sections 44 to 47, gives effect to the Patten Report’s recommendations. With the exception of section 45 of the 2000 Act, the temporary provisions, namely sections 44(5) to (7), 45 and 46 of the 2000 Act, Article 40A of the Race Relations (Northern Ireland) Order 1997 and Article 71A of the Fair Employment and Treatment (Northern Ireland) Order 1998 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 rank of sergeant and above i.e. lateral entry.

4.4 The temporary provisions will expire on 28 March 2010 unless renewed by the Secretary of State, either in their entirety, or in part, following consultation with the Northern Ireland Policing Board. The temporary provisions were first renewed in 2004 by the Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2004 (the 2004 Renewal Order) and were subsequently renewed for a further three years by the Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2007 (the 2007 Renewal Order).

4.5 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.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

6.1 The Secretary of State for Northern Ireland has made the following statement regarding Human Rights:

In my view the provisions of the Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2010 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 The main purpose of the Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2010 is to renew 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 PSNI and they enable the Chief Constable to recruit police trainees on a 50:50 basis where one half of recruits is Catholic and the other half is non-Catholic. The temporary provisions are being renewed for a further, final year to enable the Government to meet its target of 30% Catholic representation within the PSNI by 2011. It will also extend the provision to the recruitment of police support staff in competitions where there are six or more posts of similar nature or level being filled at or about the same time. The Order also provides the basis for a wider degree of lateral entry, including from An Garda Síochána.

7.2 At the time of making of the 2007 Renewal Order the percentage of Catholics serving as full-time regular officers in the PSNI had increased from 8.23% in September 2001 to 21.43% in March 2007. This has now increased to 27.88% as at 1 March 2010. The Government's target is to increase Catholic representation of

regular police officers to 30% by 2011 and the provisions have enabled steady progress to be made towards meeting this target.

7.3 Government remains committed to achieving a representative police service in Northern Ireland for all community backgrounds. However, as outlined in Annex B of the St Andrews Agreement of 2006, the 50:50 recruitment arrangements to the PSNI will lapse when the Patten target for Catholic officers (30%) has been achieved.

- ***Consolidation***

7.4 No consolidation is planned.

8. Consultation outcome

8.1 As required by section 47(4)(a) of the Police (Northern Ireland) Act 2000 the Secretary of State has had regard to the progress that has been made towards securing that membership of the police and the police support staff is representative of the community in Northern Ireland. To assist with this, a 12 week consultation was held during the period 30 October 2009 – 22 January 2010. Views were sought from the Northern Ireland Policing Board (as the only statutory consultee), as well as from a variety of other organisations.

8.2 Of the 22 responses received, 8 are in favour of renewal, 7 are against renewal and 7 did not give a definite view either way. Of the consultees who are against it, the majority expressed the view that selection should be on merit only with no other criteria being justifiable.

9. Guidance

9.1 No guidance will be issued.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Catholic composition within the PSNI is routinely monitored by the PSNI and figures are provided to the Northern Ireland Office following each intake of trainee officers to the Training College. When it is clear that the 30% target will be reached, Government will return to Parliament and end the temporary provisions.

13. Contact

Clare Brady at the Northern Ireland Office Tel: 028 9052 3458 or email:
Clare.Brady@nio.x.g.si.gov.uk can answer any queries regarding the instrument.