

POLICE (NORTHERN IRELAND) ACT 2003

EXPLANATORY NOTES

INFORMATION AND INQUIRIES

Part 4: Interpretation

105. *Paragraph 24* defines the meaning of certain terms used in Schedule 2.

Section 32 and Schedule 3: Police powers: amendments

106. *Section 32* gives effect to Schedule 3, which makes amendments consequential on sections 30 and 31.

Section 33: Designations: supplementary

107. This section makes supplementary provisions relating to designations. *Subsection (2)* requires a designated person to produce his designation on request although *subsection (3)* makes it clear that failure to do so does not render performance or exercise of the designated powers invalid. *Subsection (4)* provides the Chief Constable with powers to modify or withdraw a designation at any time. Under *subsection (5)* if the Chief Constable withdraws the designation of a contracted-out individual he must notify the relevant contractor.

Section 34: Complaints and misconduct

108. *Section 34* gives the Secretary of State the power to provide in regulations for the handling of complaints and allegations of misconduct against designated civilians, including contracted-out staff, relating to the exercise of their functions as outlined in Schedule 2 to the Act. The regulations may in particular apply any provisions in Part 7 of the 1998 Act (Police Complaints and Disciplinary Proceedings) with appropriate modifications.

Section 35: Liability for unlawful conduct

109. This section makes provision for the purposes of determining liability for unlawful conduct by a designated civilian in reliance on a designation. In the case of a member of the police support staff, the Chief Constable is to be treated as the employer and accordingly a joint tortfeasor. In the case of contracted-out staff, such conduct is to be treated as conduct in the course of the person's employment by the contractor and so the contractor will be a joint tortfeasor.

Section 36: Notifiable memberships

110. *Section 36* applies section 51 of the 2000 Act, regarding notifiable memberships, to designated police support staff and contracted-out staff. Under this provision designated civilians are required to inform the Chief Constable of membership of an organisation which might reasonably be regarded as affecting their ability to discharge their duties effectively and impartially.

Section 37: Code of ethics

111. **Section 37** gives the Secretary of State the power by Order to extend the application of section 52 of the 2000 Act to apply the Code of ethics issued under that section to designated police support staff and contracted-out staff. The Code has provisions relating to integrity, behaviour and the care of people in detention. These are matters that are directly relevant to the duties that will be undertaken by designated civilians.

Section 38: Assaults on, and obstruction of, designated persons

112. **Section 38** amends section 66 of the 1998 Act which makes it an offence to assault, resist, obstruct or impede a constable in the execution of his duty, or a person assisting a constable in the execution of his duty. The effect of the amendment is that it becomes an offence to do the same to a designated person, or a person assisting a designated person.

Section 39: Impersonation etc. of designated persons

113. **Section 39** amends section 67 of the 1998 Act (which makes it an offence to impersonate a police officer with intent to deceive). The effect of the amendment is that it becomes an offence for a person, with intent to deceive, to impersonate a designated person, to do something designed to suggest falsely that he is a designated person, or to suggest that his powers as a designated person are greater than they actually are.

Section 40: Designated persons: interpretation

114. **Section 40** deals with the interpretation of expressions used in sections 30 to 39, relating to designated persons. In particular it provides for expressions used in these sections, which are also used in the 2000 Act, to have the same meanings as when used in the 2000 Act.