

EXPLANATORY MEMORANDUM TO
THE CRIME AND DISORDER (OVERVIEW AND SCRUTINY) (AMENDMENT)
REGULATIONS 2010

2010 No. 616

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Crime and Disorder (Overview and Scrutiny) Regulations 2009 (S.I. 2009/942) (“the 2009 Regulations”). Regulation 3(4) of the 2009 Regulations provides for the co-option of employees, officers or members of a responsible authority or of co-operating persons or bodies to serve on a crime and disorder committee. The purpose of these Regulations is to extend those eligible for co-option to a committee to include members of the public and representatives of community and voluntary sector groups. In effect these Regulations enable anyone to be co-opted, but retain the effect of the previous restriction (regulation 3(4)(b)) that a member of the executive of the committee’s local authority (or authorities) cannot be co-opted.

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

3.1 None.

4. Legislative Context

4.1 The 2009 Regulations were made under section 20(3) and (4) of the Police and Justice Act 2006. They complement the provisions in sections 19 and 20 of the 2006 Act which make provision for local authorities to establish committees to scrutinise the functioning of responsible authorities.

4.2 Responsible authorities are defined in section 5 of the Crime and Disorder Act 1998 and comprise:

- the council for an area;
- every chief officer of police and every police authority whose respective police areas are within that area;
- every fire and rescue authority within that area;
- in England, every Primary Care Trust, and in Wales, every Local Health Board in that area;
- every probation authority within that area (from 1st April 2010).

4.3 The responsible authorities form Community Safety Partnerships in England and Wales (previously referred to as Crime and Disorder Reduction Partnerships in England and Community Safety Partnerships in Wales).

4.4 Section 19 of the 2006 Act requires every local authority to have a crime and disorder committee with the power to review, scrutinise, and make reports and recommendations regarding the functioning of responsible authorities. Section 20

gives the Secretary of State power to issue guidance and make regulations concerning the exercise of the committee's functions under section 19. In addition, Schedule 8 to the 2006 Act contains provisions on the exercise of the committee's functions in relation to local authorities not operating executive arrangements under the Local Government Act 2000.

4.5 Sections 19, 20 and Schedule 8 (and amendments to sections 19 and 20 made by the Local Government and Public Involvement in Health Act 2007) came into force in England on 30 April 2009 and in Wales on 1 October 2009.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales. The provisions will come into force on 1st April 2010.

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

What is being done and why

7.1 Sections 5 to 7 of the Crime and Disorder Act 1998 set out the statutory framework for responsible authorities to work with other local agencies and organisations to develop and implement strategies to tackle crime, disorder, anti-social behaviour and other behaviour adversely affecting the environment, misuse of drugs and reoffending in their area. These statutory partnerships are known as Community Safety Partnerships (CSPs) in England and Wales.

7.2 These partnerships are organised in relation to local government boundaries and are sited at unitary authority level in single tier authorities and at district level in two-tier authorities in England (except where two or more district partnerships have formally merged).

7.3 The policy on Crime and Disorder Overview and Scrutiny Committees and Councillor Call for Action (a mechanism whereby councillors have the ability to call for debate and discussion at committee a crime and disorder issue which has caused concern in the local community) was developed following extensive stakeholder consultation during a 2005 review of the partnership provisions in the Crime and Disorder Act 1998. The Government is committed to increasing opportunities for communities to have a voice and a role in community safety, an essential prerequisite for holding to account those who are responsible for tackling crime and disorder in a local area. The review concluded there was no mechanism for 'holding to account' CSPs for the joint delivery of their statutory duties and recommended that the powers of local authority Overview and Scrutiny Committees encompass the work of CSPs. This is the effect of sections 19 and 20 of the 2006 Act. The 2009 Regulations supplement the provisions in section 19 as to the exercise of a committee's functions.

7.4 Regulation 3 of the 2009 Regulations restricts the co-option of additional members to employees, officers or members of a responsible authority or of a co-operating person or body. As set out in the 2009 Policing White Paper, the Government is committed to increasing the public's role in holding agencies to account for how public services and strategies are delivered in their area. The amendments to the 2009 Regulations allow the committees to co-opt members of the public and community groups. These changes should increase public accountability and improve links between the public and community safety partners.

Consolidation

7.5 As these Regulations make only a minor amendment to the 2009 Regulations, and as those Regulations have not previously been amended, the Department is not planning any consolidation.

8. Consultation outcome

8.1 The proposed changes were set out in the December 2009 Policing White Paper, *Protecting the public: supporting the police to succeed*, and have been welcomed by local areas (some of which are keen to be able to co-opt such additional members), Communities and Local Government (CLG), the Local Government Association (LGA), the Centre for Public Scrutiny, and the Welsh Assembly Government, who agree that this is a necessary and positive amendment to make. There were no objections raised to the proposed changes by those consulted.

9. Guidance

9.1 Guidance for the Scrutiny of Crime and Disorder Matters in England produced jointly by the Home Office, Centre for Public Scrutiny and the Local Government Information Unit in May 2009 is available on the Home Office's Crime Reduction website to help local authorities support the implementation of the provisions in sections 19-21 of the Police and Justice Act 2006. An addendum, providing guidance on the co-option of additional members, will be circulated to practitioners through the Home Office Community Safety e-bulletin in March 2010 and will be published on the Home Office crime reduction website alongside the existing guidance. Guidance for the Scrutiny of Crime and Disorder Matters in Wales was published in February 2010 and is available on the Welsh Assembly Government website.

10. Impact

10.1 A full Regulatory Impact Assessment was conducted on the partnerships provisions of the Crime and Disorder Act 1998 prior to the introduction of the Police and Justice Bill in 2006. The Assessment noted that developing more formal accountability for CSPs will have a staff time resource implication, though as 60% of top tier local authorities were already engaged in scrutinising community safety, the costs are already being met to a large degree.

10.2 Further analysis undertaken in December 2008 revealed that 53% of 105 local authorities (including county, district and unitary councils) already had overview and scrutiny committees which consider crime and disorder. The vast majority of

committees considered crime and disorder alongside a range of issues and very few had a committee dedicated to crime and disorder.

10.3 Local areas have expressed their wish to be able to co-opt members of the public and community groups. However, these changes are not prescriptive; therefore local areas which do not wish to co-opt additional members will not be required to do so.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will work alongside CLG and Government Offices for the Regions (who support CSPs to meet their objectives), the LGA and Welsh equivalents, to review the impact of the provisions a year after commencement and as necessary thereafter.

13. Contact

13.1 Varsha Ratna at the Home Office (Tel: 020 7035 6174 or email: varsha.ratna@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.