
STATUTORY INSTRUMENTS

2007 No. 912

**The Policing (Miscellaneous Provisions)
(Northern Ireland) Order 2007**

Introductory

Title and commencement

1.—(1) This Order may be cited as the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007.

(2) The following provisions come into operation on such day or days as the Secretary of State may by order appoint—

- (a) Article 6 (with Schedule 4);
- (b) Article 12;
- (c) Article 13; and
- (d) Schedule 5, except in so far as it relates to paragraphs 2, 6, 7, 10, 13, 15 and 18 of the inserted Schedule 2A to the 2003 Act.

(3) The other provisions of this Order come into operation one month after the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order “the 2003 Act” means the Police (Northern Ireland) Act 2003 (c. 6).

Designation of police support staff

Investigating officers

3. Schedule 1 contains amendments to Part 1 of Schedule 2 to the 2003 Act relating to investigating officers.

Detention officers

4. Schedule 2 contains amendments to Part 2 of Schedule 2 to the 2003 Act relating to detention officers.

Escort officers

5. Schedule 3 contains amendments to Part 3 of Schedule 2 to the 2003 Act relating to escort officers.

Staff custody officers

6.—(1) In section 30 of the 2003 Act (police powers for designated police support staff) in subsection (1) after paragraph (c) add—

“(d) staff custody officer.”.

(2) Schedule 4 contains amendments relating to staff custody officers.

Community support officers

7.—(1) The 2003 Act is amended as set out in paragraphs (2) to (8).

(2) After section 30 insert—

“Community support officers

30A.—(1) The Chief Constable may designate a member of the police support staff as a community support officer.

(2) The Chief Constable may designate a person under this section only if he is satisfied that—

- (a) the person is a suitable person to carry out the functions of a community support officer;
- (b) the person is capable of effectively carrying out those functions; and
- (c) the person has received adequate training in the carrying out of those functions.

(3) A person designated under this section has, by virtue of the designation, the powers and duties set out in Schedule 2A (and references in any statutory provision to the powers and duties conferred or imposed on him by his designation shall be construed accordingly).

(4) A person designated under this section is not authorised or required by virtue of his designation to engage in any conduct otherwise than in the course of his employment as a member of the police support staff.

(5) Where any power conferred on a person by his designation under this section is a power which, if exercised by a police officer, includes or is supplemented by a power to use reasonable force, the designated person has the same entitlement to use reasonable force in exercising that power as a police officer would have if the power were exercised by him.

(6) Where any power conferred on a person by his designation under this section includes power to use force to enter any premises, that power is exercisable by the person only—

- (a) in the company of a police officer and under the supervision of a police officer; or
- (b) for the purpose of saving life or limb or preventing serious damage to property.

(7) A power exercisable by any person in reliance on his designation under this section shall be exercisable only when he is wearing such uniform as may be—

- (a) determined or approved for the purposes of this section by the Chief Constable; and
- (b) identified or described in the designation.

(8) The Secretary of State may by order amend Schedule 2A.”.

(3) In section 33(1) and (4) after “30” insert “, 30A”.

(4) In section 34(1)(a) and (3) after “30” insert “, 30A”.

(5) In section 35(1)(a) and (b) after “30” insert “ or 30A”.

(6) In section 36(1) and (2) after “30” insert “, 30A”.

(7) In section 37(1) and (3) after “30” insert “, 30A”.

- (8) After Schedule 2 insert the Schedule set out in Schedule 5 to this Order.
- (9) In Article 66(8A) and (9)(c) of the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#) after “30” insert “, 30A”.
- (10) In sections 66(3B) and 67(6) of the Police (Northern Ireland) Act 1998 (c. 32) after “30” insert “, 30A”.
- (11) In section 101(5A) and (7A) of the Terrorism Act 2000 (c. 12) after “30” insert “, 30A”.

Recruitment

Recruitment of police trainees

8.—(1) The Police (Northern Ireland) Act 2000 (c. 32) is amended in accordance with paragraphs (2) to (5).

(2) In section 46 (discrimination in appointments) for subsections (1) and (2) substitute—

“(1) Subject to subsection (2), in making appointments under section 39 on any occasion, the Chief Constable shall proceed as set out in subsections (1A) to (1F).

(1A) He shall provisionally appoint from the pool of applicants formed by virtue of section 44(5) an even number of persons of whom—

- (a) one half shall be persons who are treated as Roman Catholic; and
- (b) one half shall be persons who are not so treated.

(1B) Where following the provisional appointment of any person under subsection (1A) it is determined in accordance with regulations under section 44 that the person—

- (a) is physically and mentally fitted for appointment; and
- (b) is not unsuitable for appointment;

the Chief Constable shall confirm the appointment.

(1C) Subsections (1D), (1E) and (1F) apply where following the provisional appointment of any person under subsection (1A) it is determined in accordance with regulations under section 44 that the person—

- (a) is not physically and mentally fitted for appointment; or
- (b) is unsuitable for appointment.

(1D) The provisional appointment of that person (the unsuccessful applicant) shall cease to be of any effect.

(1E) The Chief Constable shall provisionally appoint from the pool of applicants formed by virtue of section 44(5) a person to replace the unsuccessful applicant being a person who—

- (a) is treated as Roman Catholic, where the unsuccessful applicant was so treated; or
- (b) is not so treated, where the unsuccessful applicant was not so treated.

(1F) Subsections (1B) to (1E) apply in relation to a person provisionally appointed under subsection (1E) as they apply in relation to a person provisionally appointed under subsection (1A).

(1G) In subsections (1B) and (1C) references to a person being “physically and mentally fitted for appointment” and “unsuitable for appointment” have such meanings as may be prescribed by regulations under section 41(3).

- (2) The Secretary of State may, after consultation with the Board and the Chief Constable, by order amend any of the preceding subsections in their application to the making of appointments under section 39 on any occasion specified in the order.”.
- (3) In section 46—
- (a) in subsection (3)(a) for “subsection (1) (as originally enacted)” substitute “subsections (1) to (1F)”;
- (b) in subsection (8) for “subsections (1), (4) and (5)” substitute “this section”.
- (4) After section 41(3) (regulations as to police trainees) insert—
- “(3A) Regulations under subsection (3) may make provision as to qualifications and suitability for appointment as a police trainee or police reserve trainee; and such regulations may in particular make provision—
- (a) imposing requirements as to nationality, age, skills, competencies and physical and mental fitness;
- (b) as to the grounds on which a person is ineligible for appointment.”.
- (5) In section 44(5) (formation of pool of qualified applicants) omit “qualified” and for “section 46(1)” substitute “section 46(1A) and (1E)”.
- (6) In each of the following (which provide an exception for acts in compliance with section 46(1) of the Police (Northern Ireland) Act 2000)—
- (a) Article 71A(1) of the [Fair Employment and Treatment \(Northern Ireland\) Order 1998 \(NI 21\)](#);
- (b) Article 40A(1) of the [Race Relations \(Northern Ireland\) Order 1997 \(NI 6\)](#),
- for “section 46(1)” substitute “section 46(1) to (1F)”.

Recruitment of police support staff

- 9.—**(1) The Police (Northern Ireland) Act 2000 ([c. 32](#)) is amended in accordance with paragraphs (2) to (5).
- (2) After section 4(3) (appointment of certain police support staff) insert—
- “(3A) Regulations may make provision as to the suitability for appointment under subsection (3) of persons who are so appointed with a view to their being designated under section 30 or 30A of the Police (Northern Ireland) Act 2003.
- (3B) Before making regulations under subsection (3), the Secretary of State shall consult—
- (a) the Board;
- (b) the Chief Constable;
- (c) the Police Association; and
- (d) any other person or body appearing to him to have an interest in the matter.”.
- (3) In section 46 (discrimination in appointments) for subsections (5) and (6) substitute—
- “(5) Subject to subsection (6), in making appointments to relevant posts in the police support staff under subsection (3) of section 4 on any occasion, the Chief Constable (acting by virtue of subsection (5) of that section) shall proceed as set out in subsections (5A) to (5F).
- (5A) He shall provisionally appoint from the pool of applicants formed by virtue of section 44(6) an even number of persons of whom—
- (a) one half shall be persons who are treated as Roman Catholic; and

(b) one half shall be persons who are not so treated.

(5B) Where following the provisional appointment of any person under subsection (5A) it is determined in accordance with regulations under section 44 that the person—

(a) is physically and mentally fitted for appointment; and

(b) is not unsuitable for appointment;

the Chief Constable shall confirm the appointment.

(5C) Subsections (5D), (5E) and (5F) apply where following the provisional appointment of any person under subsection (5A) it is determined in accordance with regulations under section 44 that the person—

(a) is not physically and mentally fitted for appointment; or

(b) is unsuitable for appointment.

(5D) The provisional appointment of that person (the unsuccessful applicant) shall cease to be of any effect.

(5E) The Chief Constable shall provisionally appoint from the pool of applicants formed by virtue of section 44(6) a person to replace the unsuccessful applicant being a person who—

(a) is treated as Roman Catholic, where the unsuccessful applicant was so treated; or

(b) is not so treated, where the unsuccessful applicant was not so treated.

(5F) Subsections (5B) to (5E) apply in relation to a person provisionally appointed under subsection (5E) as they apply in relation to a person provisionally appointed under subsection (5A).

(6) The Secretary of State may, after consultation with the Board and the Chief Constable, by order amend any of subsections (5) to (5F) in their application to the making of appointments under section 4(3) on any occasion specified in the order.”.

(4) In section 46(7) for “subsection (5) (as originally enacted)” substitute “subsections (5) to (5F)”.

(5) In section 44(6) (formation of pool of qualified applicants) omit “qualified” and for “section 46(5)” substitute “section 46(5A) and (5E)”.

(6) In each of the following (which provide an exception for acts in compliance with section 46(5) of the Police (Northern Ireland) Act 2000)—

(a) Article 71A(2) of the [Fair Employment and Treatment \(Northern Ireland\) Order 1998 \(NI 21\)](#);

(b) Article 40A(2) of the [Race Relations \(Northern Ireland\) Order 1997 \(NI 6\)](#),

for “section 46(5)” substitute “section 46(5) to (5F)”.

Appointment of constables with special policing skills

Appointment of constables with special policing skills

10.—(1) Subsections (1) to (5) of section 23 of the 2003 Act (which, in accordance with subsection (6) of that section, have expired) shall again come into force on the date on which this Article comes into operation.

(2) In subsection (6) of that section for “this Act is passed” substitute “Article 10 of the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 comes into operation”.

*Police Ombudsman: investigation following acquittal***Investigation by Police Ombudsman following acquittal**

11.—(1) After section 86 of the Criminal Justice Act 2003 (c. 44) insert—

“Application of sections 85 and 86 to investigations by the Police Ombudsman

86A.—(1) Sections 85 and 86 apply in relation to an investigation by an officer of the Police Ombudsman for Northern Ireland with the following modifications.

(2) References in sections 85(2) and (3) and 86(1) to an officer shall be read as references to an officer of the Ombudsman.

(3) Section 85(4) has effect as if for the words from “an officer who” to the end there were substituted “the Ombudsman”.

(4) Section 85(5) has effect as if for “An officer” there were substituted “The Ombudsman”.

(4) Section 85(7) does not apply.

(6) Section 86(3) has effect as if for “An officer of the rank of superintendent or above” there were substituted “A senior officer of the Ombudsman”.

(7) Section 86(6) has effect as if for “an officer of the rank of superintendent or above” there were substituted “a senior officer of the Ombudsman”.

(8) References to a senior officer of the Ombudsman are to an officer of the rank of senior investigating officer or above.”.

(2) In section 56 of the Police (Northern Ireland) Act 1998 (c. 32) after subsection (1) insert—

“(1A) Where an investigation is authorised by virtue of section 85 (read with section 86A) of the Criminal Justice Act 2003 (investigation of the commission of certain offences by persons acquitted), the Ombudsman shall appoint an officer of the Ombudsman to conduct the investigation.”.

*Police powers.***Closure of roads, etc.**

12.—(1) If a constable considers it immediately necessary for the preservation of the peace or the maintenance of order, he may—

- (a) wholly or partly close a road;
- (b) divert or otherwise interfere with a road or the use of a road;
- (c) prohibit or restrict the exercise of a right of way;
- (d) prohibit or restrict the use of a waterway.

(2) A person commits an offence if he interferes with—

- (a) works executed in connection with the exercise of the power conferred by paragraph (1); or
- (b) any apparatus, equipment or other thing used in connection with the exercise of that power.

(3) It is a defence for a person charged with an offence under paragraph (2) to prove that he had a reasonable excuse for his interference.

(4) A person guilty of an offence under paragraph (2) shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 6 months,
- (b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) Proceedings for an offence under this Article shall not be instituted without the consent of the Director of Public Prosecutions for Northern Ireland.

(6) In this Article —

“road” has the same meaning as in the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#);

“waterway” has the same meaning as in the [Water \(Northern Ireland\) Order 1999 \(NI 6\)](#).

Police powers to examine documents or records

13.—(1) A constable who performs a lawful search of any premises or person—

(a) may examine any document or record found in order to ascertain whether it contains information relating to the commission or proposed commission of serious crime; and

(b) if necessary or expedient for the purpose of sub-paragraph (a), may remove the document or record to another place and retain it there until the examination is completed.

(2) Paragraph (1) shall not permit a person to examine a document or record if he has reasonable cause to believe that it is an item subject to legal privilege.

(3) Where the document or record examined under paragraph (1)(a) is stored in any electronic form, the constable may require it to be produced in a form in which it can be removed under paragraph (1)(b) and in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(4) Subject to paragraphs (5) and (6), a document or record may not be retained by virtue of paragraph (1)(b) for more than 48 hours.

(5) A police officer who is of at least the rank of chief inspector may authorise a constable to retain a document or record for a further period or periods.

(6) Paragraph (5) does not permit the retention of a document or record after the end of the period of 96 hours beginning with the time when it was removed for examination under paragraph (1)(b).

(7) Where a document or record is examined under this Article—

(a) it shall not be photographed or copied, and

(b) the person who examines it shall make a written record of the examination as soon as is reasonably practicable.

(8) The record shall—

(a) describe the document or record,

(b) specify the object of the examination,

(c) state the address of the premises where the document or record was found,

(d) where the document or record was found in the course of a search of a person, state the person’s name,

(e) where the document or record was found in the course of a search of any premises, state the name of a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found,

(f) where the document or record is removed for examination from the place where it was found, state the date and time when it was removed;

(g) where the document or record was examined at the place where it was found, state the date and time of examination; and

- (h) identify the constable by whom the examination was carried out by reference to his police number.
- (9) Where a person makes a record of an examination in accordance with this Article, he shall as soon as is reasonably practicable supply a copy—
 - (a) in a case where the document or record was found in the course of a search of a person, to that person, and
 - (b) in a case where the document or record was found in the course of a search of any premises, to a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found.
- (10) In this Article—
 - “item subject to legal privilege” and “premises” have the same meanings as in the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#);
 - “serious crime” has the meaning given by section 85(2) and (3) of the Regulation of Investigatory Powers Act 2000 (c. 23);
 - “document or record” includes a document or record stored in any electronic form.

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