

POLICE (NORTHERN IRELAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Police (Northern Ireland) Act which received Royal Assent on 8 April 2003. 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. So where a section or part of a section does not seem to require any explanation or comment, none is given.
3. A glossary of abbreviations and terms used in these explanatory notes is contained in the annex to the notes.

SUMMARY

4. The purpose of the Act is to implement more fully the recommendations of the Independent Commission on Policing for Northern Ireland, set out in its report “A New Beginning: Policing in Northern Ireland” (also known as the Patten report) which was published in September 1999. The Act’s contents cover commitments made in the updated Implementation Plan for the Patten report, published in August 2001, and matters arising from the 2002 review of policing reform in Northern Ireland. Many of the provisions in the Act amend the Police (Northern Ireland) Act 2000 (c.32) (“the 2000 Act”) which was the main implementing legislation for the recommendations of the Patten report. The Act also makes provision for giving limited police powers to police support staff and contracted-out staff, in line with legislation in England and Wales (the Police Reform Act 2002 (c.30)), in order to make more effective use of these staff.
5. The main provisions of the Act are:
 - to amend the law governing the way in which policing objectives for Northern Ireland are set and taken into account;

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

- to amend the law relating to procedural provisions such as the timing of performance assessments issued by the Board, and the frequency and spacing of meetings of the Board;
- to separate the Board's funding and accounts for pension purposes from its funding and accounts for other police purposes;
- to amend the law relating to the way in which the Chief Constable makes reports to the Board, and the Board holds inquiries;
- to give the Ombudsman power to investigate current police practices and procedures;
- to amend the law on the membership and role of district policing partnerships ("DPPs") and of the Belfast DPP sub-groups;
- to emphasise the importance of the core principle of policing with the community;
- to extend employment protection provisions to police officers who report wrongdoing by their colleagues;
- to provide for a limited exception to the "50:50" recruitment provisions of the 2000 Act to allow for the recruitment of constables with specialist policing skills;
- to amend the law to allow the Chief Constable to make fixed-term secondments to the Police Service of Northern Ireland ("the PSNI");
- to make provision relating to disciplinary arrangements for police officers serving outside the United Kingdom; and
- to allow the Chief Constable to nominate police support staff and the staff of certain contractors to exercise certain police powers.

OVERVIEW

6. The Act has three Parts and four Schedules:

- Part 1 (Policing) and Schedule 1 deal with revised arrangements for consultation by the Secretary of State; the Northern Ireland Policing Board; reports and inquiries; the Police Ombudsman; district policing partnerships; police functions and service; and information and inquiries.
- Part 2 (Police powers) and Schedules 2 and 3 deal with new arrangements for designation of civilians; persons authorised to carry out intimate searches and to take intimate samples; and codes of practice.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

- Part 3 (General) and Schedule 4 deal with orders and regulations under the Act; consequential repeals and revocations; the extent of the Act; and the short title of the Act.

COMMENTARY

PART 1: POLICING

CONSULTATION BY SECRETARY OF STATE

Section 1: Long-term policing objectives

7. This section deals with consultation on the Secretary of State's long term policing objectives. It amends section 24 of the 2000 Act. Prior to the amendment, section 24 required the Secretary of State to consult the Board, the Chief Constable and such other persons as he considered appropriate before determining or revising long term policing objectives for Northern Ireland. The effect of the amendment is that section 24 now obliges the Secretary of State to consult the Board *with a view to obtaining its agreement* to any proposed new or revised policing objectives. In addition, he is required to consult the Ombudsman, the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, and (as previously) the Chief Constable and such other persons as he considers appropriate.

Section 2: Codes of practice

8. This section deals with consultation by the Secretary of State on codes of practice relating to the exercise of functions by the Board or the Chief Constable. It amends section 27 of the 2000 Act. Prior to the amendment, section 27 required the Secretary of State to consult the Board, the Chief Constable and such other persons or bodies as he considered appropriate before publishing or revising a code of practice relating to the exercise of functions by the Board or the Chief Constable. The effect of the amendment is that the Secretary of State must consult the Board *with a view to reaching agreement* on any proposed new or revised code of practice. In addition, he is required to consult the Ombudsman, the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, and (as previously) the Chief Constable and such other persons as he considers appropriate.

THE NORTHERN IRELAND POLICING BOARD

Section 3: Board's policing objectives

9. This section amends section 25 of the 2000 Act. The previous requirement under section 25 was that the Board frame its policing objectives so as to be consistent with the Secretary of State's long term policing objectives for Northern Ireland set under

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

section 24 of the 2000 Act. The effect of the amendment is that, in determining its objectives for the policing of Northern Ireland, the Board must take account of, rather than be consistent with, the Secretary of State's long term objectives under section 24 of the 2000 Act.

Section 4: Public meetings of the Board

10. This section amends Schedule 1 to the 2000 Act. Its effect is that the Board must hold eight public meetings a year, rather than 10 as previously required by paragraph 19(2) of Schedule 1 to the 2000 Act. The section also removes the previous requirement (paragraph 19(3) of Schedule 1 to the 2000 Act) that the meetings of the Board should be held at least 28 days apart.

Section 5: Contracts relating to detention and escort services

11. Section 5 amends the 2000 Act. It enables the Board to enter into a contract for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody. The Chief Constable will then be in a position to designate a suitable person who is an employee of the contractor, as either a detention officer or an escort officer (see notes on section 31 below).

Section 6: Funding for pension purposes

12. This section amends sections 9, 10, 27 and 77 of the 2000 Act. The object of the amendment is to split off funding which relates to the Police Service of Northern Ireland Pension Scheme from other Board funding. This is a necessary first step if the Board is to be required to draw up separate accounts for pension funding and for other police funding (see notes on section 7 below). If separate pension funding accounts are prepared, the requirements of the new accounting standard FRS 17 *Retirement Benefits* (which obliges pension scheme accounts to set out in full the scheme's assets and liabilities) will apply only to the pension funding accounts, and not to the accounts relating to general police funding. The objective is to prevent the detail required by FRS 17 from overshadowing and drawing attention away from the record of the police's core financial performance.

13. *Subsection (2)* amends section 9 of the 2000 Act to provide that separate grants will be made to the Board by the Secretary of State for pension purposes and for all other purposes. *Subsections (8) and (9)* oblige the Board to place the amounts of each grant, plus any other relevant amounts received by it, at the disposal of the Chief Constable.

14. *Subsections (3), (5) to (7) and (10)* make consequential amendments to the 2000 Act. *Subsection (11)* inserts a definition of "pension purposes".

15. *Subsection (12)* provides that the new arrangements will have effect from the financial year 2003/04.

Section 7: Accounts and audit

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

16. This section amends section 12 of the 2000 Act, relating to accounts and audit.

17. The amendments require the Board to draw up separate accounts for each of the amounts placed at the Chief Constable's disposal for pension and non-pension purposes, and for any amount the Board pays into the Police Service of Northern Ireland Fund (provided for in section 28 of the 1998 Act) and into the Police Property Fund (established by the Police (Disposal of Property) Regulations (Northern Ireland) 1974, made under section 2 of the Police (Property) Act 1897).

18. *Subsection (8)* provides that the new arrangements will have effect from the financial year 2003/04.

Section 8: Performance summaries

19. This section amends section 28 of the 2000 Act, to provide the Board with two options for publishing its assessment of the police performance against efficiency targets. Previously, the 2000 Act provided that the Board must publish three documents:

- a policing plan (s.26(1));
- a performance plan (s.28(4)), containing efficiency targets for the year ahead and a retrospective summary of performance against the previous year's targets; and
- an annual report (s.57(1)).

20. *Subsection (2)* amends section 28(5)(c) of the 2000 Act so as to remove the previous requirement that the retrospective summary of performance against targets (to be known as the "performance summary") form part of the performance plan. Instead, *subsection (3)* gives the Board discretion to publish the performance summary with the annual report, or with the performance plan.

21. *Subsections (4)* and *(5)* make consequential amendments. *Subsection (6)* provides that the new arrangements will have effect from the financial year 2003/04.

Section 9: Performance summaries: supplementary

22. This section makes consequential amendments to sections 29 and 31 of the 2000 Act, relating to audit and reporting arrangements, and arising from the amendments set out in section 8. The effect of the amendments is that the arrangements that currently apply to the audit of a performance summary comprised in a performance plan, and to any report on a performance summary, will continue to apply to a performance summary even though it will not necessarily be published with a performance plan. *Subsection (9)* provides that the new arrangements will have effect from the financial year 2003/04.

REPORTS AND INQUIRIES

Section 10: Reports of Chief Constable

23. This section amends section 59 of the 2000 Act, which deals with the Chief Constable's general duty to report to the Board. Prior to the amendment, section 59 required the Chief Constable to submit a report whenever required to do so by the Board. However, where the Chief Constable considered that his report would contain information which ought not to be disclosed on any of the four grounds previously listed in section 59(3)(a) to (d) of the 2000 Act, he could refer the requirement to submit a report to the Secretary of State..

24. *Subsection (2)* amends section 59(3) by deleting the existing list of grounds at section 59(3)(a) to (d). Instead, the amendment provides that the Chief Constable may refer to the Secretary of State a requirement that he submit a report if it seems to him that the required report would contain information which should not be disclosed on any of the grounds listed in the new section 76A(1). The grounds listed at the new section 76A(1) differ from the grounds set out in the previous section 59(3)(a) to (d), and are explained in the notes on section 29 below.

25. *Subsections (3) and (4)* provide that where a requirement to submit a report is referred to the Secretary of State, he may either exempt the Chief Constable from disclosing particular information to the Board, or require him to disclose it to a special purposes committee of the Board. (Section 28 deals with the establishment of such a committee.) *Subsection (4)* also amends section 59 of the 2000 Act so as to allow the Chief Constable, if he believes that a report would contain sensitive information but has not referred the requirement to the Secretary of State, to supply that information to a special purposes committee of the Board, rather than to the full Board. Where he does so, the Chief Constable must identify the information in question as sensitive, and advise the Secretary of State that he has passed it to the committee. He must also produce a summary of the information that, subject to its being agreed by the special purposes committee, may be supplied to the full Board. Alternatively, if the Chief Constable chooses to supply sensitive information to the full Board rather than to a special purposes committee, he must inform the Secretary of State of this, and identify the information in question as sensitive. (Sensitive information means information of a kind set out in the new section 59(4C), as inserted by *subsection (4)*.)

26. *Subsection (5)* makes transitional arrangements. These provide that the new provisions apply to any requirement to submit a report that the Chief Constable refers to the Secretary of State after Royal Assent to the Act. The new provisions also apply to any requirement that the Chief Constable had referred to the Secretary of State before Royal Assent, but in relation to which the Secretary of State had not made a decision by that date..

Section 11: Inquiries by Board

27. This section amends section 60 of the 2000 Act, which deals with the initiation of an inquiry by the Board following a report to it by the Chief Constable. Prior to this

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

amendment, section 60(3) of the 2000 Act provided that, where the Chief Constable considered that an inquiry should not be held on any of the four grounds listed in section 60(3), he could refer the Board's decision to hold an inquiry to the Secretary of State.

28. *Subsection (2)* deletes the list of grounds set out in section 60(3). It provides that instead the Chief Constable may refer the Board's decision to hold an inquiry to the Secretary of State if he considers that an inquiry should not be held on any of the grounds listed in the new section 76A(2).

29. *Subsection (4)* provides that, where the Chief Constable supplies sensitive information to a person conducting an inquiry under section 60, he must identify it as sensitive and must notify the Board and Secretary of State that it has been passed to the person conducting the inquiry. (Sensitive information is defined in the new section 60(10A) of the 2000 Act as inserted by *subsection (4)*).

30. *Subsection (5)* makes transitional arrangements. These provide that the new provisions apply to any decision of the Board to set up an inquiry that the Chief Constable refers to the Secretary of State after Royal Assent to the Act. They also apply to any decision to hold an inquiry that the Chief Constable had referred to the Secretary of State before Royal Assent, but in relation to which the Secretary of State had not made a decision by that date.

Section 12: Approval of proposals relating to inquiries by the Board

31. This section amends paragraph 18 of Schedule 1 to the 2000 Act, which applies to inquiries held under section 60 following a report to the Board by the Chief Constable. Paragraph 18(5) provides that the Board shall not set in motion an inquiry under section 60, or request or appoint a person to conduct such an inquiry, unless a proposal to take this step has been approved by the "required number" of members. The required number of members is detailed in paragraph 18(6), and varies according to the number of members composing the Board. Paragraph 18(1)-(4) sets out the procedure to be followed in calling a meeting at which a proposal to hold an inquiry, or to request or appoint a person to conduct it, is to be discussed and voted on.

32. *Subsection (2)* amends the provision of paragraph 18(3) to provide that at least six days must elapse between the chairman calling a meeting under paragraph 18(2) and that meeting taking place. *Subsection (3)* imposes an additional requirement for Board approval of a proposal to hold an inquiry or to request or appoint a person to conduct an inquiry, namely that the proposal must be approved by *a majority of the members present and voting* as well as by the "required number" of members. *Subsection (4)* reduces the "required number" of members as set out in paragraph 18(6) so that, for example, whereas the previous required number of members was 10 if the Board had 18 or 19 members, the new required number is 8.

33. *Subsection (5)* provides that the new provisions have effect in relation to any Board meeting called under paragraph 18 of Schedule 1 to the 2000 Act on or after the day on which the Act receives the Royal Assent.

THE POLICE OMBUDSMAN

Section 13: Investigations into current police practices and policies

34. Section 51 of the 1998 Act established the Police Ombudsman for Northern Ireland (“the Ombudsman”). Section 13 provides for investigations by the Ombudsman into current police practices and policies by inserting a new section 60A into the 1998 Act. This replaces with modifications the previous provision in section 61A of the 1998 Act (as inserted by section 63 of the 2000 Act), which provided for the Ombudsman to make reports to the Chief Constable and the Board on matters concerning police practices and policies.

35. The new section 60A provides that the Ombudsman may investigate a current practice or policy of the police that has come to his attention if he has reason to believe that such an investigation would be in the public interest (section 60A(1)). Section 60A(2) provides that he may not conduct such an investigation if the practice or policy is concerned with conduct that falls within the jurisdiction of the Investigatory Powers Tribunal, set up by section 65 of the Regulation of Investigatory Powers Act 2000 (c.23).

36. If the Ombudsman decides to conduct an investigation under section 60A, he must immediately inform the Chief Constable, the Board and the Secretary of State of this (section 60A(3)) and of his reasons for this decision. He must provide the Chief Constable and the Board with a copy of his investigation report (section 60A(4)). A copy of the report must also be sent to the Secretary of State if the investigation touches on excepted matters (as defined in section 4 of the Northern Ireland Act 1998 (c.47)) or matters for which the Secretary of State has a statutory responsibility (section 60A(5)).

37. *Subsection (3)* makes a consequential amendment to 63(2A) of the 1998 Act. That subsection, which was inserted into the 1998 Act by section 63(2) of the 2000 Act, provides an exemption from the restriction on disclosure of information in section 63(1) of the 1998 Act. The effect of the exemption is to allow the Ombudsman to disclose information relating to the identity of an individual in a report under section 61A of the 1998 Act where he considers it necessary to do so in the public interest. Subsection (3) amends this provision so as to apply the exemption to the Ombudsman’s report of an investigation under the new section 60A of the 1998 Act.

38. *Subsection (4)* amends section 66 of the 2000 Act which provides that the Chief Constable and the Board shall supply the Ombudsman with such information and documents as he may require for the purpose of exercising his functions. Subsection (4) inserts new subsections (2) to (4) into section 66, which require the Chief Constable, or the Board, if supplying any sensitive information to the Ombudsman, to identify it as such and to notify the Secretary of State that it has been passed to the Ombudsman. (Sensitive information is that of a kind listed in the new section 66(4) of the 2000 Act as inserted by section 13(4).

DISTRICT POLICING PARTNERSHIPS

39. Sections 14 to 19 and Schedule 1 make amendments to those provisions in the 2000 Act regarding district policing partnerships (“DPPs”). Section 14(1) of the 2000 Act requires each district council to establish a DPP, which has the functions set out in section 16 of the 2000 Act. Paragraph 2 of Schedule 3 of that Act provides for DPPs to be composed of members of the council (“political members”) and of independent members.

Section 14: Independent members: appointment

40. This section amends paragraph 4 of Schedule 3 to the 2000 Act. Its effect is that the Board (which appoints independent members from among persons nominated by the district council) shall, so far as practicable, ensure that the independent members of a DPP taken together are representative of the community in the district.

Section 15: Independent members: declaration against terrorism

41. This section amends Schedule 3 to the 2000 Act so as to require applicants for independent membership of a DPP to make a declaration against terrorism before being nominated as independent members by the council. The form of the declaration is that set out in Part 1 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989 (c.3), with the words “if appointed” substituted for “if elected”.

42. *Subsection (4)* amends paragraph 7 of Schedule 3 to the 2000 Act. It provides that acting in breach of the terms of a declaration against terrorism constitutes a further ground on which an independent member may be removed from office by the Board, or by the council with the Board’s consent. *Subsection (5)* sets out how the terms of the Elected Authorities (Northern Ireland) Act 1989 apply to determine whether an independent member has acted in breach of the terms of his declaration against terrorism.

Section 16: Independent members: disqualification

43. This section amends the provisions of paragraph 8 of Schedule 3 to the 2000 Act, which deal with disqualification for membership of DPPs. The previous paragraph 8(2) provided that a person was disqualified from membership of a DPP if he had ever had a sentence of imprisonment passed on him, whether suspended or not. The effect of the amendment at section 16 is that instead a person is disqualified for membership of a DPP for five years following his discharge from a sentence of imprisonment or detention.

44. The new paragraphs 8(4) to (5) provide that the person’s release on licence, or his release following a grant of remission, will be treated as his discharge from a sentence of imprisonment or detention for the purposes of paragraph 8. The exception to this is if the person is subsequently required to return to prison or detention for a further period in respect of that offence. The new paragraphs 8(6) to (8) provide that these

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

disqualification provisions do not apply to people whose sentence has been suspended, unless the sentence is subsequently ordered to take effect.

Section 17: Disqualification following removal from office

45. Paragraph 7(1) of Schedule 3 of the 2000 Act sets out various circumstances in which the Board, or a district council with the Board's approval, may remove a person from office as a member of a DPP (e.g. conviction of a criminal offence; bankruptcy). Section 17 amends paragraph 8 of Schedule 3 to the 2000 Act to provide that someone removed from a DPP under paragraph 7(1) is disqualified from reappointment until the next local general election. This brings the arrangements for DPP membership in line with those already in place for membership of the Board.

Section 18: Council's powers

46. This section inserts two new paragraphs into Schedule 3 to the 2000 Act. The effect is to give district councils power to insure against accidents to a member of a DPP while he is engaged on DPP business, and to indemnify a member of a DPP for liability incurred in relation to DPP business. These provisions will apply retrospectively.

Section 19 and Schedule 1: Belfast

47. Section 19 provides for Schedule 1, which deals with arrangements within Belfast. Section 21 of the 2000 Act required the Belfast DPP to set up a sub-group for each of the police districts within the Belfast City Council area, established under section 20(2) of that Act. Schedule 1 replaces section 21, and makes provisions dealing with the composition and functions of the sub-groups.

48. Section 15 of the 2000 Act provides that, where a council has failed to set up a DPP in accordance with the provisions of section 14 of, or Schedule 3 to, that Act, the Secretary of State may, after consulting the Board, direct the council to take a specified action to remedy this. If the council fails to comply with this direction, the Secretary of State may empower the Board to take over the council's functions insofar as this is necessary to ensure that a DPP is established. *Paragraph 2* of Schedule 1 inserts a new section 15A into the 2000 Act that gives the Secretary of State similar powers in the event of Belfast City Council failing to set up a sub-group for each Belfast police district in accordance with the new provisions set out elsewhere in Schedule 1.

49. *Paragraphs 3 and 4* disapply the requirements of sections 17 and 18 of the 2000 Act (reports by DPPs) to the Belfast DPP. New arrangements relating to the Belfast DPP are set out in the new sections 21B and 21D, inserted by *paragraphs 7 and 9* of Schedule 1. (These are explained in the notes on paragraphs 7 and 9 below.)

50. *Paragraph 5* substitutes a new section 21 into the 2000 Act, replacing the previous section. The new section 21 requires Belfast City Council to establish a sub-group of its DPP for each of the police districts established in accordance with section

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

20(2) of that Act. The new section 21(5) provides that, where the Belfast DPP is satisfied that a sub-group is carrying out its functions satisfactorily in relation to a particular area, the Belfast DPP is not obliged to duplicate these functions in fulfilling its own obligations under section 16 of the 2000 Act.

51. *Paragraph 6* inserts a new section 21A into the 2000 Act, which requires each sub-group of the Belfast DPP to produce an annual report to the Belfast DPP within two months of the end of each financial year. The report is to include an account of any arrangements the sub-group has made for obtaining the views and co-operation of the public (new section 21A(2)). New section 21A(3) requires the sub-group to consult the local district police commander before submitting its report.

52. *Paragraph 7* inserts a new section 21B into the 2000 Act, which deals with the arrangements for the Belfast DPP to provide an annual report to Belfast City Council. This new section replaces, in respect of the Belfast DPP, the existing arrangements in section 17 of the 2000 Act (see also the notes on paragraph 3 above). The provisions of the new section 21B reflect those that apply to other DPPs under section 17 of the 2000 Act. Additionally the new provisions take account of the need for the Belfast DPP to consult its sub-groups and to report on their activities as well as its own by:

- giving it a longer period (four months, compared with three months for other DPPs) within which to produce its annual report (the new section 21B(1)); and
- requiring it to include with its report copies of all the sub-group annual reports produced under the new section 21A (new section 21B(2) – see also notes on paragraph 6 above).

53. *Paragraph 8* inserts a new section 21C into the 2000 Act, which provides that each sub-group shall, if asked by the DPP, provide the DPP with a report on any matter connected with its functions within two months of receiving such a request. Publication of such a report is at the discretion of the DPP (new section 21C(3)), unless the DPP has asked for the report in order to help it respond to a request from the Board under section 21D(1) (see notes on paragraph 9 below).

54. *Paragraph 9* inserts a new section 21D into the 2000 Act, which deals with the arrangements for the Belfast DPP to provide reports, as required, to the Board. This new section replaces, in respect of the Belfast DPP, the existing arrangements in section 18 of the 2000 Act (see also the notes on paragraph 4 above). The provisions of the new section 21D reflect those that apply to other DPPs under section 18 of the 2000 Act. Additionally, as with the new section 21B inserted by paragraph 7, the provisions of the new section 21D take account of the need for the Belfast DPP to consult its sub-groups and to report on their activities as well as its own.

55. Section 22 of the 2000 Act requires each police district commander to produce a local policing plan for the police district and, before doing so, to consult and take account of the views of the DPP for that district. *Paragraph 10* amends section 22 to provide that, in the case of each of the Belfast police districts, the district commander

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

must consult and take account of the views of the sub-group for that police district, as well as those of the Belfast DPP.

56. Paragraphs 3 and 10 of Schedule 1 to the 2000 Act deal with the constitution of the Board, and provide that any member of a DPP is disqualified from holding office as a member of the Board. *Paragraph 11* amends these provisions to provide that members of Belfast DPP sub-groups are also disqualified from Board membership.

57. *Paragraph 12* inserts a new paragraph 17 into Schedule 3 to the 2000 Act, which sets out some modifications to the preceding provisions of that Schedule in respect of the Belfast DPP. These provide that the political members appointed to the Belfast DPP will include each of the chairmen of the sub-groups of the Belfast DPP (new paragraph 17(2)). The council is also required, when nominating people to be considered for independent membership of the Belfast DPP, to identify whether or not they are also interested in being considered for independent membership of a sub-group (new paragraph 17(3)).

58. *Paragraph 13* inserts a new Schedule 3A into the 2000 Act to deal with the arrangements that apply to the Belfast DPP sub-groups. The provisions of this new schedule reflect very closely the existing provisions of Schedule 3 of the 2000 Act, which deals with the arrangements that apply to DPPs. The main provisions are as follows:

- sub-groups of the Belfast DPP are to have 11 members, of whom six are to be political members appointed by the council from among its members and five are to be independent members appointed by the Board (paragraph 2 of Schedule 3A);
- the political members of all of the sub-groups taken together are, so far as practicable, to reflect the balance of the parties on the council (paragraph 3(1) of Schedule 3A);
- Belfast City Council must do all it can to ensure that the chairmanship and vice-chairmanship are held by members of different political parties, that the office of chairman rotates between the four largest parties on the council, and that no political party holds the chairmanship of more than one sub-group at any one time (paragraph 9(2) of Schedule 3A);
- the Belfast DPP is given the power to give directions to the sub-groups as to the regulation of their procedures (paragraph 14(4) of Schedule 3A) and to approve or direct the establishment of committees within the sub-groups (paragraph 17(2) and (8) of Schedule 3A).

59. *Paragraph 16* deals with arrangements for making and altering appointments to the Belfast DPP during the transitional period. (The transitional period is the period from the date on which Schedule 1 to the Act comes into force, to the date of the next following local general election.) Paragraph 16(4) amends paragraph 17 of Schedule 3 to the 2000 Act (inserted by paragraph 12) to allow

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

- Belfast City Council, with the Board’s approval, to remove an existing member of the Belfast DPP if it is necessary or expedient to do so in order to comply with the requirement to include the sub-group chairmen on the DPP (see notes on paragraph 12 above) and
- the Board to draw on existing independent members of the Belfast DPP in appointing independent members to the sub-groups, thereby avoiding those individuals having to go through the full application process for a second time.

POLICE FUNCTIONS AND SERVICE

Section 20: Core policing principles

60. *Subsection (1)* inserts a new section 31A in the 2000 Act setting out what are considered to be core policing principles. It provides that police officers must carry out their functions with the aim of securing the support of the local community, and of co-operating with the local community. They must also be guided by the code of ethics issued by the Board under section 52 of the 2000 Act. This requirement is not new: it currently appears in section 32(4) of the 2000 Act, but as it affects the way the police carry out their other functions, it sits more easily in the new section 31A. *Subsection (4)* makes consequential amendments.

61. *Subsection (2)* amends section 3 of the 2000 Act. It obliges the Board, in carrying out its functions, to monitor the performance of the police in complying with the community policing core principles set out in the new section 31A(1). *Subsection (3)* obliges the Board to include an assessment of the performance of the police in this respect in its annual report. *Subsection (5)* amends section 27 of the 1998 Act, which deals with PSNI members on secondment or “relevant service” to other police services. The effect of the amendment is that a member of the PSNI on relevant service will be treated for the purposes of new section 31A as if he were still a member of the PSNI.

Section 21: Chief Constable’s functions

62. Section 21 deals with the Chief Constable’s functions, and amends section 33 of the 2000 Act. The amended section 33 provides (as previously) that the Chief Constable shall have regard, in carrying out his functions, both to the policing plan and to any code of practice issued under section 27 of the 2000 Act. However, a new provision is inserted (the new section 33(4)) to the effect that the Chief Constable’s duty to have regard to the code of practice applies only so far as consistent with his duty to have regard to the policing plan.

Section 22: Provision of information to Board

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

63. This section inserts a new section 33A into the 2000 Act. The new section places a general obligation on the Chief Constable to supply the Board with whatever information and documents it may require in order to carry out its functions.

64. New section 33A(2), however, exempts the Chief Constable from supplying any information if, in his opinion, its disclosure would be likely to put an individual in danger, or if he considers that it ought not to be disclosed on any of the grounds mentioned in the new section 76A(1) of the 2000 Act (see notes on section 29 below).

65. New section 33A(4) provides that, where the Chief Constable supplies information of a sensitive nature (as defined by the new section 33A(3)), to the Board, he must inform the Secretary of State that the information has been supplied, and notify both the Secretary of State and the Board of its sensitive nature.

Section 23: Appointment of constables with special policing skills

66. Section 36 of the 2000 Act provides that a person may not be appointed to the rank of constable within the PSNI unless he has completed a specified period of service as a police trainee, and complied with any other specified training requirements. Police trainees are recruited under section 39 of the 2000 Act, and are subject to the temporary provisions relating to discrimination in appointments set out in section 46 of that Act.

67. *Subsection (3)* inserts a new section 47A into the 2000 Act. This provides for circumstances in which the Board may, at the request of the Chief Constable, authorise the appointment as constables in the PSNI of persons who have a specified policing skill, but who have not complied with the specified training requirements at section 36 of the 2000 Act. The Board may only give such an authorisation if it is satisfied that there is a need for more persons with a particular skill at constable rank, and that this need cannot be filled through appointing persons who have complied with the training requirements at section 36 (the new section 47A(3)). *Subsection (5)* amends paragraph 17 of Schedule 1 to the 2000 Act to provide that any authorisation made under the new section 47A must be approved unanimously by all Board members present and voting on the proposal.

68. *Subsection (6)* provides that the provisions of section 23 will expire two years after Royal Assent to the Act. *Subsections (7)-(9)* provide that the Secretary of State may, by Order, extend this period to four years with the authorisation of the Board. An authorisation to this effect must be approved unanimously by all members of the Board present and voting on the issue.

Section 24: Fixed-term appointments

69. Section 24 makes provision for fixed term appointments to the PSNI. *Subsection (1)* inserts a new section 36A into the 2000 Act, permitting the Chief Constable to appoint persons to the PSNI for a fixed term of up to three years (new section 36A(1)). The Chief Constable may not appoint anyone under this provision to the rank of constable or to the rank of a senior officer (new section 36A(3)). The

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

Secretary of State is given the power to modify by order the provisions of Northern Ireland policing legislation (the 1998 Act and the 2000 Act) as they apply to people appointed through this route, where he considers appropriate. However, before making such an order, the Secretary of State is obliged to consult the Board and the Police Association. *Subsection (2)* makes a consequential amendment to section 25(6) of the 1998 Act, which relates to regulations as to conditions of service of members of the PSNI.

Section 25: Members of PSNI engaged on other police service

70. Section 25 amends section 27 of the 1998 Act insofar as it deals with members of the PSNI engaged on other police service under section 8 of that Act. The amendment relates to regulations dealing with discipline or appeals, which are made in respect of members of the PSNI who have completed a period of temporary service in accordance with arrangements under section 8 of the 2000 Act. Its effect is that these regulations may permit disciplinary investigations and hearings held in a country outside the United Kingdom to be treated by the PSNI as though they were carried out by the PSNI as part of its own disciplinary procedure.

Section 26: Protected disclosures by police officers

71. The Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) provides for employees to make protected disclosures about misconduct of their colleagues without fear of subsequent discrimination. At present there is an exemption providing that police officers are not covered by this protection. Section 26 inserts a new article 67KA into the Employment Rights (Northern Ireland) Order 1996 which removes this exemption in respect of police officers.

INFORMATION AND INQUIRIES

Section 27: Restriction on disclosure of information

72. This section inserts a new section 74A into the 2000 Act. Section 74A sets out restrictions on the disclosure of information provided by the Chief Constable to the Board, or to the committee constituted by the Board, or to a person appointed under section 60(9) of the 2000 Act to conduct an inquiry. The restrictions apply where the Chief Constable has notified the recipient that the information is of a sensitive nature, as defined in the new section 33A(3), 59(4C) or 60(10A) of the 2000 Act inserted by sections 10, 11 and 22. Subsection (8) of the new section 74A provides that any person disclosing information in contravention of section 74A shall be guilty of an offence and sets out the relevant sanctions.

Section 28: Special committee of the Board

73. This section amends paragraph 24 of Schedule 1 to the 2000 Act to provide for the establishment of a special purposes committee to handle sensitive information supplied to it by the Chief Constable under section 59 of the 2000 Act or by a person conducting an inquiry under section 60 of that Act. The amendment requires the

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

committee to be constituted of 7 members of the Board, including one or both of the chairman or the vice-chairman of the Board and, as far as practicable, that it should be representative of the Board.

Section 29: Disclosure of information and holding of inquiries

74. This section inserts a new section 76A into the 2000 Act. Section 76A(1) sets out the grounds on which information ought not to be disclosed for the purposes of –

- a decision by the Chief Constable under section 33A of the 2000 Act (as inserted by section 22 of the Act), that information ought not to be disclosed by him to the Board;
- a reference by the Chief Constable to the Secretary of State under section 59(3) of the 2000 Act (as amended by section 10 of the Act) of a requirement to submit a report to the Board, where the Chief Constable considers that such a report would contain information which ought not to be disclosed; and
- the obligations imposed by section 66(3) of the 2000 Act (as inserted by section 13(4) of the Act) in relation to information supplied by the Chief Constable or the Board to the Ombudsman for the purposes of an investigation by the Ombudsman under section 60A of the 1998 Act.

75. Section 76A(2) sets out the grounds on which an inquiry ought not to be held for the purposes of a reference by the Chief Constable to the Secretary of State under section 60(3) of the 2000 Act (as amended by section 11 of the Act) of a decision by the Board to cause an inquiry to be held.

76. With two exceptions, the grounds set out in the new section 76A(1) and (2) mirror those previously set out in sections 59(3) and 60(3) of the 2000 Act. The exceptions are:

- The second ground of referral – sections 59(3)(b) and 60(3)(b) of the 2000 Act referred to “information of a sensitive personal nature”. In the new section 76A this ground is altered so as to refer to “sensitive personnel information” (new section 76A(1)) or a “sensitive personnel matter” (new section 76A(2)). (“Personnel information” and “personnel matter” are defined in the new section 76A(3) to (6). These terms cover applicants to, and former members of, the police or other groups (e.g. civilian staff) under the direction and control of the Chief Constable);
- The fourth ground of referral at sections 59(3)(d) and 60(3)(d) of the 2000 Act (where disclosure would affect the prevention or detection of crime, or apprehension or prosecution of offenders) has been dropped.

PART 2: POLICE POWERS

DESIGNATION OF CIVILIANS

Section 30: Police powers for designated police support staff

77. This section enables the Chief Constable to designate suitably skilled and trained civilians as one or more of the following categories of officer: investigating officer; detention officer; and escort officer. The section enables the Chief Constable to confer on such civilians some of the powers and duties otherwise only available to police officers.

78. *Subsection (1)* enables the Chief Constable to designate a person who is a member of the police support staff as an officer of one or more of the following descriptions: investigating officer; detention officer; and escort officer. *Subsection (2)* prevents a designation being made unless the Chief Constable is satisfied that the person is a suitable person for this purpose, is capable of carrying out the functions for the purpose of which he is to be designated, and has been adequately trained. *Subsection (5)* limits the powers that can be conferred on designated persons to any or all of those specified in the relevant parts of Schedule 1. *Subsection (7)* clarifies that a designation does not authorise or require conduct other than as a member of the police support staff and that a designation may contain restrictions and conditions.

79. *Subsections (8)* and *(9)* provide that where a power allows for the use of reasonable force when it is exercised by a constable, a person exercising that power under a designation has the same entitlement to use reasonable force; for example when carrying out a search. *Subsection (10)* provides that where a designation includes the power to force entry to premises, the exercise of this power will be limited to occasions when the designated person is under the direct supervision of a police officer and is accompanied by such an officer: the only exception to this requirement is when the purpose of forcing entry is to save life or limb or to prevent serious damage to property.

Section 31: Police powers for designated contracted-out staff

80. This section enables the Chief Constable, where a contract has been entered into with the private sector for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody, to designate an employee of the contractor as either a detention officer or an escort officer. *Subsection (3)* prevents a designation being made unless the Chief Constable is satisfied that the person is a suitable person for this purpose, is capable of carrying out the functions for the purpose of which he is designated and that he has been adequately trained. The Chief Constable must also satisfy himself that the contractor is a fit and proper person to supervise the carrying out of the functions of the designated officer. *Subsections (6)* and *(7)* limit the powers that can be conferred on such contracted-out staff to any or all of those specified in the relevant parts of Schedule 2. *Subsection (8)* clarifies that a designation does not authorise or require conduct other than as an employee of the contractor and that a designation may contain restrictions and conditions.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

81. *Subsections (9) and (10)* provide that where a power allows for the use of reasonable force when it is exercised by a constable, a person exercising that power under a designation has the same entitlement to use reasonable force; for example when carrying out a search. *Subsections (11) and (12)* set out the duration of the designation. Unless the designation is previously withdrawn, its duration is until such time as is specified in the designation, or until the designated person ceases to be an employee of the contractor, or until the contract between the Board and the contractor expires or is terminated. Designations may be subject to renewal at any time.

Schedule 2: Powers exercisable by designated persons

82. This Schedule relates to the provisions in sections 30 and 31 of the Act, which deal with the exercise of police powers by designated police support staff and contracted-out staff. It sets out in detail the range of powers that can be conferred on designated civilians.

Part 1: Investigating Officers

83. This Part includes a range of powers which may be needed to support the work of civilian investigating officers in specialist areas such as financial and information technology crime. They are mainly linked to entry, search and seizure, and include powers to obtain and exercise search warrants, to seize evidence and to apply to a judge for access to confidential material. Part 1 also covers powers to enter and search premises following arrest. This set of powers is particularly relevant to the work of Scenes of Crime Officers, many of whom are already civilians.

84. *Paragraphs 1 and 2* enable a suitably designated person to apply for and be granted search warrants under section 42 of the Terrorism Act and under Article 10 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (“the 1989 Order”), and to execute warrants and to seize and retain things for which a search has been authorised under Article 10 of the 1989 Order. The power of seizure is extended to computerised information. Both paragraphs provide that the standard safeguards covering the process of applying for a search warrant, the contents of the warrant and the way in which the warrant should be exercised are extended to warrants issued to designated persons. *Paragraph 2* imposes the same obligations on designated persons in relation to providing records of seizure, providing access to or copies of seized material and retaining seized material as apply to constables. It also gives the same protection from seizure to legally privileged material in relation to seizures by designated persons as applies to seizures by constables.

85. *Paragraph 3* enables a suitably designated person to obtain access to confidential material under Article 11 of the 1989 Order by making an application to a county court judge under Schedule 1 to that Order. It extends the power of seizure conferred by paragraph 10 of Schedule 1 to the 1989 Order to a designated person, enabling him to seize and retain any confidential material for which a search has been authorised

under that Schedule. This power of seizure is extended to computerised information. It extends standard protections and obligations under the 1989 Order to material seized by or produced to a designated person under these provisions.

86. *Paragraph 4* enables a suitably designated person to use the powers under Article 20 of the 1989 Order to enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence and to seize and retain items found on such a search. The designated person may conduct such a search before the arrested person is taken to a police station and without obtaining the authority of an inspector if the presence of the arrested person is necessary for the effective investigation of the offence. Standard protections and obligations under the 1989 Order are extended to material seized by a designated person under these provisions. Again, the power of seizure is extended to computerised information.

87. *Paragraph 5* enables a suitably designated person, when lawfully on any premises, to exercise the same general powers to seize things as are available to a constable under Article 21 of the 1989 Order. The designated person may also make use of the power to require, in certain circumstances, the production of electronically stored material in a form in which it can be taken away. Once again, standard protections and obligations under the 1989 Order are applied.

88. *Paragraph 6* enables a suitably designated person, to supervise access to, and copying of, any material seized by a constable, where a person has the right to access or to have a copy of that material under the standard safeguards in the 1989 Order. A suitably designated person is also given power to photograph, or have photographed, anything that he has the power to seize.

89. *Paragraph 7* enables a suitably designated person to arrest a detained person for a further offence if it appears to him that the detained person would be liable to arrest for that further offence if released from his initial arrest. Article 5 of the Criminal Evidence (Northern Ireland) Order 1988 (S.I. 1988/1987 (N.I. 20)) applies where a person is arrested by a designated person to the same extent as it would if the arrest were by a constable.

90. *Paragraph 8* enables a suitably designated person to transfer a detainee to a designated civilian investigating officer. Article 40 of the 1989 Order places on custody officers the duty to ensure that all detainees are treated in accordance with the Order and relevant codes of practice. Article 40(2) of the 1989 Order provides that if a detainee is transferred to the custody of another police officer in accordance with the 1989 Order, then that officer takes on responsibility for compliance with the duty, and the custody officer is relieved from it. *Paragraph 8(4)* provides that when a detainee is transferred to a designated investigating officer, the custody officer's responsibilities are similarly transferred to that designated investigating officer. Article 40(3) – which imposes a duty to report back to a custody officer, when a transferred detainee is returned to him, on compliance with Article 40 and the codes of practice – is also extended to a designated person into whose custody a detainee has been transferred. A designated investigating officer using powers under this paragraph

is regarded as having the detainee in his lawful custody, with a duty to prevent his escape and entitlement to use reasonable force to prevent this.

91. *Paragraph 9* enables a suitably designated person to question an arrested person under Articles 5 and 6 of the Criminal Evidence (Northern Ireland) Order 1988 about facts which may be attributable to the person's participation in an offence, for example, the person's presence at a particular place at a relevant time or the presence of potentially incriminating objects such as a mark. A suitably designated person may also warn the suspect about the capacity of a court to draw inferences from a failure to give a satisfactory account in response to questioning.

92. *Paragraph 10* enables a suitably designated person to use extended powers of seizure and retention available to constables under Part 2 of the Criminal Justice and Police Act 2001 (c.16), where those powers supplement powers conferred on designated persons under other paragraphs of Part 1 of the Schedule. In essence this means that where a designated person has been provided with a specific power of seizure, and the exercise of the power on premises would be difficult or impossible due to the sheer bulk or complexity of the material to be searched through, that material can be moved elsewhere for sifting, subject to a range of detailed safeguards.

Part 2: Detention officers

93. This Part covers powers that may be exercised by detention officers at police stations. Many of the powers are connected with the handling of persons in custody – an area of work in which police support staff are increasingly involved – such as powers to search detained persons, to take fingerprints and certain samples without consent and to take photographs. Providing designated police support staff and contracted-out staff with these and other powers will broaden the scope of the work they can undertake and ensure their work is underpinned by the law.

94. *Paragraph 11* enables a suitably designated detention officer to require persons who have been convicted of a recordable offence, have not been in police detention for the offence and have not had their fingerprints taken in connection with the offence or since the conviction, to attend a police station to have their fingerprints taken. Recordable offences are set out in regulations made under Article 29(4) of the 1989 Order.

95. *Paragraph 12* enables a designated detention officer to carry out non-intimate searches of persons detained at police stations or elsewhere and to seize items found during such searches. Restrictions on the scope of searching and seizure and on the circumstances in which searches can be carried out are applied to designated persons in the same way as to constables.

96. *Paragraph 13* enables a designated detention officer to carry out searches and examinations in order to determine the identity of persons detained at police stations. A designated detention officer may photograph any identifying marks found during such processes.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

97. *Paragraph 14* enables a designated detention officer to take fingerprints without consent in the same circumstances that a constable may under the 1989 Order. He can also discharge the duty under the 1989 Order to inform the person concerned that his fingerprints may be the subject of a speculative search against existing records. *Paragraph 15* gives a designated detention officer limited powers to take fingerprints from a person detained under terrorism provisions.

98. *Paragraph 16* enables a designated detention officer to discharge the duty to inform a person from whom an intimate sample is to be taken that the sample may be the subject of a speculative search against existing records.

99. *Paragraph 17* enables a designated detention officer to take non-intimate samples without consent and to inform the person from whom the sample is to be taken of any necessary authorisation by a senior officer and of the grounds for that authorisation. The designated person may also inform the person concerned that a non-intimate sample may be the subject of a speculative search against existing records. *Paragraph 18* enables the designated officer to take a non-intimate sample from a person detained under terrorism provisions.

100. *Paragraph 19* enables a designated detention officer to require certain defined categories of persons who have been charged with or convicted of recordable offences to attend a police station to have a sample taken.

101. *Paragraph 20* enables a designated detention officer to photograph detained persons in the same way that constables may under the 1989 Order and *paragraph 21* enables the designated detention officer to photograph a person detained under terrorism provisions.

Part 3: Escort Officers

102. This Part covers escort powers. It includes powers enabling designated police support staff and contracted-out staff to transport arrested persons to police stations. It also allows designated civilians to escort detained persons from one police station to another or between police stations and other locations specified by the custody officer.

103. *Paragraph 22* enables a suitably designated person to carry out the duty of taking a person arrested by a constable to a police station as soon as practicable. That must be a designated station (i.e. a main station equipped for holding detainees) unless the person is working in an area not covered by such a station and it appears that it will not be necessary to hold the arrestee for more than six hours. The designated person may delay removal to a police station if the arrestee is required elsewhere for immediate investigative purposes. A designated person using powers under this paragraph is regarded as having the arrestee in lawful custody. He has a duty to prevent the arrestee's escape and is entitled to use reasonable force to prevent this. He also has the power to carry out non-intimate searches of the arrestee and to seize anything found as a result of such a search.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

104. *Paragraph 23* enables a suitably designated person, with the authority of the custody officer, to escort detainees between police stations or between police stations and other specified locations. Once again, a designated person using powers under this paragraph is regarded as having the detainee in lawful custody. He has a duty to prevent escape and is entitled to use reasonable force to prevent this. He is also entitled to carry out non-intimate searches. Where the custody officer transfers a detainee to a designated person under these provisions, the designated person becomes responsible for ensuring that the detainee is treated in accordance with the 1989 Order and codes of practice.

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

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

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.

SEARCHES AND SAMPLES

Section 41: Intimate searches

115. This section amends Article 56 of the 1989 Order (intimate searches) and confers the power to use reasonable force on doctors and nurses carrying out an intimate search, including a drug offence search.

Section 42: Intimate samples

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

116. *Subsection (2)* amends Article 62 of the 1989 Order (intimate samples). Its effect is that a an intimate sample other than a sample of urine or a dental impression (which may only be taken by a registered dentist) may be taken from a person by a registered health care professional as well as by a medical practitioner. *Subsection (3)* gives the definition of a registered health care professional as a registered nurse or a registered member of a health care profession designated by order made by the Secretary of State.

CODES OF PRACTICE

Section 43: Codes of practice

117. Section 43 amends Article 66 of the 1989 Order on codes of practice. Its effect is that the Secretary of State may provide for a code of practice to have effect with the modifications that he sets out in an order. The modifications must be confined to one or more of the following:

- the effect of the code in relation to a period not exceeding two years specified in the order; and
- the effect of the code in relation to offences or descriptions of offenders specified in the order.

PART 3: GENERAL

Section 44: Orders and regulations

118. Section 44 provides for the making of orders and regulations under the Act. *Subsection (3)* provides that the provisions of sections 15, 16 and 19 may not be commenced, nor the period specified in section 23(6) extended, unless an order to this effect is approved by affirmative resolution of both Houses of Parliament. *Subsection (4)* provides that sections 16 and 19 may not be commenced if devolved government in Northern Ireland is in a state of suspension.

Section 45 and Schedule 4: Repeals and revocations

119. Section 45 gives effect to the repeals and revocations, which are set out in Schedule 4.

Section 46: Extent

120. Section 46 provides that the Act extends only to Northern Ireland.

Section 47: Short title

121. Section 47 provides for the Act's short title.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

COMMENCEMENT

122. Sections 15, 16, 19, 26, 41 and 42 are subject to commencement by order. The other provisions of the Act come into force on Royal Assent, subject to specific commencement provisions in individual sections.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

ANNEX TO NOTES

GLOSSARY

*The *Board* is the Policing Board for Northern Ireland.

*A *DPP* is a district policing partnership.

*The *Patten Report* is the report of the Independent Commission on Policing for Northern Ireland, "A New Beginning: Policing in Northern Ireland", published in September 1999.

*The *1998 Act* is the Police (Northern Ireland) Act 1998.

*The *2000 Act* is the Police (Northern Ireland) Act 2000.

* The *Ombudsman* is the Police Ombudsman.

*The *Police Reform Act* is the Police Reform Act 2002.

*The *PSNI* is the Police Service of Northern Ireland.

*The *1989 Order* is the Police and Criminal Evidence (Northern Ireland) Order 1989.

*The *Terrorism Act* is the Terrorism Act 2000.

These notes refer to the Police (Northern Ireland) Act 2003 (c.6) which received Royal Assent on 8 April 2003

HANSARD REFERENCES

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

STAGE	DATE	HANSARD REFERENCE
<i>House of Lords</i>		
Introduction	5 December 2002	Vol 641 Col 1233
Second Reading	16 December 2002	Vol 642 Col 453 - 510
Committee	8 & 9 January 2003	Vol 642 GC 1 – GC 46 GC 47 – GC 80
Report	23 January 2003	Vol 643 Col 846 – 908
Third Reading	30 January 2003	Vol 643 Col 1249 - 1277
<i>House of Commons</i>		
Introduction	30 January 2003	Vol 398 Col 1010
Second Reading	10 February 2003	Vol 399 Col 650 - 739
Committee	25 February 2003 27 February 2003 4 March 2003 6 March 2003 11 March 2003	House of Commons Standing Committee E
Report & Third Reading	26 & 27 March 2003	Vol 402 Col 312 – 420 Vol 402 Col 465 - 555
<i>House of Lords</i>		
Lords Consideration of Commons Amendments	3 April 2003	Vol 646 Col 1430 - 1513
<i>House of Commons</i>		
Commons Consideration of Lords Amendments	7 April 2003	Vol 403 Col 40 - 59

Royal Assent - 8 April 2003

House of Lords Hansard

Vol 647 Col 125

House of Commons Hansard

Vol 403 Col 173