

# Police (Northern Ireland) Bill [HL]

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[AS AMENDED IN STANDING COMMITTEE E]

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# B I L L

[AS AMENDED IN STANDING COMMITTEE E]

TO

Make provision about policing in Northern Ireland and the exercise of police powers in Northern Ireland by persons who are not police officers; and to amend the Police and Criminal Evidence (Northern Ireland) Order 1989.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART 1

### POLICING

#### *The Northern Ireland Policing Board*

#### **1 Consultation with Board**

- |      |  |    |
|------|--|----|
| (1)  | In section 24 of the Police (Northern Ireland) Act 2000 (c. 32) (Secretary of State’s long term policing objectives) for subsection (2) substitute—  | 5  |
|      | “(2) Before determining or revising any objectives under this section, the Secretary of State shall consult the Board with a view to obtaining its agreement to the proposed objectives or revision. |    |
| (2A) | Before determining or revising any objectives under this section, the Secretary of State shall also consult—   | 10 |
|      | (a) the Chief Constable; and   |    |
|      | (b) such other persons as the Secretary of State considers appropriate.”   |    |
| (2)  | In section 27 of that Act (codes of practice on exercise of functions) for subsection (2) substitute—  | 15 |

- “(2) Before issuing or revising a code of practice under this section, the Secretary of State shall consult the Board with a view to obtaining its agreement to the proposed code of practice or revision.
- (2A) Before issuing or revising a code of practice under this section, the Secretary of State shall also consult – 5
- (a) the Chief Constable; and
  - (b) such other persons as the Secretary of State considers appropriate.”
- 2 Board’s policing objectives**
- (1) Section 25 of the Police (Northern Ireland) Act 2000 (c. 32) (Board’s policing objectives) is amended as follows. 10
  - (2) In subsection (2) omit the words from “but” to the end.
  - (3) In subsection (3) before paragraph (a) insert –  
“(aa) take account of any objectives under section 24;”.
- 3 Public meetings of the Board** 15
- (1) In paragraph 19(2) of Schedule 1 to the Police (Northern Ireland) Act 2000 (public meetings of the Board) for “ten” substitute “eight”.
  - (2) Paragraph 19(3) of Schedule 1 to that Act shall cease to have effect.
  - (3) Subsection (1) has effect in relation to years ending on or after the day on which this Act is passed. 20
- 4 Contracts relating to detention and escort services**
- After section 5 of the Police (Northern Ireland) Act 2000 insert –
- “5A Contracts relating to detention and escort services**
- (1) The Board may enter into a contract with another person for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody. 25
  - (2) The powers of the Board under this section shall be exercised, on behalf of and in the name of the Board, by the Chief Constable.
  - (3) The power conferred by this section is subject to any regulations under section 40 of the 1998 Act.” 30
- 5 Funding for pension purposes**
- (1) The Police (Northern Ireland) Act 2000 is amended as set out in subsections (2) to (11).
  - (2) In section 9(1) (grants to the Board) for “a grant for police purposes” substitute – 35  
“\_
  - (a) a grant for pension purposes;

- (b) a grant for other police purposes.”
- (3) In section 9(2) for “A grant” substitute “Grants”.
- (4) In section 10 (funding for police purposes: ancillary provisions) for subsection (1) substitute—
- “(1) The Board shall prepare and submit to the Secretary of State, at such times and in such form as the Secretary of State may direct—
- (a) estimates of the receipts and payments of the Board for pension purposes during such period as may be specified in the direction;
- (b) estimates of the receipts and payments of the Board for other police purposes during such period as may be specified in the direction.
- (1A) The Board shall submit to the Secretary of State such other information relating to the estimates submitted under subsection (1) as he may require.”
- (5) In section 10(2)—
- (a) for “A draft” substitute “Drafts”;
- (b) after “payments for” insert “pension purposes and other”.
- (6) In section 10(3)(a) for “draft” substitute “drafts”.
- (7) In section 10(4) after “police purposes” insert “other than pension purposes”.
- (8) In section 10 after subsection (4) insert—
- “(4A) The Board shall in each financial year put at the disposal of the Chief Constable for pension purposes—
- (a) an amount equal to the amount of the grant for pension purposes received in that year by the Board under section 9(1)(a);
- (b) any amount received by the Board in that year which is required to be applied for pension purposes by directions under subsection (4) or by any other statutory provision.”
- (9) In section 10 for subsection (5) substitute—
- “(5) The Board shall in each financial year put at the disposal of the Chief Constable for other police purposes—
- (a) an amount equal to the amount of the grant for other police purposes received in that year by the Board under section 9(1)(b);
- (b) any amount received by the Board in that year which is required to be applied for other police purposes by subsection (4) or directions under that subsection or by any other statutory provision.”
- (10) In section 27(1)(b) (codes of practice on exercise of functions by Chief Constable) for “section 10(5)” substitute “section 10(4A) or (5)”.
- (11) In section 77(1) (interpretation) after the definition of “the Ombudsman” insert—

““pension purposes” means the purposes of the pension scheme established by regulations under section 25 of the Police (Northern Ireland) Act 1998;”.

- (12) Subsections (1) to (11) have effect in relation to financial years ending on or after 31st March 2004. 5

## 6 Accounts and audit

- (1) Section 12 of the Police (Northern Ireland) Act 2000 (c. 32) (accounts and audit) is amended as set out in subsections (2) to (7).
- (2) In subsection (1) for “all amounts put at the Chief Constable’s disposal under section 10(5)” substitute “each of the amounts specified in subsection (1A)”. 10
- (3) After subsection (1) insert—
- “(1A) The amounts are—
- (a) the amounts put at the Chief Constable’s disposal under section 10(4A);
  - (b) any amount received by the Board and paid into the Police Fund in accordance with regulations under section 28(1) of the Police (Northern Ireland) Act 1998; 15
  - (c) any amount received by the Board and paid into the Police Property Fund in accordance with regulations under section 31(4) of that Act; 20
  - (d) the other amounts put at the Chief Constable’s disposal under section 10(5) of this Act.”
- (4) In subsection (3) for “The statement of accounts” substitute “Each statement of accounts required under subsection (1)”.
- (5) In subsection (4) for “the statement” substitute “each statement” and for “they” substitute “the accounts”. 25
- (6) In subsection (5) for “the statement” substitute “each statement”.
- (7) In subsection (6)(b) for “the statement” substitute “each statement” and after “his report” insert “on it”.
- (8) Subsections (1) to (7) have effect in relation to financial years ending on or after 31st March 2004. 30

## 7 Performance summaries

- (1) Section 28 of the Police (Northern Ireland) Act 2000 (arrangements relating to economy, efficiency and effectiveness) is amended as set out in subsections (2) to (5). 35
- (2) In subsection (5) omit paragraph (c) and the word “and” immediately preceding it.
- (3) After subsection (5) insert—
- “(5A) The Board shall prepare and publish for each financial year a summary (its “performance summary”) of the Board’s assessment of— 40
- (a) its and the Chief Constable’s performance in the year measured by reference to performance indicators;

- (b) the extent to which any performance standard which applied at any time during that year was met.
  - (5B) The performance summary for a financial year may be published –
    - (a) with a report issued under section 57(1) for the year, or
    - (b) with the performance plan for the following year.” 5
  - (4) In subsection (6) after “performance plan” insert “or publishing its performance summary”.
  - (5) In subsection (7) at the end insert –  
“; and  
“performance summary” means a summary prepared by the Board under subsection (5A)” 10
  - (6) Subsections (1) to (5) have effect in relation to financial years ending on or after 31st March 2004.
- 8 Performance summaries: supplementary**
- (1) Part 5 of the Police (Northern Ireland) Act 2000 (c. 32) (economy, efficiency and effectiveness) is amended as set out in subsections (2) to (8). 15
  - (2) In section 29 (audit of performance plans) in subsection (1) after “performance plan” insert “and a performance summary”.
  - (3) In section 29(2) after “performance plan” insert “or a performance summary” and after “the plan” insert “or summary”. 20
  - (4) In section 29 after subsection (4) insert –  
“(4A) In relation to a performance summary, the Comptroller and Auditor General shall issue a report –
    - (a) certifying that he has audited the summary;
    - (b) stating whether he believes that it was prepared and published in accordance with the requirements of section 28; 25
    - (c) if appropriate, recommending how it should be amended so as to accord with the requirements of section 28;
    - (d) recommending whether the Secretary of State should give a direction under section 31(2)(a).” 30
  - (5) In section 29(6) after “performance plan” insert “or a performance summary”.
  - (6) In section 29(7) after “subsection (4)” insert “or paragraph (c) or (d) of subsection (4A)”.
  - (7) In section 31 (enforcement of duties under section 28) in subsection (1) after “section 29(4)” insert “or (4A)”. 35
  - (8) In section 31 for subsection (3) substitute –  
“(3) The Secretary of State shall have regard to any relevant statement before –
    - (a) giving a direction under subsection (2)(a) or (b) following a recommendation contained in a report by virtue of section 29(4)(c), (d) or (e); 40

- (b) giving a direction under subsection (2)(a) following a recommendation contained in a report by virtue of section 29(4A)(c) or (d).
- (4) A relevant statement is a statement submitted to the Secretary of State under section 29(10) before the end of the period mentioned in section 29(8).” 5
- (9) Subsections (1) to (8) have effect in relation to financial years ending on or after 31st March 2004.

*Reports and inquiries*

- 9 Reports of Chief Constable** 10
- (1) Section 59 of the Police (Northern Ireland) Act 2000 (c. 32) (general duty of Chief Constable to report to Board) is amended as set out in subsections (2) to (4).
- (2) For subsection (3) substitute –
- “(3) The Chief Constable may refer to the Secretary of State a requirement to submit a report under subsection (1) if it appears to the Chief Constable that a report in compliance with the requirement would contain information which ought not to be disclosed on any of the grounds mentioned in section 76A(1).” 15
- (3) In subsection (4) for the words from “in order to” to the end substitute “for either or both of the purposes mentioned in subsection (4A).” 20
- (4) After subsection (4) insert –
- “(4A) The purposes are –
- (a) exempting the Chief Constable from the obligation to report to the Board information which, in the opinion of the Secretary of State, ought not to be disclosed on any of the grounds mentioned in section 76A(1); 25
- (b) imposing on the Chief Constable an obligation to supply any such information to the committee constituted by the Board under paragraph 24(1A) of Schedule 1. 30
- (4B) Subsection (4D) applies if –
- (a) a requirement to submit a report has been made under subsection (1);
- (b) the Chief Constable has not referred the requirement to the Secretary of State under subsection (3); 35
- (c) the Chief Constable is of the opinion that a report in compliance with the requirement would include information of a kind mentioned in paragraph (a) or (b) of subsection (4C).
- (4C) The information is –
- (a) information the disclosure of which would be likely to put an individual in danger, or 40



- (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1).
- (4D) The Chief Constable may, instead of including the information in the report to the Board, supply it to the committee constituted by the Board under paragraph 24(1A) of Schedule 1. 5
- (4E) If the Chief Constable supplies information to the committee under subsection (4D) he shall include a summary of it in the report to the Board.
- (4F) In preparing a summary under subsection (4E) the Chief Constable shall take into account the views of the committee. 10
- (4G) Subsection (4H) applies if—
- (a) the Chief Constable supplies information to the committee under subsection (4D), or
  - (b) the Chief Constable includes information in a report to the Board and is of the opinion that the information is information of a kind mentioned in paragraph (a) or (b) of subsection (4C). 15
- (4H) The Chief Constable must—
- (a) inform the Secretary of State that the information has been included in a report to the Board or supplied to the committee;
  - (b) inform the Secretary of State and the recipient of the information that, in his opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (4C).” 20
- (5) Subsections (1) to (4) have effect in relation to a requirement to submit a report under section 59(1) of the Police (Northern Ireland) Act 2000 (c. 32) if—
- (a) the Chief Constable has not referred the requirement to the Secretary of State under section 59(3) of that Act before the day on which this Act is passed; 25
  - (b) the Chief Constable has referred the requirement to the Secretary of State under section 59(3) of that Act before that day but the Secretary of State has not before that day decided whether to modify or set aside the requirement under section 59(4) of that Act. 30

## 10 Inquiries by Board

- (1) Section 60 of the Police (Northern Ireland) Act 2000 (inquiry by Board following report by Chief Constable) is amended as set out in subsections (2) to (4). 35
- (2) For subsection (3) substitute—
- “(3) The Chief Constable may refer to the Secretary of State the decision of the Board to cause an inquiry to be held under this section if it appears to the Chief Constable that such an inquiry ought not to be held on any of the grounds mentioned in section 76A(2).” 40
- (3) In subsection (5) for “should not be held on a ground mentioned in subsection (3)” substitute “ought not to be held on any of the grounds mentioned in section 76A(2)”.
- (4) After subsection (10) insert—

- 
- “(10A) Subsection (10B) applies if the Chief Constable supplies to a person conducting an inquiry under this section any information which in the opinion of the Chief Constable is –
- (a) information the disclosure of which would be likely to put an individual in danger, or 5
  - (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1).
- (10B) The Chief Constable must –
- (a) inform the Secretary of State and the Board that the information has been supplied to the person conducting the inquiry; 10
  - (b) inform the Secretary of State, the Board and the person conducting the inquiry that, in his opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (10A).”
- (5) Subsections (1) to (4) have effect in relation to a decision of the Board to cause an inquiry to be held under section 60 of the Police (Northern Ireland) Act 2000 (c. 32) if – 15
- (a) the Chief Constable has not referred the decision to the Secretary of State under section 60(3) of that Act before the day on which this Act is passed; 20
  - (b) the Chief Constable has referred the decision to the Secretary of State under section 60(3) of that Act before that day but the Secretary of State has not before that day decided whether to overrule the decision under section 60(4) of that Act.
- 11 Approval of proposals relating to inquiries by Board 25**
- (1) Paragraph 18 of Schedule 1 to the Police (Northern Ireland) Act 2000 (procedure for decisions of Board relating to inquiries under section 60) is amended as set out in subsections (2) to (4).
- (2) In sub-paragraph (3) for “that day” substitute “the day on which the chairman calls the meeting”. 30
- (3) In sub-paragraph (5) after “by” insert –
- “ –
- (a) a majority of members of the Board present and voting on the proposal, and
  - (b) ”. 35
- (4) In sub-paragraph (6) –
- (a) for “10” substitute “8”;
  - (b) for “9” substitute “7”;
  - (c) for “8” substitute “6”.
- (5) Subsections (1) to (4) have effect in relation to meetings under paragraph 18 of Schedule 1 to the Police (Northern Ireland) Act 2000 called on or after the day on which this Act is passed. 40

*The Police Ombudsman*

**12 Investigations into current police practices and policies**

- (1) After section 60 of the Police (Northern Ireland) Act 1998 (c. 32) insert –

**“60A Investigations into current police practices and policies**

- (1) The Ombudsman may investigate a current practice or policy of the police if – 5
- (a) the practice or policy comes to his attention under this Part, and
  - (b) he has reason to believe that it would be in the public interest to investigate the practice or policy.
- (2) But subsection (1) does not authorise the Ombudsman to investigate a practice or policy to the extent that the practice or policy is concerned with conduct of a kind mentioned in section 65(5) of the Regulation of Investigatory Powers Act 2000 (conduct which may be within jurisdiction of tribunal established under section 65 of that Act). 10
- (3) If the Ombudsman decides to conduct an investigation under this section he shall immediately inform the Chief Constable, the Board and the Secretary of State of – 15
- (a) his decision to conduct the investigation,
  - (b) his reasons for making that decision, and
  - (c) the practice or policy into which the investigation is to be conducted. 20
- (4) When an investigation under this section has been completed the Ombudsman shall report on it to the Chief Constable and the Board.
- (5) The Ombudsman shall send a copy of his report to the Secretary of State, if the investigation relates wholly or in part to – 25
- (a) a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision, or
  - (b) an excepted matter (within the meaning given by section 4 of the Northern Ireland Act 1998).”
- (2) Section 61A of the Police (Northern Ireland) Act 1998 shall cease to have effect. 30
- (3) In section 63(2A) of the Police (Northern Ireland) Act 1998 for “report under section 61A” substitute “report of an investigation under section 60A”.
- (4) In section 66 of the Police (Northern Ireland) Act 2000 (c. 32) at the beginning insert “(1)” and at the end insert –
- “(2) Subsection (3) applies if – 35
- (a) the Chief Constable or the Board supplies information, or information contained in a document, to the Ombudsman under subsection (1) for the purposes of or in connection with an investigation under section 60A of the 1998 Act;
  - (b) the person supplying the information is of the opinion that it is information of a kind mentioned in paragraph (a) or (b) of subsection (4). 40
- (3) The person supplying the information must –

- (a) inform the Secretary of State that the information has been supplied to the Ombudsman;
  - (b) inform the Secretary of State and the Ombudsman that, in his or its opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (4). 5
- (4) The information referred to in subsections (2) and (3) is—
- (a) information the disclosure of which would be likely to put an individual in danger;
  - (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1).” 10

*District policing partnerships*

**13 Independent members**

In paragraph 4 of Schedule 3 to the Police (Northern Ireland) Act 2000 (c. 32) (appointment of independent members of district policing partnerships) after sub-paragraph (1) insert— 15

“(1A) In appointing independent members of a DPP the Board shall so far as practicable secure that the members of the DPP (taken together) are representative of the community in the district.”

**14 Disqualification**

In paragraph 8 of Schedule 3 to the Police (Northern Ireland) Act 2000 (disqualification for membership of a district policing partnership), after sub-paragraph (1) insert— 20

“(1A) A person removed from office under paragraph 7(1) is disqualified for membership of a DPP until the date of the next local general election following his removal.” 25

**15 Council’s powers**

Schedule 3 to the Police (Northern Ireland) Act 2000 (district policing partnerships) shall be deemed to have been enacted with the following paragraphs inserted after paragraph 10—

*“Indemnities”* 30

10A The council may indemnify a member of a DPP in respect of liability incurred by him in connection with the business of the DPP.

*Insurance against accidents*

10B (1) The council may insure against risks of a member of the DPP meeting with a personal accident, whether fatal or not, while he is engaged on the business of the DPP. 35

(2) Sub-paragraph (3) applies if the council receives a sum under any such insurance in respect of an accident to a member of the DPP.

- (3) The council shall pay the sum to the member or his personal representatives, after deducting any expenses incurred in its recovery.
- (4) The provisions of the Life Assurance Act 1774 as extended by the Life Insurance (Ireland) Act 1866 do not apply to any insurance under this paragraph.”

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*Police functions and service*

**16 Core policing principles**

- (1) In Part 6 of the Police (Northern Ireland) Act 2000 (c. 32) (the police) at the beginning insert –

10

*“Core policing principles*

**31A Core policing principles**

- (1) Police officers shall carry out their functions with the aim –
  - (a) of securing the support of the local community, and
  - (b) of acting in co-operation with the local community.
- (2) In carrying out their functions, police officers shall be guided by the code of ethics under section 52.”
- (2) In section 3 of that Act (general functions of Board), in subsection (3)(b) before sub-paragraph (i) insert –

“(ia) complying with section 31A(1);”.
- (3) In section 57 of that Act (annual reports by Board), in subsection (2)(a) before sub-paragraph (i) insert –

“(ia) complying with section 31A(1);”.
- (4) In section 32 of that Act (general functions of the police) subsections (4) and (5) shall cease to have effect.
- (5) In section 27 of the Police (Northern Ireland) Act 1998 (c. 32) (members of the Police Service of Northern Ireland engaged on other police service), in subsection (7)(b) for “section 32” substitute “sections 31A and 32”.

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**17 Chief Constable’s functions**

In section 33 of the Police (Northern Ireland) Act 2000 (general functions of Chief Constable) for subsection (2) substitute –

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- “(2) The Chief Constable shall have regard to the policing plan in discharging his functions.
- (3) The Chief Constable shall have regard to any code of practice under section 27 in discharging his functions.
- (4) The duty under subsection (3) applies only so far as consistent with the duty under subsection (2).”

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**18 Provision of information to Board**

After section 33 of the Police (Northern Ireland) Act 2000 (c. 32) insert –

**“33A Provision of information to Board**

- (1) The Chief Constable shall supply the Board with such information as the Board may require for the purposes of, or in connection with, the exercise of any of its functions. 5
- (2) Subsection (1) does not require the Chief Constable to supply any information to the Board if it appears to the Chief Constable that the information ought not to be disclosed on any of the grounds mentioned in section 76A(1). 10
- (3) Subsection (4) applies if the Chief Constable is of the opinion that information which he would otherwise be required to supply to the Board under subsection (1) is information the disclosure of which would be likely to put an individual in danger.
- (4) The Chief Constable may, instead of supplying the information to the Board, supply it to the committee constituted by the Board under paragraph 24(1A) of Schedule 1. 15
- (5) Subsection (6) applies if the Chief Constable supplies the Board or the committee with information which in his opinion is –
  - (a) information the disclosure of which would be likely to put an individual in danger, or 20
  - (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1).
- (6) The Chief Constable must –
  - (a) inform the Secretary of State that the information has been supplied to the Board or the committee; 25
  - (b) inform the Secretary of State and the recipient of the information that, in his opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (5).”

**19 Fixed-term appointments**

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- (1) After section 36 of the Police (Northern Ireland) Act 2000 insert –

**“36A Fixed-term appointments to the Police Service of Northern Ireland**

- (1) The Chief Constable may appoint a person to the Police Service of Northern Ireland for a fixed term not exceeding three years.
- (2) Appointments under subsection (1) shall be in accordance with regulations under section 25 of the 1998 Act. 35
- (3) A person shall not be appointed under subsection (1) to the rank of constable or the rank of a senior officer.
- (4) The Secretary of State may by order make such modifications as he considers necessary or expedient to any provision of the 1998 Act or this Act in its application to persons appointed under subsection (1). 40

- (5) The Secretary of State shall consult the Board and the Police Association before making an order under subsection (4).”
- (2) In section 25(6) of the Police (Northern Ireland) Act 1998 (c. 32) (regulations as to conditions of service of members of Police Service of Northern Ireland) after “except” insert— 5
- “—
- (a) as permitted by section 36A of the Police (Northern Ireland) Act 2000; or
- (b) ”.
- 20 Protected disclosures by police officers** 10
- (1) After Article 67K of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I.16)) insert—
- “67KA Application of Part VA and related provisions to police**
- (1) Paragraph (2) applies for the purposes of— 15
- (a) this Part,
- (b) Article 70B and Articles 71 and 72 so far as relating to that Article, and
- (c) Article 134A and the other provisions of Part XI so far as they relate to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of Article 134A. 20
- (2) A person who holds, otherwise than under a contract of employment, the office of constable as a police officer shall be treated as an employee employed by the Chief Constable under a contract of employment; and any reference to a worker being “employed” and to his “employer” shall be construed accordingly.” 25
- (2) In Article 243(1) of that Order (provisions which do not apply to persons engaged in police service under a contract of employment)—
- (a) omit the words “Part VA,”;
- (b) after “Articles 132” insert “, 134A”;
- (c) after “Article 132” insert “or 134A”. 30
- (3) Article 16 of the Public Interest Disclosure (Northern Ireland) Order 1998 (S.I. 1998/1763 (N.I. 17)) (exclusion of police service from provisions about protected disclosures) shall cease to have effect.
- (4) Subsections (1) to (3) come into force in accordance with provision made by the Secretary of State by order. 35

*Information and inquiries*

**21 Restriction on disclosure of information**

- (1) After section 74 of the Police (Northern Ireland) Act 2000 (c. 32) insert—

**“74A Restriction on disclosure of information**

- (1) This section applies if information is supplied in the circumstances mentioned in subsection (2), (3) or (4).
- (2) The circumstances are that—
- (a) the information is supplied by the Chief Constable to a person conducting an inquiry under section 60; 5
  - (b) the person has been appointed under section 60(9) to conduct the inquiry;
  - (c) the Chief Constable informs the person that, in his opinion, the information is information of a kind mentioned in section 60(10A)(a) or (b). 10
- (3) The circumstances are that—
- (a) the information is supplied by the Chief Constable under section 33A or 59 to the Board or the committee constituted by the Board under paragraph 24(1A) of Schedule 1; 15
  - (b) the Chief Constable informs the Board or the committee that, in his opinion, the information is information of a kind mentioned in section 33A(5)(a) or (b) or section 59(4C)(a) or (b).
- (4) The circumstances are that—
- (a) the information is supplied by a person conducting an inquiry under section 60 or by a person who is assisting or has assisted in the conduct of such an inquiry to the committee constituted by the Board under paragraph 24(1A) of Schedule 1; 20
  - (b) the information was supplied to the person conducting the inquiry in the circumstances mentioned in subsection (2). 25
- (5) If information is supplied in the circumstances mentioned in subsection (2), the information must not be disclosed by the person who is conducting or has conducted the inquiry or by a person who is assisting or has assisted in the conduct of the inquiry except—
- (a) to a person who is assisting in the conduct of the inquiry; 30
  - (b) to the Secretary of State;
  - (c) to the Chief Constable;
  - (d) to the Ombudsman in connection with an investigation under section 60A of the 1998 Act;
  - (e) to the committee constituted by the Board under paragraph 24(1A) of Schedule 1; 35
  - (f) for the purposes of any criminal, civil or disciplinary proceedings;
  - (g) in the form of a summary or other general statement made by the person the terms of which have been agreed with the Chief Constable. 40
- (6) If information is supplied in the circumstances mentioned in subsection (3) or (4), the information must not be disclosed by a person who is or has been a member of the Board or a member of the staff of the Board except— 45
- (a) in the case of information supplied to the Board, to a member of the Board or a member of the staff of the Board;



- (b) in the case of information supplied to the committee constituted by the Board under paragraph 24(1A) of Schedule 1, to a member of the committee or a member of the staff of the Board who provides services to the committee;
  - (c) to the Secretary of State; 5
  - (d) to the Chief Constable;
  - (e) to the Ombudsman in connection with an investigation under section 60A of the 1998 Act;
  - (f) for the purposes of any criminal, civil or disciplinary proceedings; 10
  - (g) in the form of a summary or other general statement made by the Board the terms of which have been agreed with the Chief Constable.
- (7) Any person who discloses information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 15
- (8) In this section “member of the staff of the Board” means –
- (a) a person employed by the Board under paragraph 13(1) of Schedule 1;
  - (b) a person employed in the civil service who provides assistance for the Board in pursuance of arrangements made under paragraph 13(2) of Schedule 1.” 20
- (2) In section 59(5) of the Police (Northern Ireland) Act 2000 (c. 32) at the beginning insert “Subject to section 74A(6)”.
- 22 Special committee of the Board** 25
- (1) Paragraph 24 of Schedule 1 to the Police (Northern Ireland) Act 2000 (committees of the Board) is amended as set out in subsections (2) and (3).
- (2) In sub-paragraph (1) after “The Board may” insert “, subject to sub-paragraphs (1A) and (1B)”.
- (3) After sub-paragraph (1) insert – 30
- “(1A) The Board shall constitute a committee of 5 of its members for the purpose of –
- (a) handling information supplied to it by the Chief Constable under section 33A or 59;
  - (b) handling information supplied to it by a person conducting an inquiry under section 60 or by a person who is assisting or has assisted in the conduct of such an inquiry; 35
  - (c) performing such other functions of the Board as may be delegated to it by the Board. 40
- (1B) The members of the committee constituted under sub-paragraph (1A) –
- (a) shall be appointed by the Board;
  - (b) shall include the chairman or vice-chairman of the Board (or both of them); 45
  - (c) shall as far as practicable be representative of the Board.”

**23 Disclosure of information and holding of inquiries**

- (1) After section 76 of the Police (Northern Ireland) Act 2000 (c. 32) insert –

**“76A Disclosure of information and holding of inquiries**

- (1) For the purposes of sections 33A, 59 and 66, the grounds on which information ought not to be disclosed are that – 5
- (a) it is in the interests of national security;
  - (b) the information is sensitive personnel information;
  - (c) the information would, or would be likely to, prejudice proceedings which have been commenced in a court of law.
- (2) For the purposes of section 60, the grounds on which an inquiry ought not to be held are that – 10
- (a) it is in the interests of national security;
  - (b) any matter into which inquiry is to be made is a sensitive personnel matter;
  - (c) the inquiry would, or would be likely to, prejudice proceedings which have been commenced in a court of law. 15
- (3) “Personnel information” means information which relates to an individual’s holding of, application for or appointment to a relevant office or employment.
- (4) “Personnel matter” means a matter which relates to an individual’s holding of, application for or appointment to a relevant office or employment. 20
- (5) An office or employment is a relevant office or employment for the purposes of subsections (3) and (4) if the holder of it is under the direction and control of the Chief Constable. 25
- (6) It is immaterial for the purposes of subsections (3) and (4) that the individual no longer holds the office or employment.”
- (2) Subsection (1) has effect for the purposes of section 59 of the Police (Northern Ireland) Act 2000 in accordance with section 9(5) of this Act.
- (3) Subsection (1) has effect for the purposes of section 60 of the Police (Northern Ireland) Act 2000 in accordance with section 10(5) of this Act. 30

**PART 2**

## POLICE POWERS

*Designation of civilians***24 Police powers for designated police support staff** 35

- (1) The Chief Constable may designate a member of the police support staff as an officer of one or more of these descriptions –
- (a) investigating officer;
  - (b) detention officer;
  - (c) escort officer. 40

- 
- (2) The Chief Constable may designate a person under this section only if he is satisfied that these requirements are met –
- (a) the person is a suitable person to carry out the functions for the purposes of which he is to be designated;
  - (b) the person is capable of effectively carrying out those functions; 5
  - (c) the person has received adequate training in the carrying out of those functions and in the exercise of the powers and performance of the duties to be conferred or imposed on him by his designation.
- (3) A person designated under this section has –
- (a) the powers conferred on him by his designation; 10
  - (b) the duties imposed on him by his designation.
- (4) A designation under this section may confer powers or impose duties on a person only by applying the powers or duties to him.
- (5) The powers and duties that may be applied to a person designated under this section by his designation are any or all of those specified in the applicable Part of Schedule 1. 15
- (6) The applicable Part of Schedule 1 is –
- (a) Part 1, in the case of a person designated under this section as an investigating officer;
  - (b) Part 2, in the case of a person designated under this section as a detention officer; 20
  - (c) Part 3, in the case of a person designated under this section as an escort officer.
- (7) If a power is conferred or a duty imposed on a person designated under this section by his designation –
- (a) the power or duty does not authorise or require him to engage in any conduct otherwise than in the course of his employment as a member of the police support staff; 25
  - (b) the power may be conferred or the duty imposed subject to restrictions or conditions specified in the designation. 30
- (8) Subsection (9) applies in relation to the exercise of a power by a person designated under this section in reliance on his designation if the power is one which, if exercised by a police officer, includes or is supplemented by a power to use reasonable force.
- (9) The designated person has the same entitlement to use reasonable force as a police officer would have if the power were exercised by him. 35
- (10) If a power exercisable by a person designated under this section in reliance on his designation includes power to use force to enter any premises, the power is exercisable by the person only –
- (a) in the company of a police officer and under the supervision of a police officer, or 40
  - (b) for the purpose of saving life or limb or preventing serious damage to property.

**25 Police powers for designated contracted-out staff**

- (1) This section applies if the Board has entered into a contract with a person (“the contractor”) for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody.
- (2) The Chief Constable may designate an employee of the contractor as an officer of either or both of these descriptions – 5
- (a) detention officer;
  - (b) escort officer.
- (3) The Chief Constable may designate a person under this section only if he is satisfied that these requirements are met – 10
- (a) the person is a suitable person to carry out the functions for the purposes of which he is to be designated;
  - (b) the person is capable of effectively carrying out those functions;
  - (c) the person has received adequate training in the carrying out of those functions and in the exercise of the powers and performance of the duties to be conferred or imposed on him by his designation; 15
  - (d) the contractor is a fit and proper person to supervise the carrying out of the functions for the purposes of which the person is to be designated.
- (4) A person designated under this section has – 20
- (a) the powers conferred on him by his designation;
  - (b) the duties imposed on him by his designation.
- (5) A designation under this section may confer powers or impose duties on a person only by applying the powers or duties to him.
- (6) The powers and duties that may be applied to a person designated under this section by his designation are any or all of those specified in the applicable Part of Schedule 1. 25
- (7) The applicable Part of Schedule 1 is –
- (a) Part 2, in the case of a person designated under this section as a detention officer;
  - (b) Part 3, in the case of a person designated under this section as an escort officer. 30
- (8) If a power is conferred or a duty imposed on a person designated under this section by his designation –
- (a) the power or duty does not authorise or require him to engage in any conduct otherwise than in the course of his employment as an employee of the contractor; 35
  - (b) the power may be conferred or the duty imposed subject to restrictions or conditions specified in the designation.
- (9) Subsection (10) applies in relation to the exercise of a power by a person designated under this section in reliance on his designation if the power is one which, if exercised by a police officer, includes or is supplemented by a power to use reasonable force. 40
- (10) The designated person has the same entitlement to use reasonable force as a police officer would have if the power were exercised by him.
- (11) A designation under this section, unless it is previously withdrawn or ceases to have effect under subsection (12), shall remain in force for such period as 45

may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.

- (12) A designation under this section shall cease to have effect –
- (a) if the designated person ceases to be an employee of the contractor; or
  - (b) if the contract between the Board and the contractor is terminated or expires. 5

## 26 Police powers: amendments

- (1) Schedule 2 contains amendments consequential on sections 24 and 25.
- (2) In Schedule 2 “the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)). 10

## 27 Designations: supplementary

- (1) Subsection (2) applies if, in reliance on his designation under section 24 or 25, a person exercises or performs a power or duty in relation to another or purports to do so.
- (2) The designated person must produce his designation to the other if requested to do so. 15
- (3) A failure to comply with subsection (2) does not make the exercise or performance of the power or duty invalid.
- (4) The Chief Constable may at any time modify or withdraw a person’s designation under section 24 or 25 by notice to him. 20
- (5) If the Chief Constable modifies or withdraws a person’s designation under section 25, he must send a copy of the notice of the modification or withdrawal to the contractor responsible for supervising the designated person in the carrying out of the functions for the purposes of which the designation was granted. 25
- (6) In subsection (5) “contractor” means a person who has entered into a contract with the Board such as is mentioned in section 25(1).

## 28 Complaints and misconduct

- (1) The Secretary of State may by regulations make provision for the handling of –
- (a) complaints relating to the carrying out by a person designated under section 24 or 25 of any of the functions mentioned in subsection (2); 30
  - (b) instances of misconduct involving the carrying out by such a person of any of those functions.
- (2) The functions are those for the purposes of which any power or duty is conferred or imposed on the person by his designation. 35
- (3) Regulations under subsection (1) may in particular provide that any provision of Part 7 of the Police (Northern Ireland) Act 1998 (c. 32) is to apply, with such modifications as may be prescribed by the regulations, with respect to persons designated under section 24 or 25.
- (4) Before making regulations under subsection (1), the Secretary of State must consult – 40



### **32 Assaults on, and obstruction of, designated persons**

- (1) Section 66 of the Police (Northern Ireland) Act 1998 (c. 32) (assaults on, and obstruction of, constables etc.) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) Any person who assaults, resists, obstructs or impedes a designated person in the execution of his duty, or a person assisting a designated person in the execution of his duty, shall be guilty of an offence.” 5
- (3) In subsection (2) after “subsection (1)” insert “or (1A)”.
- (4) In subsection (3) after “subsection (1)” insert “or (1A)”.
- (5) After subsection (3) insert— 10
  - “(3A) In subsection (1A) the references to the execution of the duty of a designated person are to—
    - (a) the exercise of a power conferred on him by his designation;
    - (b) the performance of a duty imposed on him by his designation.
  - (3B) In this section “designated person” means a person designated under section 24 or 25 of the Police (Northern Ireland) Act 2003.” 15

### **33 Impersonation etc. of designated persons**

- (1) Section 67 of the Police (Northern Ireland) Act 1998 (impersonation etc.) is amended as follows.
- (2) After subsection (1) insert— 20
  - “(1A) Any person who, with intent to deceive—
    - (a) impersonates a designated person; or
    - (b) makes any statement or does any act calculated falsely to suggest that he is a designated person; or
    - (c) makes any statement or does any act calculated falsely to suggest that he has powers as a designated person that exceed the powers he actually has,shall be guilty of an offence.” 25
- (3) In subsection (3) after “subsection (1)” insert “, (1A)”.
- (4) After subsection (5) insert— 30
  - “(6) In this section “designated person” means a person designated under section 24 or 25 of the Police (Northern Ireland) Act 2003.”

### **34 Designated persons: interpretation**

- (1) This section applies for the interpretation of sections 24 to 33.
- (2) “Conduct” includes omissions and statements. 35
- (3) Expressions used in those sections and in the Police (Northern Ireland) Act 2000 (c. 32) have the same meanings in those sections as they have in that Act.

*Searches and samples***35 Intimate searches**

- (1) In Article 56 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (intimate searches) after paragraph (5) insert –
- “(5A) A person may use reasonable force, if necessary, in carrying out an intimate search as mentioned in paragraph (4) or (5).” 5
- (2) Subsection (1) comes into force in accordance with provision made by the Secretary of State by order.

**36 Intimate samples**

- (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as set out in subsections (2) to (5). 10
- (2) In Article 62 (intimate samples) for paragraph (9) substitute –
- “(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.
- (9A) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by one of the following – 15
- (a) a medical practitioner;
- (b) a registered health care professional.”
- (3) In Article 53 (interpretation of Part VI) after the definition of “registered dentist” insert – 20
- ““registered health care professional” means a person (other than a medical practitioner) who is one of the following –
- (a) a nurse registered on the register maintained by the Nursing and Midwifery Council pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001 (S.I. 2002/253) by virtue of qualifications in nursing; 25
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order subject to Article 89 made by the Secretary of State;” 30
- (4) In Article 53 at the beginning insert “(1)” and at the end insert –
- “(2) In paragraph (1) “health care profession” means any profession mentioned in section 60(2) of the Health Act 1999 other than the profession of practising medicine and the profession of nursing.”
- (5) In Article 89 (orders and regulations) after “Articles” insert “53,”. 35
- (6) Subsections (1) to (5) come into force in accordance with provision made by the Secretary of State by order.



*Codes of practice*

**37 Codes of practice**

In Article 66 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (codes of practice under Articles 60, 60A and 65: supplementary) after paragraph (6) insert— 5

“(6A) Subject to paragraph (6B), the Secretary of State may by order subject to Article 89 provide that a code of practice for the time being in force is to be treated as having effect with such modifications as may be set out in the order.

(6B) The effect of the modifications made by an order under paragraph (6A) must be confined to one or more of the following— 10

(a) the effect of the code in relation to such area of Northern Ireland as may be specified in the order;

(b) the effect of the code during such period, not exceeding two years, as may be so specified; 15

(c) the effect of the code in relation to such offences or descriptions of offender as may be so specified.”

**PART 3**

**GENERAL**

**38 Orders and regulations**

20

(1) Any power of the Secretary of State to make orders or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(2) Orders or regulations under this Act—

(a) may make different provision for different purposes; 25

(b) may include supplementary, incidental, saving or transitional provisions.

(3) A statutory rule made under this Act (other than one containing an order under section 20(4), 35(2) or 36(6)) is subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) applies accordingly. 30

**39 Repeals and revocations**

Schedule 3 contains repeals and revocations.

**40 Extent**

35

This Act extends to Northern Ireland only.

**41 Short title**

This Act may be cited as the Police (Northern Ireland) Act 2003.

## SCHEDULES

## SCHEDULE 1

Sections 24 and 25

## POWERS EXERCISABLE BY DESIGNATED PERSONS

## PART 1

## INVESTIGATING OFFICERS

5

*Entry and search for purposes of arrest*

- 1 Where a designation applies this paragraph to a person –
- (a) he may apply as if he were a constable for a warrant under section 42 of the Terrorism Act 2000 (c. 11) (warrants for entry and search for purposes of arrest); 10
  - (b) the persons authorised by a warrant issued under section 42 of that Act to enter and search premises include the designated person;
  - (c) Article 17 of the 1989 Order (safeguards) has effect in relation to the issue of a warrant under section 42 of that Act to the designated person as it has effect in relation to the issue of a warrant under that section to a constable; 15
  - (d) Article 18 of that Order (execution of warrants) has effect in relation to a warrant issued under section 42 of that Act (whether to the designated person or to any other person) as if references in that Article to a constable included references to the designated person. 20

*Entry and search for evidence etc.*

- 2 Where a designation applies this paragraph to a person –
- (a) he may apply as if he were a constable for a warrant under Article 10 of the 1989 Order (warrants for entry and search for evidence etc.);
  - (b) the persons authorised by a warrant issued under Article 10 of that Order to enter and search premises include the designated person; 25
  - (c) the designated person has the power of a constable under Article 10(2) of that Order to seize and retain things for which a search has been authorised under paragraph (1) of that Article;
  - (d) Article 17 of that Order (safeguards) has effect in relation to the issue of a warrant under Article 10 of that Order to the designated person as it has effect in relation to the issue of a warrant under that Article to a constable; 30
  - (e) Article 18 of that Order (execution of warrants) has effect in relation to a warrant issued under Article 10 of that Order (whether to the designated person or to any other person) as if references in that Article to a constable included references to the designated person; 35

- (f) Article 21(6) of that Order (protection for legally privileged material from seizure) has effect in relation to the seizure of anything by the designated person by virtue of sub-paragraph (c) as it has effect in relation to the seizure of anything under Article 10(2) of that Order by a constable; 5
- (g) Article 22 of that Order (extension of powers of seizure to computerised information) applies to the power of seizure conferred on the designated person by virtue of sub-paragraph (c) as it applies to the power of seizure conferred on a constable by Article 10(2) of that Order; 10
- (h) Article 23(1) and (2) of that Order (provision of record of seizure) has effect in relation to the seizure of anything by the designated person in exercise of the power conferred on him by virtue of sub-paragraph (c) as if the references to a constable included references to the designated person; 15
- (i) Articles 23(3) to (8) and 24 of that Order (access, copying and retention) have effect in relation to anything seized by the designated person in exercise of the power conferred on him by virtue of sub-paragraph (c) or taken away by him following the imposition of a requirement by virtue of sub-paragraph (g) – 20
  - (i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by Article 10(2) of that Order or taken away by a constable following the imposition of a requirement by virtue of Article 22 of that Order;
  - (ii) as if the second reference to a constable in paragraph (3) of Article 23 of that Order and the references to a constable in paragraphs (4) and (5) of that Article included references to a person to whom this paragraph applies. 25

*Access to excluded and special procedure material*

- 3 Where a designation applies this paragraph to a person – 30
  - (a) he has the powers of a constable under Article 11(1) of the 1989 Order (special provisions for access) to obtain access to excluded material and special procedure material, in accordance with Schedule 1 to that Order and the following provisions of this paragraph;
  - (b) Schedule 1 to that Order has effect as if the references in paragraphs 1, 4, 5, 9 and 10 of that Schedule to a constable were references to the designated person; 35
  - (c) Article 21(6) of that Order (protection for legally privileged material from seizure) has effect in relation to the seizure of anything by the designated person in exercise of the power conferred on him by paragraph 10 of Schedule 1 to that Order as it has effect in relation to the seizure of anything under that paragraph by a constable; 40
  - (d) Article 22 of that Order (extension of powers of seizure to computerised information) applies to the power of seizure conferred on the designated person by paragraph 10 of Schedule 1 to that Order as it applies to the power of seizure conferred on a constable by that paragraph; 45
  - (e) Article 23(1) and (2) of that Order (provision of record of seizure) has effect in relation to the seizure of anything by the designated person in exercise of the power conferred on him by paragraph 10 of 50

	Schedule 1 to that Order as if the references to a constable included references to the designated person;	
(f)	Articles 23(3) to (8) and 24 of that Order (access, copying and retention) have effect in relation to anything seized by the designated person in exercise of the power conferred on him by paragraph 10 of Schedule 1 to that Order or taken away by him following the imposition of a requirement by virtue of sub-paragraph (d), and to anything produced to him under paragraph 4(a) of Schedule 1 to that Order –	5
	(i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by paragraph 10 of Schedule 1 to that Order or taken away by a constable following the imposition of a requirement by virtue of Article 22 of that Order or, as the case may be, to anything produced to a constable under paragraph 4(a) of that Schedule;	10
	(ii) as if the second reference to a constable in paragraph (3) of Article 23 of that Order and the references to a constable in paragraphs (4) and (5) of that Article included references to a person to whom this paragraph applies.	15
	<i>Entry and search after arrest</i>	20
4	Where a designation applies this paragraph to a person –	
	(a) he has the powers of a constable under Article 20 of the 1989 Order (entry and search after arrest) to enter and search premises and to seize and retain anything for which a constable may search under that Article;	25
	(b) paragraphs (5) and (6) of that Article (power to carry out search before arrested person taken to police station and duty to inform senior officer) have effect in relation to any exercise by the designated person of those powers as if the references in those paragraphs to a constable were references to the designated person;	30
	(c) Article 21(6) of that Order (protection for legally privileged material from seizure) has effect in relation to the seizure of anything by the designated person by virtue of sub-paragraph (a) as it has effect in relation to the seizure of anything under Article 20(2) of that Order by a constable;	35
	(d) Article 22 of that Order (extension of powers of seizure to computerised information) applies to the power of seizure conferred on the designated person by virtue of sub-paragraph (a) as it applies to the power of seizure conferred on a constable by Article 20(2) of that Order;	40
	(e) Article 23(1) and (2) of that Order (provision of record of seizure) has effect in relation to the seizure of anything by the designated person in exercise of the power conferred on him by virtue of sub-paragraph (a) as if the references to a constable included references to the designated person;	45
	(f) Articles 23(3) to (8) and 24 of that Order (access, copying and retention) have effect in relation to anything seized by the designated person in exercise of the power conferred on him by virtue of sub-paragraph (a) or taken away by him following the imposition of a requirement by virtue of sub-paragraph (d) –	50

- (i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by Article 20(2) of that Order or taken away by a constable following the imposition of a requirement by virtue of Article 22 of that Order;
- (ii) as if the second reference to a constable in paragraph (3) of Article 23 of that Order and the references to a constable in paragraphs (4) and (5) of that Article included references to a person to whom this paragraph applies. 5

*General power of seizure*

- 5 Where a designation applies this paragraph to a person— 10
- (a) when lawfully on any premises, he has the same powers as a constable under Article 21 of the 1989 Order (general powers of seizure) to seize things;
  - (b) he has the powers of a constable to impose a requirement by virtue of paragraph (4) of that Article in relation to information accessible from premises; 15
  - (c) paragraph (6) of that Article (protection for legally privileged material from seizure) has effect in relation to the seizure of anything by the designated person by virtue of sub-paragraph (a) as it has effect in relation to the seizure of anything under Article 21 of that Order by a constable; 20
  - (d) Article 23(1) and (2) of that Order (provision of record of seizure) has effect in relation to the seizure of anything by the designated person in exercise of the power conferred on him by virtue of sub-paragraph (a) as if the references to a constable included references to the designated person; 25
  - (e) Articles 23(3) to (8) and 24 of that Order (access, copying and retention) have effect in relation to anything seized by the designated person in exercise of the power conferred on him by virtue of sub-paragraph (a) or taken away by him following the imposition of a requirement by virtue of sub-paragraph (b)— 30
    - (i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by Article 21(2) or (3) of that Order or taken away by a constable following the imposition of a requirement by virtue of Article 21(4) of that Order; 35
    - (ii) as if the second reference to a constable in paragraph (3) of Article 23 of that Order and the references to a constable in paragraphs (4) and (5) of that Article included references to a person to whom this paragraph applies. 40

*Access and copying in the case of things seized by constables*

- 6 Where a designation applies this paragraph to a person, Article 23 of the 1989 Order (access and copying) has effect in relation to anything seized by a constable as if the second reference to a constable in paragraph (3) of Article 23 and the references to a constable in paragraphs (4) and (5) of that Article (supervision of access and photographing of seized items) included references to the designated person. 45

*Arrest at a police station for another offence*

- 7 (1) Where a designation applies this paragraph to a person, he has the power to make an arrest at a police station in any case where an arrest –
- (a) is required to be made under Article 33 of the 1989 Order (arrest for a further offence of a person already at a police station), or 5
  - (b) would be so required if the reference in that Article to a constable included a reference to a person to whom this paragraph applies.
- (2) Article 5 of the Criminal Evidence (Northern Ireland) Order 1988 (S.I. 1988/1987 (N.I. 20)) (consequences of failure by arrested person to account for objects etc.) applies (without prejudice to the effect of any designation applying paragraph 9) in the case of a person arrested in exercise of the power exercisable by virtue of this paragraph as it applies in the case of a person arrested by a constable. 10

*Power to transfer persons into custody of investigating officers*

- 8 (1) Where a designation applies this paragraph to a person, the custody officer for a designated police station may – 15
- (a) transfer a person falling within sub-paragraph (2) to the designated person, or
  - (b) permit the transfer of a person falling within sub-paragraph (2) to the designated person. 20
- (2) A person falls within this sub-paragraph if –
- (a) he is in police detention for an offence;
  - (b) the offence is being investigated by the designated person.
- (3) If a person is transferred under sub-paragraph (1) into the custody of the designated person, the designated person – 25
- (a) must be treated for all purposes as having the person in his lawful custody;
  - (b) is under a duty to prevent the person's escape;
  - (c) is entitled to use reasonable force to keep the person in his custody.
- (4) If a person is transferred under sub-paragraph (1) into the custody of the designated person, paragraphs (2) and (3) of Article 40 of the 1989 Order have effect as if – 30
- (a) references to the transfer of a person in police detention into the custody of a police officer investigating an offence for which that person is in police detention were references to that person's transfer into the custody of the designated person; 35
  - (b) references to the officer to whom the transfer is made and to the officer investigating the offence were references to the designated person.

*Power to require arrested person to account for certain matters* 40

- 9 Where a designation applies this paragraph to a person –
- (a) he has the powers of a constable under Articles 5(1)(c) and 6(1)(c) of the Criminal Evidence (Northern Ireland) Order 1988 to request a person who has been arrested by a constable or by a person to whom paragraph 7 applies to account for the presence of an object, 45

- substance or mark or for the presence of the arrested person at a particular place; and
- (b) the references to a constable in Articles 5(1)(b) and (c) and (4) and 6(1)(b) and (c) and (3) of that Order accordingly include references to the person to whom this paragraph is applied. 5

*Extended powers of seizure*

- 10 (1) Where a designation applies this paragraph to a person—
- (a) the powers of a constable under Part 2 of the Criminal Justice and Police Act 2001 (c. 16) (extension of powers of seizure) that are exercisable by a constable by reference to a relevant power are exercisable by the designated person by reference to the relevant power to the same extent as they would be by a constable; 10
- (b) section 56 of that Act (retention of property seized by a constable) has effect as if the property referred to in subsection (1) of that section included property seized by the designated person at any time when he was lawfully on any premises. 15
- (2) A relevant power is a power of a constable that is conferred on the designated person by virtue of the provisions of this Part of this Schedule.

PART 2

DETENTION OFFICERS 20

*Attendance at police station for fingerprinting*

- 11 Where a designation applies this paragraph to a person, he has the power of a constable under Article 29(1) of the 1989 Order (fingerprinting of offenders) to require a person to attend a police station in order to have his fingerprints taken. 25

*Non-intimate searches of detained persons*

- 12 (1) Where a designation applies this paragraph to a person, he has the powers of a constable under Article 55 of the 1989 Order (non-intimate searches of detained persons)—
- (a) to carry out a search under that Article of any person at a police station or of any other person otherwise in police detention; 30
- (b) to seize or retain, or cause to be seized or retained, anything found on such a search.
- (2) Paragraphs (9) and (12) of Article 55 of that Order (restrictions on power to seize clothes and personal effects and searches to be carried out by a member of the same sex) apply to the exercise by the designated person of any power exercisable by virtue of this paragraph as they apply to the exercise of the power in question by a constable. 35

*Searches and examinations to ascertain identity*

- 13 Where a designation applies this paragraph to a person, he has the powers of a constable under Article 55A of the 1989 Order (searches and examinations to ascertain identity)— 40

- (a) to carry out a search or examination at a police station;
- (b) to take a photograph at a police station of an identifying mark.

### *Fingerprinting*

- 14 Where a designation applies this paragraph to a person—
- (a) he has the power of a constable under Article 61 of the 1989 Order (fingerprinting) to take fingerprints at a police station without the appropriate consent; 5
  - (b) the requirement by virtue of paragraph (7A)(a) of that Article that a person must be informed by an officer that his fingerprints may be the subject of a speculative search may be discharged, in the case of a person at a police station, by his being so informed by the designated person. 10
- 15 Where a designation applies this paragraph to a person, he has the power of a constable under paragraph 10(2) of Schedule 8 to the Terrorism Act 2000 (c. 11) (fingerprinting persons detained under the terrorism provisions) to take fingerprints from a person detained under the terrorism provisions. 15

### *Warnings about intimate samples*

- 16 Where a designation applies this paragraph to a person, the requirement by virtue of Article 62(7A)(a) of the 1989 Order (intimate samples) that a person must be informed by an officer that a sample taken from him may be the subject of a speculative search may be discharged, in the case of a person in a police station, by his being so informed by the designated person. 20

### *Non-intimate samples*

- 17 Where a designation applies this paragraph to a person—
- (a) he has the power of a constable under Article 63 of the 1989 Order (non-intimate samples), in the case of a person in a police station, to take a non-intimate sample without the appropriate consent; 25
  - (b) the requirement by virtue of paragraph (6) of that Article (information about authorisation) that a person must be informed by an officer of the matters mentioned in that paragraph may be discharged, in the case of an authorisation in relation to a person in a police station, by his being so informed by the designated person; 30
  - (c) the requirement by virtue of paragraph (8B)(a) of that Article that a person must be informed by an officer that a sample taken from him may be the subject of a speculative search may be discharged, in the case of a person in a police station, by his being so informed by the designated person. 35
- 18 Where a designation applies this paragraph to a person, he has the power of a constable under paragraph 10(3) of Schedule 8 to the Terrorism Act 2000 (non-intimate samples from persons detained under the terrorism provisions) to take a non-intimate sample from a person detained under the terrorism provisions. 40



*Attendance at police station for the taking of a sample*

- 19 Where a designation applies this paragraph to a person, he has the power of a constable under paragraph (4) of Article 63A of the 1989 Order (supplementary provisions relating to fingerprints and samples) to require a person to attend a police station in order to have a sample taken. 5

*Photographing detained persons*

- 20 Where a designation applies this paragraph to a person, he has the power of a constable under Article 64A of the 1989 Order (photographing of suspects etc.) to take a photograph of a person detained at a police station.
- 21 Where a designation applies this paragraph to a person, he has the power of a constable under paragraph 2 of Schedule 8 to the Terrorism Act 2000 (c. 11) (identification of persons detained under the terrorism provisions) to photograph a person detained under the terrorism provisions. 10

PART 3

ESCORT OFFICERS 15

*Power to take an arrested person to a police station*

- 22 (1) Where a designation applies this paragraph to a person—
- (a) the persons who, in the case of a person arrested by a constable, are authorised for the purposes of paragraph (1) of Article 32 of the 1989 Order (procedure on arrest of person elsewhere than at a police station) to take the person arrested to a police station include the designated person; 20
  - (b) that Article has effect in relation to the exercise by the designated person of the power conferred by virtue of paragraph (a) as if the references to a constable in paragraphs (3), (4)(a) and (13) (but not the references in paragraphs (5) to (12)) included references to the designated person; 25
  - (c) a person who is taking another person to a police station in exercise of the power conferred by virtue of paragraph (a)—
    - (i) must be treated for all purposes as having the other person in his lawful custody; 30
    - (ii) is under a duty to prevent the other person's escape;
    - (iii) is entitled to use reasonable force to keep the other person in his charge.
- (2) Without prejudice to any designation applying paragraph 12 to a person, where a person has another in his lawful custody by virtue of sub-paragraph (1) of this paragraph— 35
- (a) he has the same powers under paragraphs (7) and (8) of Article 55 of the 1989 Order (non-intimate searches) as a constable has in the case of a person in police detention— 40
    - (i) to carry out a search of the other person;
    - (ii) to seize or retain, or cause to be seized or retained, anything found on such a search;

- (b) paragraphs (9) and (12) of that Article (restrictions on power to seize clothes and personal effects and searches to be carried out by a member of the same sex) apply to the exercise by the designated person of any power exercisable by virtue of this sub-paragraph as they apply to the exercise of the power in question by a constable. 5

*Escort of persons in police detention*

- 23 (1) Where a designation applies this paragraph to a person, he may be authorised by the custody officer for any designated police station to escort a person in police detention –
- (a) from that police station to another police station; 10
  - (b) from that police station to any other place that is specified by the custody officer;
  - (c) from that police station to any other place that is specified by the custody officer and then either back to that police station or on to another police station. 15
- (2) A person who is escorting another in accordance with an authorisation under sub-paragraph (1) –
- (a) must be treated for all purposes as having the other person in his lawful custody;
  - (b) is under a duty to prevent the other person’s escape; 20
  - (c) is entitled to use reasonable force to keep the other person in his charge.
- (3) Without prejudice to any designation applying paragraph 12 to a person, where a person has another in his lawful custody by virtue of sub-paragraph (2) of this paragraph – 25
- (a) he has the same powers under paragraphs (7) and (8) of Article 55 of the 1989 Order (non-intimate searches) as a constable has in the case of a person in police detention –
    - (i) to carry out a search of the other person;
    - (ii) to seize or retain, or cause to be seized or retained, anything found on such a search; 30
  - (b) paragraphs (9) and (12) of that Article (restrictions on power to seize clothes and personal effects and searches to be carried out by a member of the same sex) apply to the exercise by the designated person of any power exercisable by virtue of this sub-paragraph as they apply to the exercise of the power in question by a constable. 35
- (4) Article 40(2) of that Order (responsibilities of custody officer where person transferred to escort) has effect where the custody officer for any police station transfers or permits the transfer of any person to the custody of a person who by virtue of this paragraph has lawful custody outside the police station of the person transferred as it would apply if the designated person were a police officer. 40

PART 4

INTERPRETATION

- 24 (1) In this Schedule – 45

- “designated person” means a person designated under section 24 or 25;  
“designation” means a designation under section 24 or 25;  
“the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (2) Expressions used in this Schedule and in the 1989 Order have the same meanings in this Schedule as they have in that Order.

## SCHEDULE 2

Section 26

### POLICE POWERS: AMENDMENTS

- Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))* 10
- 1 In Article 2 of the 1989 Order (general interpretation) after paragraph (4) insert –
- “(4A) Where a person is in another’s lawful custody by virtue of paragraph 8, 22(1) or 23(2) of Schedule 1 to the Police (Northern Ireland) Act 2003, he shall be treated as being in police detention for the purposes of this Order.” 15
- 2 In Article 20(5) of the 1989 Order (power of constable to conduct search of arrested person’s premises before taking him to a police station) for “taking the person” substitute “the person is taken”.
- 3 In Article 55A(6) of the 1989 Order (persons entitled to carry out search or examination or to take photographs) for sub-paragraphs (a) and (b) and the words after sub-paragraph (b) substitute “constables”. 20
- 4 In Article 61 of the 1989 Order (fingerprinting) after paragraph (8) insert –
- “(8A) The fingerprints of a person detained at a police station may be taken without the appropriate consent by a constable.” 25
- 5 In Article 63 of the 1989 Order (non-intimate samples) after paragraph (9) insert –
- “(9A) The power to take a non-intimate sample from a person without the appropriate consent is exercisable by a constable.”
- 6 In Article 64A(3) of the 1989 Order (persons entitled to photograph detainees) for sub-paragraphs (a) and (b) and the words after sub-paragraph (b) substitute “constables”. 30
- 7 (1) Article 66 of the 1989 Order (codes of practice: supplementary) is amended as follows.
- (2) After paragraph (8) insert – 35
- “(8A) A person on whom powers are conferred or duties are imposed by a designation under section 24 or 25 of the Police (Northern Ireland) Act 2003 shall have regard to any relevant provision of a code of practice to which this Article applies in –

- 
- (a) the exercise of the powers conferred on him by the designation;
- (b) the performance of the duties imposed on him by the designation.”
- (3) In paragraph (9) after sub-paragraph (b) insert— 5
- “; or
- (c) of a person designated under section 24 or 25 of the Police (Northern Ireland) Act 2003 to comply with paragraph (8A),”.
- Terrorism Act 2000 (c. 11)* 10
- 8 (1) Section 101 of the Terrorism Act 2000 (c.11) (codes of practice: supplementary) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) A person on whom powers are conferred or duties are imposed by a designation under section 24 or 25 of the Police (Northern Ireland) Act 2003 shall have regard to any relevant provision of a code of practice to which this section applies in— 15
- (a) the exercise of the powers conferred on him by the designation;
- (b) the performance of the duties imposed on him by the designation.” 20
- (3) After subsection (7) insert—
- “(7A) A failure by a person designated under section 24 or 25 of the Police (Northern Ireland) Act 2003 to comply with subsection (5A) shall not of itself make him liable to criminal or civil proceedings.” 25

SCHEDULE 3

Section 39

REPEALS AND REVOCATIONS

<i>Short title and chapter or title</i>	<i>Extent of repeal or revocation</i>	
Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))	In Article 243(1), the words “Part VA,”.	5
Police (Northern Ireland) Act 1998 (c. 32)	Section 61A.	
Public Interest Disclosure (Northern Ireland) Order 1998 (S.I. 1998/1763 (N.I. 17))	Article 16.	10
Police (Northern Ireland) Act 2000 (c. 32)	In section 25(2), the words from “but” to the end. Section 28(5)(c) and the word “and” immediately preceding it. Section 32(4) and (5). Section 63(1). In Schedule 1, paragraph 19(3).	15
1	The repeals in section 28(5) of the Police (Northern Ireland) Act 2000 have effect in accordance with section 7(6) above.	20
2	The revocations in the Employment Rights (Northern Ireland) Order 1996 and the Public Interest Disclosure (Northern Ireland) Order 1998 have effect in accordance with section 20(4) above.	





# Police (Northern Ireland) Bill [HL]

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## B I L L

[AS AMENDED IN STANDING COMMITTEE E]

To make provision about policing in Northern Ireland and the exercise of police powers in Northern Ireland by persons who are not police officers; and to amend the Police and Criminal Evidence (Northern Ireland) Order 1989.

*Brought from the Lords, 30th January 2003.*

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*Ordered, by The House of Commons,  
to be Printed, 11th March 2003.*

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