

POLICE (NORTHERN IRELAND) ACT 2000

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Police (Northern Ireland) Act 2000, which received Royal Assent on 23 November 2000. They have been prepared by the Northern Ireland Office in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. Where a section or part of a section does not seem to require any explanation or comment none is given.

SUMMARY

3. The purpose of the Act is to implement the recommendations of the Independent Commission on Policing for Northern Ireland in its report, "A New Beginning: Policing in Northern Ireland" which were accepted by the Government following consultation.
4. The Independent Commission, chaired by Chris Patten, was set up as part of the Good Friday Agreement and tasked with bringing forward proposals which would produce a police service capable of attracting and sustaining support from across Northern Ireland as a whole. The Commission's report (the "Patten Report") was published on 9 September 1999.
5. A number of the Patten Report's recommendations have been taken forward in the Act. Other recommendations involve administrative and structural changes which do not require changes in the law. The Government's overall approach to implementation of the Patten Report is set out in the "*Report of the Independent Commission on Policing for Northern Ireland: Implementation Plan*" (June 2000) published by the Northern Ireland Office. The Government is committed to issuing a revised Implementation Plan now that the Act has been passed.
6. The main provisions of the Act are:
 - to provide for the name of the police in Northern Ireland;
 - to provide for the establishment of a Northern Ireland Policing Board to replace the Police Authority for Northern Ireland;
 - to require district councils to establish district policing partnerships;
 - to make changes to the police planning and objective setting process and introduce new efficiency arrangements;
 - to make changes in respect of the police including: a new declaration, a code of ethics for police officers to be issued by the Policing Board, to provide for police officers to inform the Chief Constable of any "notifiable memberships", to enable the Secretary of State to regulate the flags and emblems of the police;

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- to enable the contracting out of the recruitment of police officers; for special recruitment measures to redress the current imbalance in the composition of the police and its support staff in terms of community background and to provide for severance arrangements for police officers;
- to enable the Policing Board to perform its function of holding the police to account through reporting and inquiry arrangements and to require the Board to monitor and assess police performance;
- to make new provisions affecting the Police Ombudsman.
- to repeal and replace parts of existing policing legislation in the Police (Northern Ireland) Act 1998 (the “1998 Act”).
- to provide for a Commissioner to oversee the implementation of changes in the policing of Northern Ireland.

OVERVIEW

7. The Act has 9 parts and 8 Schedules.
 - Part I (Name of the Police in Northern Ireland) provides for the body of constables known as the Royal Ulster Constabulary to continue in being as the Police Service of Northern Ireland (incorporating the Royal Ulster Constabulary). It requires that, for operational purposes, that body of constables be styled “Police Service of Northern Ireland.” Corresponding arrangements are made for the RUC Reserve to be styled the “Police Service of Northern Ireland Reserve”.
 - Part II (The Northern Ireland Policing Board) creates the Northern Ireland Policing Board to replace the Police Authority for Northern Ireland (which is dissolved) and sets out its general functions. Schedule 1 sets out the arrangements for appointments to the Board, whether during suspension of devolved Government or during devolved Government, as well as staffing, funding and procedural issues. The Police Authority’s functions, assets, liabilities and staff are transferred to the Board (Schedule 2).
 - Part III (District and Community Policing Arrangements), provides for the establishment of district policing partnerships by district councils, and sets out their functions and reporting arrangements. It makes special arrangements for Belfast to have sub-groups of the district policing partnership, for other community consultation arrangements, for local policing plans and for police districts to correspond to district policing partnership areas. Schedule 3 governs appointments and procedural matters for district policing partnerships.
 - Part IV (Policing Objectives, Plans and Codes of Practice) provides for the police planning process and defines the roles of the Secretary of State, the Policing Board and the Chief Constable in that process.
 - Part V (Economy, Efficiency and Effectiveness) introduces measures to require the Policing Board to secure continuous improvement in the efficient and effective exercise of its and the Chief Constable’s functions.
 - Part VI (The Police) sets out the general duty of members of the police and the duties of the Chief Constable. It deals with recruitment to the police including provisions for contracting out functions and for special arrangements on appointments (so called 50/50 recruitment) and severance arrangements. Other significant new provisions include: a new declaration to be made by recruits and brought to the attention of existing officers; the attestation of constables following recruit training; the notification of membership of outside organisations by police officers; the making of action plans on gender and the issue of a code of ethics for the guidance of police officers, by the Policing Board; the issue of guidance by the Secretary

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of State on public order equipment; the making of regulations on police flags and emblems and arrangements for co-operation with the Garda Siochana.

- Part VII (Reports and Inquiries) requires annual reports by the Board and Chief Constable and gives the Policing Board power to request reports from the Chief Constable on any aspect of policing and to cause an inquiry to be held into any matter in a report if it considers it to be grave or if there are exceptional circumstances. The Part sets out safeguards on the use of the report and inquiry powers.
- Part VIII (Police Ombudsman) principally inserts new provisions in Part VII of the 1998 Act. It empowers the Ombudsman to report on police policies and practices arising from investigations and creates a regulation making-power for the Secretary of State to impose time limits for complaints. It also provides for mediation of certain complaints.
- Part IX (Miscellaneous and Supplementary) provides for the appointment of a Commissioner to oversee the implementation of changes in the policing of Northern Ireland (Schedule 4 sets out the terms of appointment of the Commissioner and other detailed matters concerning his office); enables the Secretary of State to establish a Royal Ulster Constabulary GC Foundation to mark the sacrifices and honour the achievement of the Royal Ulster Constabulary; requires the video recording of police interviews; requires the Policing Board to make arrangements for “lay visitors” and amends (in Schedule 5) anti-discrimination legislation in its application to the police. Schedules 6 to 8 deal with amendments, transitory provisions and repeals.

COMMENTARY

Part I : Name of the Police in Northern Ireland

Section 1: Name of the police in Northern Ireland

8. This section provides for the body of constables known as the Royal Ulster Constabulary to continue in being as the Police Service of Northern Ireland (incorporating the Royal Ulster Constabulary). It requires that this body of constables be styled, for operational purposes, the “Police Service of Northern Ireland”. *Subsections (3) and (4)* make similar provision for the Royal Ulster Constabulary Reserve. The Secretary of State for Northern Ireland, in a statement in the House of Commons on 19 January 2000 (Official Report Vol 342 Cols 845-848), said that the new names will be introduced in Autumn 2001.

Part II: the Northern Ireland Policing Board

Section 2: The Northern Ireland Policing Board

9. This section provides for the establishment of a Northern Ireland Policing Board to replace the Police Authority for Northern Ireland. The Police Authority is dissolved on the creation of the Board (*subsection (3)*).
10. The detail of the Policing Board’s status, membership, constitution (including arrangements for appointment under direct rule and devolved government), staff, funding and procedural matters are set out in Schedule 1 to the Act. These matters are described more fully in the note on Schedule 1.
11. *Subsection (4)* and Schedule 2 of the Act deal with the transfer of property, liabilities and staff of the Police Authority to the Board.

Section 3: General Functions of the Board

12. The general functions of the Board are to maintain the police and to ensure the police, police support staff and traffic wardens are efficient and effective. In particular, the Board must in discharging those functions hold the Chief Constable to account for the exercise of his functions (*subsection (3)*) and have regard to the principle of impartiality (*subsection (4)*).
13. The Board is required to monitor or assess the performance of the police, including in carrying out their general duty under the Act and in complying with the Human Rights Act. It is also required to assess the effectiveness of district policing partnerships and community consultation arrangements and the effectiveness of the code of ethics. It must also keep itself informed as to complaints against the police, crime trends, recruitment to, and the representativeness of, the police. *Subsection (3)* also requires the Board to make arrangements for obtaining public co-operation with the police in preventing crime.
14. The Board is required to co-ordinate its activities with, and co-operate with, other statutory bodies in carrying out its functions (*subsection (4)*). It is also obliged to have regard to the policing plan and any codes of practice issued on the exercise of its functions.

Section 4: Police Support Staff

15. This section sets out the administrative arrangements governing police support staff. It replaces section 3 of the 1998 Act, with some amendment.
16. *Subsections (1)-(4)* enable the Policing Board, with the approval of the Secretary of State, directly to employ staff or to make arrangements for the secondment of civil servants to assist the police.
17. *Subsection (5)* makes it clear that the Chief Constable is responsible for the management of police support staff. This includes the power to engage and dismiss directly recruited staff other than senior employees – where appointment and dismissal will be dealt with by the Board. Seconded civil servants are appointed through the Civil Service Commission for Northern Ireland and may not be dismissed as civil servants by the Chief Constable.
18. *Subsection (6)* defines the term “police support staff”. It means those staff who are employed by, or seconded to, the Policing Board, and under the direction and control of the Chief Constable. It does not include staff working for the Board itself about whom provision is made by Part IV of Schedule 1 to the Act.
19. These arrangements are much the same as those already applying to police support staff under existing legislation. The main change is that the Board will appoint senior members of the support staff. While in employment, senior employees will be under the direction and control of the Chief Constable, but the power to engage and dismiss will reside with the Board.

Section 5: Power to Transfer Staff to Employment of Board

20. This section provides a regulation-making power by which the Secretary of State may transfer civil servants who are seconded to the police support staff to the employment of the Policing Board. It replaces section 4 of the 1998 Act.

Section 6: Provision and Maintenance of Buildings and Equipment

21. This section replaces section 5 of the 1998 Act with minor amendments which remove some of the Secretary of State’s detailed controls. It sets out the Policing Board’s duties on the provision and maintenance of buildings and equipment for police purposes.

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22. The Policing Board will be the legal owner of all police buildings and equipment. However, *subsection (3)* requires that the Policing Board's powers to provide and maintain buildings and equipment are to be exercised by the Chief Constable. He will be responsible for management of these matters. The Board's power to own buildings and equipment for its own purposes are provided for by paragraph 1(2) of Schedule 1 to the Act.

Section 7: Acquisition and Disposal of Land

23. This section sets out the responsibilities of the Policing Board with regard to acquiring and disposing of land for police purposes. It replaces section 6 of the 1998 Act with minor amendments which remove some of the Secretary of State's detailed controls. Under *subsections (2)-(4)* the Policing Board can acquire land for police purposes compulsorily by asking the Secretary of State to make an order vesting land in the Board.

Section 8: Provision of Advice and Assistance to International Organisations

24. This section replaces section 8 of the 1998 Act. It enables the Policing Board, subject to the consent of the Secretary of State, to provide advice and assistance to international organisations, such as the United Nations, and to any organisation outside the UK which is engaged in policing activities. This includes facilitating temporary secondments of police officers.

Sections 9 and 10: Funding Arrangements for Policing

25. These sections replace sections 9 and 10 of the 1998 Act respectively. Section 9 provides for the Secretary of State to make a grant to the Policing Board for policing purposes.
26. Under *subsections (1) and (2)* of section 10 the Board is required to submit estimates for policing to the Secretary of State on the basis of draft estimates prepared by the Chief Constable. Under *subsection (5)* of section 10 the Policing Board is required to put the annual police grant, and any other amounts received, at the disposal of the Chief Constable who is operationally responsible for managing financial resources. Funding arrangements for the Board itself – as opposed to the grant it receives to fund policing – are dealt with under Schedule 1 to the Act.

Section 11: Charges for Special Services

27. This section enables the Chief Constable to provide special police services subject to payment. An example might be supervising an event on private land. It replaces section 11 of the 1998 Act.

Section 12: Accounts and Audit

28. This section sets out the accounting systems and procedures that are required in respect of police funding. It replaces section 12 of the 1998 Act, with some amendment. The Policing Board is required to keep proper accounts and records of police expenditure and to prepare an annual statement of accounts. *Subsection (2)* requires these Board functions to be exercised by the Chief Constable. He is required to submit the statement of accounts to the Board. *Subsection (5)* requires the Policing Board to send the statement of accounts to the Secretary of State and the Comptroller and Auditor General for certification.

Part Iii: District and Community Policing Arrangements

Section 14: Establishment of District Policing Partnerships

29. This section places each district council in Northern Ireland under a duty to establish a district policing partnership for its council area and gives effect to Schedule 3 which governs how partnerships should be established, including size and composition, and sets out certain procedural issues.
30. The effect is to provide for the establishment of up to 26 district policing partnerships. Under paragraph 16 of Schedule 3 the Secretary of State may, by order, provide, with the agreement of the Board and any council affected by the order, that 2 or more district councils can form a joint partnership.

Section 15: Default of Council

31. This section sets out the Secretary of State's powers to direct a district council to establish a district policing partnership where it has not done so, or to remedy a defect in the appointment or procedures of a partnership. If the council fails to comply the Secretary of State may, by order, empower the Policing Board to establish a partnership.

Section 16: General Functions

32. This section sets out the functions of a district policing partnership and requires the partnerships to have regard to a code of practice, made by the Board under section 19, in carrying out these functions.
33. The role of a district policing partnership is primarily a consultative one. The functions set out in this section include expressing views to the police; monitoring police performance against the policing plan and the local policing plan; making arrangements to obtain the views of the public on policing and the co-operation of the public with the police; and acting as a general forum for discussion and consultation on the policing of the district.

Section 17: Annual Report to Council

34. This section requires each partnership to submit an annual report on the exercise of its functions to its district council, after consultation with the district commander. At the same time each partnership must send a copy of the report to the Board. The councils must publish the reports.

Section 18: Reports to Board

35. This section requires a partnership to submit a report to the Policing Board on any matter connected with the exercise of the partnership's functions when asked to do so by the Board. The Board may arrange for such reports to be published.

Section 19: Code of Practice

36. This section provides for the Policing Board to issue, with the Secretary of State's consent and after consulting the district councils and the Chief Constable, a code of practice on the exercise of the functions of the district policing partnerships.
37. The section sets out areas which the code may cover, including arranging meetings with the police, arrangements for enabling questions to be put to the police, monitoring police performance, and obtaining the views and co-operation of the public. The code must be published.

Section 20: Police Districts

38. This section makes the area of each district council, other than Belfast, a police district and requires the Chief Constable to appoint for each of these a district commander of at least chief inspector rank. For Belfast, given its size, there may be up to 4 police districts.

Section 21: District policing partnership sub-groups for Belfast

39. This section requires the Belfast district council to establish a sub-group for each of its police districts. Each sub-group will consist of at least 6 members of the partnership and the function of each will be to provide views to the district commander of their district and to the partnership on any matter concerning policing of that district.

Section 22: Local Policing Plan

40. This section requires each district commander to publish, after consultation with the district policing partnership, a local policing plan. This will set out arrangements for the policing of the district. These must be consistent with the policing plan published by the Board.

Section 23: Other Community Policing Arrangements

41. This section enables either the district policing partnerships with the approval of the Board or, in the case of default by a partnership, the Board, to make arrangements to facilitate consultation between the police and any local community. The Chief Constable must be consulted before such arrangements are made. The section provides for consultation at a level below district policing partnerships and recognises the role of the current community and police liaison committees.

Part IV: Policing Objectives, Plans and Codes of Practice

Sections 24 and 25: The Secretary of State's and Board's Policing Objectives

42. These sections provide for the setting of strategic objectives for policing and the issuing of the Board's policing plan each year. They replace and simplify the objective setting and planning process set out in Part II of the 1998 Act. Section 24 requires the Secretary of State to set long-term objectives for policing in Northern Ireland after consulting the Board and the Chief Constable. Section 25 requires the Board to set objectives for policing after consulting the Chief Constable and district policing partnerships and after considering any reports by district policing partnerships or other views raised by members of the community. The Board's objectives must be consistent with the strategic objectives set by the Secretary of State.

Section 26: The Board's Policing Plan

43. This section requires the Board to issue a policing plan before April each year. The plan will be drafted by the Chief Constable and submitted to the Board for its approval and publication. The Board may, after consulting the Chief Constable, amend the draft plan and must consult the Secretary of State before publication.
44. *Subsection (2)* requires that the policing plan contain an assessment of police training and education needs. It also enables the Secretary of State to set out, in regulations, any other minimum requirements as to what the policing plan should cover such as performance targets set by the Board. Before making these regulations the Secretary of State must consult the Board and the Chief Constable. The Government made draft regulations available to members of the Standing Committee which considered the Bill in the House of Commons.

Section 27: Codes of Practice on Exercise of Functions

45. This section replaces, with some modifications, section 38 of the 1998 Act. It allows the Secretary of State to issue codes of practice to the Board and, in relation to planning, efficiency, financial and other resources and support staff, to the Chief Constable. The Secretary of State must consult the Board, Chief Constable and such other persons or bodies as the Secretary of State considers appropriate on any code and must publish it.

Part V: Economy, Efficiency and Effectiveness

Sections 28-31: Arrangements Relating to Economy, Efficiency and Effectiveness

46. **Sections 28-31** require the Policing Board to make arrangements to improve the economy, efficiency and effectiveness in the discharging of its functions and those of the Chief Constable. As part of the arrangements the Board is required to review these functions and to publish a performance plan showing how the Board's arrangements are to be implemented (*section 28(4)*). The Board is obliged to involve the Chief Constable when it makes arrangements in respect of his functions (*section 28(3)*). Section 29 provides for the Board's performance plan to be audited by the Comptroller and Auditor General and section 30 enables the Comptroller and Auditor General to carry out inspections to examine the Board's compliance with its obligation to improve its functions. The Comptroller and Auditor General can recommend amendments to a performance plan (*section 29(4)(c) and (d)*) or recommend that the Secretary of State take action if the Board is failing in its duty (*sections 29(4)(e) and 30(6)(b)*).
47. Under section 31, if, on receipt of an adverse report by the Comptroller and Auditor General or Her Majesty's Inspector of Constabulary, the Secretary of State is satisfied that the Board is failing to comply with its duties under section 28, he can direct it to take any remedial action he considers necessary or require it to amend its performance plan.
48. The provisions of Part V are, in part, analogous to Best Value arrangements which apply to police authorities and forces in England and Wales under the Local Government Act 1999.

Part Vi: the Police

Section 32: General Functions of the Police

49. This section sets out the general duties and powers of members of the police. It replaces, with modifications, section 18 of the 1998 Act. *Subsection (1)* states that the general duties of police officers are to protect life and property, to preserve order, to prevent crime and to bring offenders to justice. *Subsection (4)* requires officers to be guided by the code of ethics issued by the Policing Board under section 52 in carrying out their duties. *Subsection (5)* requires police officers to carry out their functions in co-operation with, and with the aim of securing the support of, the local community.

Section 33: General Functions of the Chief Constable

50. This section replaces section 19 of the 1998 Act. It provides that the police shall be under the direction and control of the Chief Constable and that he shall have regard to the policing plan and any code of practice affecting him.

Section 34: Exercise of Functions of the Chief Constable in Cases of Absence etc

51. Replaces section 20 of the 1998 Act with modification. It provides for there to be a Deputy Chief Constable and for the DCC to carry out the Chief Constable's functions in his absence.

Section 35: Appointment and Removal of Senior Officers

52. This section replaces section 21 of the 1998 Act and provides for the Board to appoint the Chief Constable and other senior police officers (Assistant Chief Constable and above), subject to the approval of the Secretary of State. *Subsection (3)* enables the Board to call upon any senior officer to retire in the interests of efficiency and effectiveness with the approval of the Secretary of State. The Secretary of State can require the Board to exercise this power in respect of the Chief Constable.

Sections 36, 37 and 39-41: Appointment and promotion of police officers

53. These sections make provision for the appointment of police officers below the rank of Assistant Chief Constable. The Chief Constable will continue to appoint and promote all such police officers (*section 36*) and reserve officers (*section 37*) in accordance with any regulations made by the Secretary of State. *Sections 39, 40 and 41* deal with a new category of “trainee” police officers. The creation of trainees is a consequence of the Patten Report’s recommendation that recruits to the police should be attested as constables – and so acquire the powers of a constable – only upon successful completion of their recruit training. Under previous legislation (section 24 of the 1998 Act) recruits became constables immediately upon appointment before they had undertaken any training as a police officer. *Subsection (3) of section 36* requires that no one may be appointed as a constable unless they have completed recruit training. A similar requirement is made in respect of reserve officers under *section 37*. *Section 41* applies to trainee officers certain provisions which relate to police officers, such as the Chief Constable’s liability for wrongful acts and the prohibition on membership of trade unions, to trainee officer. It also enables the Secretary of State to make regulations for the terms and conditions of trainee officers.

Section 38: Attestation of Constables

54. *Section 38* provides for a new form of the declaration made by recruits on appointment to the police on completion of their training. The section replaces section 24 and Schedule 2 of the 1998 Act. The new declaration contains references to upholding human rights and according equal respect to all individuals and their traditions and beliefs (provided these are lawful). As under the 1998 Act, recruits assume the powers of a constable upon making the declaration but new provisions (see above) require that they successfully complete their training first. The section also requires the Chief Constable to bring the terms of declaration to the attention of all serving officers, and to ensure that they understand it and the need to carry out their duties in accordance with it.

Section 42: Police Cadets

55. This section enables police cadets to be appointed by the Board, with the approval of the Chief Constable.

Sections 43, 44 and 45: Recruitment Arrangements

56. The Patten Report recommended that, while the Chief Constable should remain responsible and accountable for recruitment, the technical work of recruitment should be contracted out to an outside agency. Section 43 gives effect to this recommendation by enabling the Chief Constable to appoint an agent to carry out the recruitment of police officers and police support staff in accordance with any regulations made by the Secretary of State. The Secretary of State must consult the Chief Constable, the Board, the Equality Commission and the Police Association on the regulations. *Subsection (4)* of section 43 makes it clear that the Chief Constable retains overall liability for the recruitment process.
57. Detailed matters concerning the recruitment process will be set out in regulations made by the Secretary of State under *Subsection (1)* of section 44. The Secretary of State must consult as under section 43. *Subsection (3)* of section 44 sets out matters which

must be covered in the regulations, including the involvement of lay representatives in the recruitment process and the review of decisions to reject candidates. *Subsections (5), (6) and (7)* require that the regulations provide for pools of qualified candidates for the police service and its support staff to be selected. Candidates for the police service (at constable level) will be selected from a pool for the purposes of appointment under section 46(1) (see below). In respect of police support staff, only where there are 6 or more posts of a similar nature and level to be filled at about the same time will selection be from a pool for the purposes of appointment in accordance with section 46(5) (see below).

Sections 45, 46 and 47: Temporary Provisions Concerning Composition of the Police

58. The Patten Report recommended exceptional recruitment measures to address imbalances in the religious background of the membership of the police and police support staff. The Report said that candidates should reach a specified standard of merit and be selected from a qualified pool on the basis that one half would be Catholics. Sections 46 and 47 give effect to the Report's recommendations.
59. **Section 46(1) and (5)** requires the Chief Constable to appoint from a pool of qualified candidates for the police and its support staff (where there are 6 or more vacancies) an even number of candidates one half of whom are to be treated as Roman Catholic and one half not ("50:50 recruitment"). *Subsections (2), (3), (6) and (7)* provide for the Secretary of State, after consulting the Board and the Chief Constable, to make an order modifying the 50:50 recruitment provisions for police trainees and police support staff where insufficient numbers of qualified candidates of one community background have come forward to fill one half of the vacancies; and, in the case of police trainees, for the purpose of redressing any imbalance arising where one or more such orders have been made in the previous three years. *Subsection (4)* limits the Secretary of State's order-making power to "aggregate" recruitment quotas under *subsection (3)(b)* to 75% of either community. *Subsections (8) and (9)* apply existing fair employment monitoring procedures for the purpose of determining perceived community background. *Subsections (10) and (11)* amend fair employment and race relations legislation to except selection from the pool of qualified candidates on the 50:50 basis of perceived community background. The amendment to fair employment legislation also excepts local recruitment of Part Time Reserve members of the police from being unlawful under the terms of the Fair Employment and Treatment (Northern Ireland) Order 1998.
60. **Section 45** provides for the appointment of suitably qualified police officers from forces outside Northern Ireland. It obliges the Board, in the case of senior officers, and the Chief Constable, in relation to other ranks, to encourage such applications. In doing so the Board and the Chief Constable must have regard to the progress that has been made towards making the police service representative of the community in Northern Ireland.
61. **Section 47** provides that the exceptional measures concerning the composition of the police and its support staff will expire on the third anniversary of their coming into force unless they are specifically renewed by an order made by the Secretary of State. In deciding whether the provisions should be renewed the Secretary of State must take account of the progress which has been made towards securing that membership of the police and police support staff is representative of the community in Northern Ireland. The Secretary of State must consult the Policing Board before making an order.

Section 48: Action Plans

62. **Section 48** requires the Board to make an action plan for monitoring and increasing the number of women working in policing. The Board may request the Chief Constable to provide a draft plan in respect of the police and is obliged to consult the Equality

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Commission for Northern Ireland, the Secretary of State and the Chief Constable before issuing a plan.

Section 49: Severance Arrangements

63. The Patten Report envisages a reduction in the overall size of the regular police service from 8400 officers to 7500. To achieve this reduction and to enable recruitment, approximately 4500 officers will leave the police over a 10-year period. The Full Time Reserve (2500 officers) will be phased out. Section 49 provides for the Secretary of State to make special provision in pensions regulations to provide for the introduction of a temporary voluntary, early retirement and early severance scheme. The voluntary scheme will apply to all members of the Royal Ulster Constabulary and Royal Ulster Constabulary Reserve who joined the police force before 1 July 1995. The scheme offers enhancements to existing pension arrangements and special compensatory lump sums. These provisions will not be subject to consultation with the Police Negotiation Board.

Section 50: Service by Members of the Police Service Reserve of Northern Ireland with Other Services

64. This section makes an amendment to section 27 of the 1998 Act. That section deals with the terms and conditions of police officers while engaged in police services outside the Royal Ulster Constabulary. Hitherto the section only provided for regular members of the Royal Ulster Constabulary to engage in such service. The amendment to section 27 allows reservists also to participate.

Section 51: Notifiable Memberships

65. Under this section the Chief Constable will require each member of the police force to inform him of any “notifiable membership” he believes he has. A notifiable membership is defined as membership of an organisation which might reasonably be regarded as affecting a police officer’s ability to discharge his duties effectively and impartially (*subsection (1)*). The Chief Constable may provide guidance to police officers on notifiable memberships, after consulting the Board, the Secretary of State and the Northern Ireland Human Rights Commission.
66. The section places safeguards on the handling and disclosure of information provided to the Chief Constable. *Subsection (10)* provides for an offence of wrongful disclosure. Information will be made available, on request, to the Police Ombudsman and statistical information must be published by the Chief Constable in his annual report.

Section 52: Code of Ethics

67. This section requires the Board to issue, following consultation, a code of ethics for laying down standards of conduct and practice for police officers and making officers aware of the rights and obligations arising out of the European Convention of Human Rights. The code will be drafted by the Chief Constable for the Board’s approval. In preparing the code both the Board and the Chief Constable are required to have regard to the terms of the declaration made by constables under section 38. The Chief Constable is required to take steps to ensure that all officers have read and understood the Code (*subsection (8)*). The Board will keep those steps under review (*subsection (9)*). The Secretary of State must, so far as practicable, ensure the provisions of the code are reflected in police conduct regulations (*subsection (10)*).

Section 53: Guidance on Public Order Equipment

68. This section allows the Secretary of State, after consulting the Board, the Chief Constable, the Ombudsman and the Police Association, to issue guidance to members of the police on the use of public order equipment. The section is, in particular, intended

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to allow the Secretary of State to issue guidance on the use of plastic baton rounds. Any guidance issued is to be published.

Section 54: Regulation as to Emblems and Flags

69. **Section 54** enables the Secretary of State to make regulations governing the design and use of emblems and flags for policing. Before issuing such regulations he must consult the Board, the Chief Constable, the Police Association and any other person or body appearing to him to have an interest in the matter.

Section 55: Identification of Police Officers

70. **Section 55** requires the Chief Constable to make arrangements for police officers to have a unique identification number which should be clearly visible while they are in uniform.

Section 56: Co-operation with the Garda Siochana

71. **Section 56** requires the Board and the Chief Constable to implement any arrangements for cross border co-operation between the police and the Garda Siochana which are agreed between the British and Irish Governments.

Part VII: Reports and Inquiries

Section 57: Annual and Other Reports by Board to Secretary of State

72. **Section 57** replaces section 47 of the 1998 Act and requires the Board to issue an annual report and report to the Secretary of State as required. *Subsection (2)* requires the Board's annual report to include an assessment of its general functions under section 3.

Section 58: Annual Report by Chief Constable to the Board

73. **Section 58** replaces section 48 (in part) of the 1998 Act and requires the Chief Constable to publish an annual report.

Section 59: General Duty of Chief Constable to Report to the Board

74. **Section 59** requires the Chief Constable to submit to the Board a report on any policing matter at the request of the Board. Under Schedule 1, paragraph 17(6) and (7), the Board must determine, publish and comply with procedures for exercising its power to call for reports under section 59(1). The Chief Constable can refer to the Secretary of State requests by the Board for reports dealing with national security, sensitive personal matters, ongoing court cases, or matters which would prejudice the prevention or detection of crime (*subsection (3)*). In these cases the Secretary of State is required to determine, within 30 days, whether the Chief Constable should provide a report to the Board.

Section 60: Inquiry by Board Following Report by Chief Constable

75. This section introduces a new power recommended by the Patten Report, enabling the Board to order an inquiry into any matter upon which it has received a report if it considers the matter, or any related matter in the report, is grave or there are exceptional circumstances. A decision to hold an inquiry requires the support of a majority of members, as does the appointment of an inquirer (paragraph 18 of Schedule 1). Members must be notified in advance of any meeting where an inquiry is under consideration. The Board must inform the Chief Constable, the Police Ombudsman and the Secretary of State if it intends to hold an inquiry. The Chief Constable can refer the Board's proposal for an inquiry to the Secretary of State on the same grounds as under section 59(3) (reports). The Secretary of State may overrule the Board, within 30 days, only on one of those grounds (*subsection (5)*).

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76. The Board can ask specified statutory agencies to carry out an inquiry. Alternatively, it may ask any other person to conduct an inquiry, but only with the agreement of the Secretary of State (*subsections (6)-(9)*). Inquiries are to be held in public except where it is not in the public interest to do so (*subsection (10)*). Inquiries cannot deal with acts or omissions which occurred before the coming into force of section 60 except where consideration of pre-commencement matters is necessary to inform the main subject matter of the inquiry (*subsections (11) and (12)*). The Board is required to send a copy of the report of any inquiry to the Chief Constable, the Ombudsman and the Secretary of State.

Section 61: Reports by Chief Constable to Secretary of State

77. **Section 61** replaces section 49 of the 1998 Act. It provides for the Chief Constable to make reports to the Secretary of State.

Part VIII: the Police Ombudsman

78. **Sections 62-65** add provisions to Part VII of the 1998 Act (Police Complaints and Disciplinary Proceedings).

Section 62: Mediation

79. This new provision enables the Ombudsman to use mediation to resolve a complaint which she does not consider to be serious and which does not indicate that a criminal offence may have been committed.

Section 63: Reports by Ombudsman to Chief Constable and Board

80. This section enables the Ombudsman to make reports to the Chief Constable and the Policing Board on matters concerning police practices and policies which the Ombudsman identifies from investigations. The Ombudsman may conduct research to assist her reporting.

Section 64: Supply of Information

81. This amendment to the 1998 Act requires the Ombudsman to compile statistical and other general information and to supply them to the Policing Board to enable it to carry out its duty under section 3 to keep itself informed about trends and patterns in complaints.

Section 65: Limit on Complaints and References to Ombudsman

82. This section inserts additional regulation making powers in section 64 of the 1998 Act. Regulations may be made setting limits on the initiation of investigations by the Ombudsman and precluding her from investigating complaints which more properly fall within the procedures of the Regulation of Investigatory Powers Act 2000.

Section 66: Access to Information

83. This section provides for access by the Ombudsman to information and documents where these are required for the Ombudsman's exercise of her functions. It would cover, for example, access to information on "notifiable memberships" under section 51.

Part IX: Miscellaneous and Supplementary

84. Part IX deals with technical provisions and definitions. It also covers a number of miscellaneous provisions. Noteworthy provisions are described below.

Sections 67 and 68: The Commissioner

85. [Section 67](#) provides for the appointment of a Commissioner to oversee the implementation of changes in the policing of Northern Ireland, including those resulting from the Act, described in his terms of reference. [Section 68](#) requires the Commissioner to make reports. The Secretary of State must lay any report made by the Commissioner before Parliament and publish it.

Section 69: General Duty of the Secretary of State

86. This section requires the Secretary of State to promote the efficiency and effectiveness of the police, police support staff and traffic wardens. In doing so the Secretary of State must have regard to the principle that policing is to be conducted in an impartial manner.

Section 70: The Royal Ulster Constabulary GC Foundation

87. This section enables the Secretary of State to establish by regulations, and make payments to, a foundation to mark the sacrifices and honour the achievements of the Royal Ulster Constabulary. The regulations may enable the foundation to undertake joint initiatives with the Widows' Association, the Disabled Police Officers' Association or any other organisation within the police family.

Section 72: Video Recording of Interviews

88. This section amends the Police and Criminal Evidence (Northern Ireland) Order 1989 to require the Secretary of State to issue a code on the video recording with sound of police interviews with people being questioned other than under anti-terrorism legislation. The Terrorism Act 2000 provides for the Secretary of State to issue a code of practice on the silent video recording of those being questioned about terrorist crimes.

Section 74: Application to Police of Anti-discrimination Legislation

89. This section, together with Schedule 5 to the Act, replaces existing provisions which apply anti-discrimination legislation to police bodies in Northern Ireland. The main change is to provide for the vicarious liability of chief officers of police for acts of their officers in the provision of goods, facilities or services. The changes, in part, reflect those made in England and Wales in the Race Relations (Amendment) Act 2000 and arise from Sir William Macpherson's report, *The Stephen Lawrence Inquiry* (Cm 4262-1) published in February 1999.

Schedule 1: the Northern Ireland Policing Board

90. This Schedule sets out how the Policing Board is to be established and outlines the arrangements for its proceedings.

Part I: Status and Membership

91. The Schedule contains different provisions depending on devolution or direct rule. Paragraph 2 explains that Part II of Schedule 1 applies during direct rule and Part III during devolved government. After a change from direct rule to devolved government, or vice versa, members of the Board cease to hold office, but may be re-appointed.

Part II: Membership During Suspension of Devolved Government

92. [Paragraph 3](#) sets out the arrangements for appointment to the Board by the Secretary of State during direct rule. The Board is to consist of 14 to 19 members appointed by the Secretary of State. *Sub-paragraph (3) r* requires the Secretary of State to ensure, as far as practicable, that membership of the Board is representative of the community in Northern Ireland.

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93. As under the 1998 Act, before making any appointment, the Secretary of State must consult district councils and any other body he considers appropriate (*sub-paragraph (4)*). There is no requirement for consultation where the Secretary of State is making the first appointments to the Board after the Assembly has, at any time, been suspended (*sub-paragraph (6)*). This is to enable the swift replacement of the members who will automatically cease to hold office immediately on suspension of devolved government.
94. *Sub-paragraph (7)* sets out grounds for disqualification. *Sub-paragraphs (8)-(10)* specify that there shall be a chairman and vice chairman initially appointed by the Secretary of State, but, thereafter, appointed by the Board from among its members. The quorum for a meeting making such an appointment is specified under paragraph 17(2)). The quorum is 12 when there are 19 members; 11 for a Board of 16, 17 or 18; and 10 when the Board has fewer than 16 members.
95. [Paragraph 4](#), *sub-paragraph (5)* sets out the grounds for removal of Board members. These include criminal conviction, not being committed to non-violence and exclusively peaceful and democratic means, being unfit or failing to disclose, before appointment, a criminal conviction.

Part III: Membership During Devolved Government

96. [Paragraph 6](#) provides that during devolved government the Board will have 19 members, 10 of whom will be appointed from the Assembly and the other 9 appointed by the Secretary of State.
97. *Sub-paragraph (2)* sets out that the 10 members nominated from the Assembly will be known as ‘political members’ and that the 9 members appointed by Secretary of State will be known as ‘independent members’.
98. [Paragraph 7](#) outlines the process (d’Hondt) for selecting the 10 political members of the Board. The provisions are based on those in the Northern Ireland Act 1998.
99. [Paragraph 8](#) provides for the appointment of independent members after consultation with the First Minister and Deputy First Minister, councils and such other bodies as the Secretary of State considers appropriate. Under *sub-paragraph (4)* the Secretary of State is required to consult only the First Minister and Deputy First Minister where the Board is first appointed after the restoration of devolution. This is to enable the swift replacement of members who will automatically cease to hold office immediately on restoration of devolution. The Secretary of State must exercise his powers of appointment to secure, as far as practicable, that the Board is representative of the community in Northern Ireland (*sub-paragraph (1)*).
100. [Paragraphs 9-10](#) cover the grounds for removal of Board members from office and disqualification from membership. Grounds for removal include, criminal conviction, not being committed to non-violence and exclusively peaceful and democratic means and being unfit. An independent member may additionally be removed if he failed, before his appointment, to disclose a criminal conviction.
101. [Paragraph 11](#) specifies that the first chairman and vice chairman shall be appointed by the Secretary of State after consultation with First Minister and Deputy First Minister. Thereafter, appointments will be made by the Board from among its members. The quorum for a meeting making such an appointment is specified under paragraph 17(2) as 12.

Parts IV-VI: Staff, Funding Procedure

102. [Paragraphs 12-21](#) deal with the Board’s staffing, require the Secretary of State to make a grant to the Board to cover its expenses and set out procedural provisions.

Schedule 2: Transfer of Functions, Assets, Liabilities and Staff of Police Authority for Northern Ireland

103. This Schedule provides for the Policing Board to exercise the functions, hold the property, have the rights and liabilities and employ the staff, which were the responsibility of the Police Authority for Northern Ireland, upon the dissolution of that Authority. Paragraph 4 transfers the employment of directly employed staff from the Police Authority to the Board. This applies to staff working directly to the Police Authority and to police support staff who are under the direction and control of the Chief Constable. The latter group will remain under the direction and control of the Chief Constable. Paragraph 5 transfers the secondment of civil servants from the Police Authority to the Policing Board. Those civil servants seconded to the Police Authority who are under the direction and control of the Chief Constable will continue in that capacity. Secondees working for the Authority will work for the Board upon transfer.

Schedule 3: District Policing Partnerships

104. This Schedule sets out how a district policing partnership is to be established and the arrangements for its proceedings.
105. [Paragraph 2](#) concerns the size and composition of a district policing partnership (15, 17 or 19 members). It also provides that, in all cases, the number of political (council) members shall be one more than the number of independent members.
106. [Paragraphs 3, 4 and 5](#) set out the arrangements for political and independent members to be appointed, when they will cease to hold office, appointments to fill casual vacancies and eligibility for re-appointment. The district council is obliged to ensure that the political membership of a partnership reflects the balance of parties prevailing among the members of the council immediately after the last local general election.
107. [Paragraph 5](#) requires the district council to nominate candidates for appointment as independent members by the Policing Board.
108. [Paragraph 6](#) enables the Secretary of State, after consultation with the Policing Board, district councils and the Equality Commission to issue a code of practice to the councils and the Board on the appointment of independent members to the district policing partnerships. This code will set out best practice to be followed in the appointment process.
109. [Paragraph 7](#) sets out the circumstances in which members of the district policing partnership can be removed by the Board, or by the council with the approval of the Board: for instance, if convicted of a criminal offence. [Paragraph 8](#) sets out the circumstances in which persons are disqualified from membership of a district policing partnership. These include conviction for any offence leading to a term of imprisonment (whether suspended or not).
110. [Paragraph 9](#) provides for the appointment of a chairman and vice-chairman of a district policing partnership from the political members. As recommended by the Patten report, the positions must, so far as practicable, be held by members of different political parties and the office of chairman is to be held in turn by each of the four largest parties on the council.
111. [Paragraph 11](#) requires the Policing Board to make a grant to the district councils amounting to three-quarters of the reasonable costs of establishing, and carrying out the functions of, a district policing partnership. The remaining quarter of the costs is to be met by the district councils.
112. [Paragraph 16](#) enables the Secretary of State, after consultation with the Policing Board and the councils affected, to provide, by order, that two or more councils can establish a joint district policing partnership for their districts.

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Schedule 7: Transitional and Transitory Provisions

113. Paragraph 1 of Schedule 7 provides for references to the Police Service of Northern Ireland in the Act to be construed in accordance with current legislation as references to the Royal Ulster Constabulary and its Reserve respectively until the new terms are brought into effect (by the coming into operation of section 78(2)) which the Government has stated will happen in autumn 2001. Paragraph 2 enables the Police Authority to carry out the Board’s role in the new recruitment arrangements pending the latter’s establishment. Paragraph 3 makes it clear that community and police liaison committees established under arrangements made under section 7 of the 1998 Act are preserved.

Schedule 8: Repeals

114. This Schedule makes repeals, including to the Police (Northern Ireland) Act 1998. Parts of that Act will remain and, together with this Act, form the “Police Acts”.

COMMENCEMENT

115. Section 75 provides for section 49 (severance arrangements), sections 67 and 68 and Schedule 4 (Commissioner to oversee implementation of change), section 75 (expenses), section 76 (orders and regulations), section 77 (interpretation), Part III of Schedule 1 (appointment of members of the Policing Board) and paragraph 1 of Schedule 7 (transitional and transitory provisions) to come into force on Royal Assent. The other provisions will come into force on such dates as the Secretary of State appoints by order.

HANSARD REFERENCES

116. The following table sets out the dates and Hansard references for each stage of this Act’s passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	16 May 2000	Vol 350 Col 161
Second Reading	6 June 2000	Vol 351 Cols 177-262
Committee	13 June, 15 June, 20 June, 22 June, 27 June, 29 June, 4 July, 6 July 2000	Hansard Standing Committee B
Report and Third Reading	11 July 2000	Vol 353 Cols 723-827
House of Lords		
Introduction	13 July 2000	Vol 615 Col 379
Second Reading	27 July 2000	Vol 616 Cols 635-704
Committee	23 October 2000 25 October 2000	Vol 618 Cols 11-134 Vol 618 Cols 328-394
Report	8 November 2000	Vol 618 Cols 1584-1676
Third Reading	15 November 2000	Vol 619 Cols 276-338
House of Commons		
Commons consideration of Lords amendments	21 November 2000	Vol 357 Cols 180-273

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Royal Assent – 23 November 2000	House of Lords Hansard Vol 619 Col 937
	House of Commons Hansard Vol 357 Col 481