

EXPLANATORY MEMORANDUM TO
THE POLICE AND JUSTICE ACT 2006 (SUPPLEMENTARY AND
TRANSITIONAL PROVISIONS) (AMENDMENT) ORDER 2008

2008 No. 619

THE POLICE AUTHORITY REGULATIONS 2008

2008 No. 630

THE METROPOLITAN POLICE AUTHORITY REGULATIONS 2008

2008 No. 631

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
 - 1.1. This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**
 - 2.1. The Metropolitan Police Authority Regulations 2008 and the Police Authority Regulations 2008 contain provisions on the appointment of members of the Metropolitan Police Authority and police authorities in England and Wales outside of London that generally reiterate the existing provisions in the former Schedules 2, 2A and 3 to the Police Act 1996. However, some changes have been made to allow broader representation on police authorities, greater police authority autonomy in recruitment, and to increase the role of the Mayor of London in the Metropolitan Police Authority.
 - 2.2. The Police and Justice Act 2006 (Supplementary And Transitional Provisions)(Amendment) Order 2008 (and the related the Police and Justice Act 2006 (Commencement No.1, Transitional and Savings Provisions) (Amendment) Order 2008) amend earlier savings provisions to provide that the existing system for police authority appointments will continue to apply to appointments that take effect before 1st October 2008.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1. None.

4. Legislative background

- 4.1. Schedules 2 and 2A to the Police Act 1996, as amended by the Police and Justice Act 2006, provide that the Secretary of State will make regulations governing police authority membership. This is the first time regulations have been made under these schedules.
- 4.2. The Police and Justice Act 2006 (Commencement No.1, Transitional and Savings Provisions) Order 2006 and the Police and Justice Act 2006 (Supplementary and Transitional Provisions) Order 2006 provided that the original provisions of Schedules 2, 2A, 3 and 3A to the Police Act 1996 would apply to all appointments before 3rd July 2008 for the Metropolitan Police Authority and 1st April 2008 for police authorities outside of Greater London. The Police and Justice Act 2006 (Commencement No.1, Transitional and Savings Provisions) (Amendment) Order 2008 and the Police And Justice Act 2006 (Supplementary And Transitional Provisions)(Amendment) Order 2008 amend these earlier savings provisions to provide that the existing system for police authority appointments will now continue to apply to appointments that take effect before 1st October 2008.

5. Extent

- 5.1. These instruments apply to England and Wales

6. European Convention on Human Rights

- 6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1. In May 2004 Kenneth Hamer published his Report on the Review of the Selection and Appointments Process of Independent Members of Police Authorities ([Home Office | Police | Review of the Selection and Appointments Process of Independent Members of Police Authorities](#)). In this report, it was concluded that independent members were not always reflective of their communities, that the recruitment processes were long and cumbersome and that the processes were not complying with Office of the Commissioner for Public Appointments or Cabinet Office best practice guides. Provisions were subsequently in the Police and Justice Act 2006 to enable regulations to be made to implement the Hamer Review.
- 7.2. These Regulations will, in the main, continue the processes put in place by Schedules 2, 2A, 3 and 3A to the Police Act 1996 before they were amended by the Police and Justice Act 2006; the main exceptions are set out in the paragraphs below and aim to implement the Hamer Review recommendations.

- 7.3. First, the Mayor of London will be able to appoint him or herself as one of the elected members of the Metropolitan Police Authority ('the MPA'), and in doing so appoint him or herself as the chair of the MPA. The appointment and role as chair of the authority will end should they cease to be Mayor. Where the Mayor does not appoint him or herself to the authority, then he or she shall appoint the chair of the authority. This will allow the Mayor a greater input into policing strategy, and will therefore allow policing strategy to better align with other devolved strategic powers within London.
- 7.4. Second, for all police authorities there will no longer be a separate category of membership for lay justices, although there will be a requirement that at least one independent member serves as a lay justice in the police authority area. Removing the requirement to have at least three lay justice members will enable greater involvement from the wider community. Requiring lay justices who do wish to be members to go through the same processes as independent members will enable recruitment to be more open and transparent and allow for greater scrutiny of the recruitment process.
- 7.5. In order to allow police authorities greater autonomy, and to make recruitment processes more efficient and effective, the Home Secretary will no longer take an active role in the short listing of candidates, although she will continue to be represented through an appointee on the independent member selection panel. Police authorities will now have three appointees on the selection panel, rather than just one. These changes are directly pursuant to the recommendations of the Hamer Review.
- 7.6. In order to ensure all recruitment processes can be completed in a timely manner, the Chief Executive of the police authority will be required to inform the police authority, where possible, four months before any vacancy arises, and also inform the Home Secretary if it is intended that an independent member will stand for a third term (Secretary of State approval will be required for an independent member to be appointed for a third term).
- 7.7. Previously the Police Authority and Home Secretary appointees appointed another member to the selection panel, who had the same duties as the other appointees. Under the new regulations the intention is that the fifth member will oversee the process to ensure it is open, honest, transparent and fair, and will have to be appointed from a Home Office list of candidates who have demonstrated skills and experience in those areas. Again, this directly follows recommendations of the Hamer Review.
- 7.8. In order to provide an effective process, the new system will apply to appointments that take effect on or after 1st October 2008. The savings provisions identified above are being changed to move from the previous changeover dates of 31st March 2008 and 2nd July 2008. This change in timing was as a result of concerns by police authorities that they would not be ready in time for the new

system and so they have welcomed the additional time. To facilitate the changeover and prevent unnecessary additional recruitment the saving and transitional provisions also provide that existing lay justice members in all police authorities will remain in post until 30th September 2008 even if their term of appointment would have expired sooner and extend the terms of appointment of independent members of the Metropolitan Police Authority whose terms expire between 2nd July and 30th September until 30th September 2008.

- 7.9. As required by the Police Act 1996 consultation has taken place with the Association of Chief Police Officers, the Welsh Assembly Government, Chief Executives of Welsh Local Authorities, The Local Government Association, The Mayor of London's Office, the Greater London Authority, the Metropolitan Police Authority, the Devon and Cornwall Police Authority, The Greater Manchester Police Authority, Thames Valley Police Authority, Dyfed Powys Police Authority, South Wales Police Authority and the Association of Police Authorities. The Home Office has worked closely with the Association of Police Authorities throughout the drafting of these regulations, including monthly Steering Group meetings concerned solely with these regulations.
- 7.10. The formal consultation lasted for one month, and generally the responses were in favour of the instruments, although the Home Secretary was asked to consider some suggested redrafting of the regulations, such as suggestions that all members of the selection panel served the same terms of office, that selection panels would be asked to use best endeavours to nominate two lay justices when there is a lay justice vacancy and that independent members appointed in October 2008 could be appointed for a four and a half year term to synchronise appointments, which were all incorporated into the regulations. The Home Secretary was also asked to consider requiring that every council would be able to appoint councillors and that candidates for councillor members of a police authority should have similar requirements to independent members. However it was considered undesirable to limit the autonomy of elected local representatives in the councillor member appointment process.
- 7.11. Guidance for independent members of police authorities and independent assessors on the authority selection panels will be produced jointly by the Association of Police Authorities.

8. Impact

- 8.1. A Regulatory Impact Assessment has not been carried out as it was concluded this instrument has no impact on business, charities or voluntary bodies, and the impact on public bodies would be less than £50,000 per annum.
- 8.2. An Equality Impact Assessment was carried out, following consultation with parties representing the wider community, and it was concluded that the regulations are likely to enable more representation from the wider community,

and are unlikely to have any negative impact on equality. It was noted, however, that these regulations do not specifically address accountability of Police Forces and police authorities.

9. Contact

- 9.1. Neil King at the Home Office (tele: 020 7035 4858 or email: neil.king12@homeoffice.gsi.gov.uk) can answer any queries regarding this instrument.

THE EQUALITY IMPACT ASSESSMENT REPORT

Background:

These regulations aim to enable a wider range of community members to be involved in Police Authorities. Firstly, by removing the lay justice category of membership, more members will be drawn from the general public, with the aim of increasing the diversity of the authority and the degree to which it reflects the community it serves. Lowering the minimum age of membership from 21 to 18 will allow younger people to take an active role in their Police Authority.

The Regulations introduce an Independent Assessor to Police Authority Selection Panels, who will have responsibility for ensuring that the appointments are made through a fair, open and transparent process, that the appointment is made through merit, that there is equal opportunity for all applicants, and that all applicants are aware of diversity and committed to equality. It is considered that adding this new panel member will further enhance the steps already taken to ensure that all groups in the community have an equal chance to participate in Police Authorities.

Methodology:

A wide range of organisations representing a large number of groups were consulted and invited to make comments on what they thought the effects on equality would be likely to be. These included The National Black Police Association, The Association of Muslim Police, The Gay Police Association, The British Association of Women Police, The National Disabled Police Association, The Stephen Lawrence Charitable Trust, The Christian Evangelical Alliance, The Racist Incidents Helpline Working Group, The Ujima Housing Association and The Turning Point Social Care Organisation.

Comments were asked for under specific areas (faith, race, disability, gender, gender identity, sexual orientation and age) but all responses referred equally to all, so a general response is reflected here.

Comments were not received from every organisation invited to take part. No organisation commented that they thought the regulations would have a negative impact, although it was commented that the regulations in themselves did not seek to increase the accountability of Police Forces and/or Authorities. A number of comments were received stating that it was thought the regulations would have a positive effect on equality.

Assessment & analysis

After consultation with various organisations, it is felt that these regulations are likely to have a positive effect on equality. Where wording insinuated a bias towards racial equality, this wording was changed to ensure all forms of equality were equally recognised. Changes to the accountability of Police Authorities were not an aim of this policy, and therefore this point is not directly addressed, although other work currently underway within the Home Office will consider this issue further.