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STATUTORY INSTRUMENTS

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**2005 No. 2241**

**POLICE**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Working Time Regulations 1998 (Amendment) Order 2005**

*Made* - - - - *8th August 2005*  
*Laid before Parliament* *11th August 2005*  
*Coming into force* - - *1st September 2005*

The Secretary of State, in exercise of the powers conferred upon him by section 173 of the Serious Organised Crime and Police Act 2005(1), and after consulting the Scottish Ministers in accordance with section 173(4), hereby makes the following Order:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Working Time Regulations 1998 (Amendment) Order 2005 and shall come into force on 1<sup>st</sup> September 2005.

(2) This Order extends to Great Britain only.

**Amendment of the Working Time Regulations 1998**

2.—(1) Regulation 41 of the Working Time Regulations 1998(2) shall be amended as follows.

(2) After paragraph (3) there shall be inserted—

“(4) For the purposes of these Regulations the relevant officer, as defined by paragraph (3), shall be treated as a corporation sole.

(5) Where, in a case in which the relevant officer, as so defined, is guilty of an offence under these Regulations, it is proved—

- (a) that the office-holder personally consented to the commission of the offence;
  - (b) that he personally connived in its commission; or
  - (c) that the commission of the offence was attributable to personal neglect on his part,
- the office-holder (as well as the corporation sole) shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

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(1) 2005 c. 15.

(2) S.I. 1998/1833; to which there have been amendments not relevant to the subject matter of this Order.

(6) In paragraph (5) above “the office-holder”, in relation to the relevant officer, means an individual who, at the time of the consent, connivance or neglect—

- (a) held the office or other position mentioned in paragraph (3) above as the office or position of that officer; or
- (b) was for the time being responsible for exercising and performing the powers and duties of that office or position.

(7) In the application of this regulation to Scotland—

- (a) paragraph (4) shall have effect as if for the words “corporation sole” there were substituted “distinct juristic person (that is to say, as a juristic person distinct from the individual who for the time being is the office-holder)”;
- (b) paragraph (5) shall have effect as if for the words “corporation sole” there were substituted “juristic person”; and
- (c) paragraph (6) shall have effect as if for the words “paragraph (5)” there were substituted “paragraphs (4) and (5).”

**Transitional provision**

**3.** No person shall be liable by virtue of regulation 41(5) of the Working Time Regulations 1998 in respect of anything occurring before the coming into force of these Regulations.

Home Office  
8th August 2005

*Hazel Blears*  
Minister of State

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the application of the Working Time Regulations 1998 to the police in consequence of the coming into force of section 158 of the Serious Organised Crime and Police Act 2005 (“the 2005 Act”).

Section 158 of the 2005 Act provides that in respect of breaches of health and safety and employment rights legislation a chief officer shall be treated as a corporation sole (a distinct juristic person in Scotland). Where there is personal consent, connivance or neglect on the part of the chief officer they may be prosecuted in a personal capacity. Section 158 came into force upon Royal Assent.

This Order makes equivalent changes to the Working Time Regulations 1998.