

SCHEDULES

SCHEDULE 3

Article 5

Amendments relating to policing

Public Order (Northern Ireland) Order 1987

1. Amend the Public Order (Northern Ireland) Order 1987(1) as follows.
- 2.—(1) Amend Article 5 (prohibiting open-air public meetings) as follows.
 - (2) In paragraph (1)—
 - (a) for “Secretary of State” substitute “Department of Justice”;
 - (b) for “him” and “he” substitute “the Department of Justice”;
 - (c) in sub-paragraph (b)(iii) omit “or military forces”.
 - (3) After paragraph (1) insert—

“(1ZA) If at any time the Secretary of State is of the opinion, in consequence of information furnished to him by the Chief Constable or for any other reason, that the holding in any area or place of any open-air public meeting is likely to cause undue demands to be made upon the military forces, the Secretary of State may, in relation to that area or place, make an order under paragraph (1)(A), (B) or (C).”
 - (4) In paragraph (1A) after “An order” insert “made by the Department of Justice or the Secretary of State”.
 - (5) In paragraph (3) for “Secretary of State under paragraph (1) as to” substitute “Department of Justice or the Secretary of State under this Article as to its or”.
 - (6) In paragraph (4) after “(1)” insert “or (1ZA)”.
3. In Article 21(2) (wearing of uniform in public) for “Secretary of State” substitute “Department of Justice”.
4. In Article 23C (regulations about retention and disposal of things seized under Articles 23A and 23B)—
 - (a) in paragraphs (1) and (2) for “Secretary of State” substitute “Department of Justice”;
 - (b) in paragraph (3) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Police Act 1996

5. Amend the Police Act 1996(2) as follows.
- 6.—(1) Amend section 61(3) (Police Negotiating Board for the United Kingdom) as follows.

(1) S.I. 1987/463 (N.I. 7), amended by the Public Processions (Northern Ireland) Act 1998 (c. 2), Schedule 3, paragraph 3; the Anti-Terrorism, Crime and Security Act 2001 (c. 24), sections 95-97; and by S.I. 2005/857 (N.I. 2).

(2) 1996 c. 16.

(3) Section 61 was amended by S.I. 1999/1747. Other amendments to section 61 are not relevant.

Status: This is the original version (as it was originally made).

- (2) In subsection (1)—
 - (a) omit the word “and” at the end of paragraph (d), and
 - (b) after paragraph (e) insert—

“and

(f) the Department of Justice in Northern Ireland.”
- (3) In subsection (2) after “the Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.
- (4) In subsection (3) for “and (e)” substitute “, (e) and (f)”.
- (5) After subsection (6) insert—

“(7) The Department of Justice in Northern Ireland may make payments towards the expenses incurred by the Board in relation to the exercise by it of its function in or as regards Northern Ireland.”

7.—(1) Amend section 62(4) (functions of the Police Negotiating Board with respect to regulations) as follows.

- (2) Omit subsection (1)(c).
- (3) After subsection (1) insert—

“(1ZA) Before making regulations under section 25 of the Police (Northern Ireland) Act 1998(5) with respect to any of the matters mentioned in section 61(1) (other than pensions), the Department of Justice in Northern Ireland shall take into consideration any recommendation made by the Police Negotiating Board for the United Kingdom and shall supply the Board with a draft of the regulations.”
- (4) After subsection (2) insert—

“(2A) The arrangements referred to in section 61(3) shall regulate the procedure for reaching agreement on a recommendation to be made by the Board for the purposes of subsection (1ZA) above and shall include provision for arriving at such a recommendation by arbitration in such circumstances as may be determined by or under the arrangements.”

Police (Northern Ireland) Act 1998

8. Amend the Police (Northern Ireland) Act 1998(6) as follows.
9. In section 25(7) (regulations for PSNI) in subsections (1), (2)(i), (5)(a), (7) and (8) for “Secretary of State” substitute “Department of Justice”.
10. In section 26(8) (regulations for PSNI Reserve) in subsections (1), (5)(a) and (6) for “Secretary of State” substitute “Department of Justice”.
11. In section 27(1)(a)(9) (members of PSNI engaged on other police service) for “Secretary of State” substitute “Department of Justice”.

(4) Section 62 was amended by section 34(1) of the Police (Northern Ireland) Act 1998 (c. 32). Other amendments to section 62 are not relevant.

(5) 1998 c. 32. Section 25 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32), and modified by S.R. (N.I.) 2003 No. 376.

(6) 1998 c. 32.

(7) Section 25 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). Other amendments to section 25 are not relevant.

(8) Section 26 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(9) Section 27 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32); section 102 of the Police Reform Act 2002 (c. 30). Other amendments to section 27 are not relevant.

12. In section 28(10) (the Police Fund) in subsections (1) and (2) for “Secretary of State” substitute “Department of Justice”.

13. In section 29(11) (liability for wrongful acts of constables)—

(a) in subsection (7)(c) for “Secretary of State” substitute “Department of Justice”; and

(b) omit subsection (8).

14. In section 31(4) (regulations for disposal of property which has come into the possession of the police) for “Secretary of State” substitute “Department of Justice”.

15. In section 32(5) (Police Association for Northern Ireland)—

(a) for “Secretary of State” substitute “Department of Justice”; and

(b) for “he” substitute “the Department of Justice”.

16. In section 33(12) (regulations for Police Association), in subsections (1), (2)(c) and (d) and (3) for “Secretary of State” substitute “Department of Justice”.

17. Omit section 34(1) (amendment relating to the Police Negotiating Board for the United Kingdom).

18. In section 35(4) (membership of trade unions) for “Secretary of State” substitute “Department of Justice”.

19. In the heading to Part 5 (functions of Secretary of State) after “Secretary of State” insert “and Department of Justice”.

20. In section 40(13) (power to require use by police of specified facilities, equipment or services)

(a) in subsection (1)—

(i) for “Secretary of State” substitute “Department of Justice”, and

(ii) for “he” substitute “the Department of Justice”; and

(b) in subsection (2) for “Secretary of State” substitute “Department of Justice”.

21. In section 41(14) (appointment of inspectors of constabulary)—

(a) in subsection (1)—

(i) for “Secretary of State” substitute “Department of Justice”, and

(ii) for “he” substitute “the Department of Justice”;

(b) in subsections (2), (4) and (5) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;

(c) in subsections (3A) and (3B) for “Secretary of State” substitute “appropriate authority”;

(d) after subsection (3B) insert—

“(3C) In subsections (3A) and (3B) “the appropriate authority” means, in relation to any inspection—

(a) the Secretary of State, if the inspection relates (in whole or in part other than incidentally) to an excepted matter or reserved matter or to a matter in respect of

(10) Section 28 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(11) Section 29 was amended by section 103 of the Police Reform Act 2002 (c. 30). Other amendments to section 29 are not relevant.

(12) Section 33 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(13) Section 40 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). Other amendments to section 40 are not relevant.

(14) Section 41 was amended by section 30 of, and Schedule 6 to, the Police (Northern Ireland) Act 2000 (c. 32); section 3 of the Police Reform Act 2002 (c. 30); Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15).

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which a function is conferred or imposed on the Secretary of State by or under a statutory provision;

(b) otherwise, the Department of Justice;

and in paragraph (a) “excepted matter” and “reserved matter” have the meanings given by section 4 of the Northern Ireland Act 1998(15).”

22. After section 41 insert—

“41A Powers of Secretary of State in relation to reports and other duties of inspectors of constabulary

(1) For the purposes of subsections (2) to (8) information is “protected information” if the inclusion of the information in a report of the inspectors under section 41 would be against the interests of national security.

(2) If it appears to the Secretary of State that—

(a) the inspectors are required to prepare a report under section 41 (other than a report on an inspection required by the Secretary of State under section 41(3A)), and

(b) the report might contain (or once completed might contain) protected information, the Secretary of State may require the inspectors to refer the report to the Secretary of State (or, if the report is not completed when the requirement is imposed, to refer the report once it is completed).

(3) The Secretary of State must, within—

(a) the period of 30 days after the date on which the inspectors refer the report to the Secretary of State, or

(b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the inspectors whether, in the opinion of the Secretary of State, the report contains any protected information.

(4) If—

(a) it appears to the inspectors that a report under section 41 (other than a report on an inspection required by the Secretary of State under section 41(3A)) might contain protected information, and

(b) the inspectors have not been required to refer the report to the Secretary of State under subsection (2),

the inspectors must refer the report to the Secretary of State.

(5) The Secretary of State must, within—

(a) the period of 30 days after the date on which the inspectors refer the report to the Secretary of State, or

(b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the inspectors whether, in the opinion of the Secretary of State, the report contains any protected information.

(6) Where the Secretary of State has required that a report be referred to the Secretary of State under subsection (2), or the inspectors are required under subsection (4) to refer a

(15) 1998 c. 47.

report to the Secretary of State, the inspectors must not disclose the report to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (7),
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any protected information, or
- (c) after the period mentioned in subsection (3) or (5) has expired without any notification being given by the Secretary of State.

(7) Where the Secretary of State notifies the inspectors under subsection (3) or (5) that, in the opinion of the Secretary of State, a report contains protected information—

- (a) the Secretary of State may direct the inspectors to exclude from the report any information that, in the opinion of the Secretary of State, is protected information,
- (b) the inspectors must exclude that information from the report,
- (c) the Secretary of State must inform the Department of Justice that the Secretary of State has given a direction under paragraph (a), and
- (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).

(8) When the inspectors provide to anyone a report from which information has been excluded under subsection (7), they must at the same time provide the report to the Secretary of State.

(9) For the purposes of subsections (10) to (14) information is “protected information” if it is information that, in the interests of national security, ought not to be disclosed by the inspectors.

(10) If it appears to the Secretary of State that any requirement imposed on the inspectors by the Department of Justice under section 41 may require them to disclose, otherwise than in a report, information that is or includes protected information, the Secretary of State may require the inspectors to refer the matter to the Secretary of State.

(11) If it appears to the inspectors that any requirement imposed on them by the Department of Justice under section 41 may require them to disclose, otherwise than in a report, information that is or includes protected information, they must refer the matter to the Secretary of State.

(12) The Secretary of State must, within—

- (a) the period of 30 days after the date on which the inspectors refer a matter to the Secretary of State under subsection (10) or (11), or
- (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the inspectors whether, in the opinion of the Secretary of State, the information in question is or includes protected information.

(13) Where the inspectors are required under subsection (10) or (11) to refer a matter to the Secretary of State, they must not disclose the information in question to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (14),
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the information in question is not or does not include protected information, or
- (c) after the period mentioned in subsection (12) has expired without any notification being given by the Secretary of State.

Status: This is the original version (as it was originally made).

(14) Where the Secretary of State notifies the inspectors under subsection (12) that, in the opinion of the Secretary of State, the information in question is or includes protected information—

- (a) the Secretary of State may set aside or modify the requirement imposed by the Department of Justice as the Secretary of State thinks appropriate so that the inspectors are not required to disclose any information that, in the opinion of the Secretary of State, is protected information;
- (b) the inspectors must proceed accordingly;
- (c) the Secretary of State must inform the Department of Justice that the Secretary of State has taken action under paragraph (a); and
- (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has taken action under paragraph (a)."

23. In section 42(16) (publication of reports of inspectors of constabulary)—

- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “him” (in both places) substitute “it”;
- (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”,
 - (ii) for “his” substitute “its”, and
 - (iii) omit “against the interests of national security or”;
- (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
- (d) in subsection (6) for “Secretary of State” substitute “Department of Justice”;
- (e) after subsection (6) insert—
 - “(6A) In relation to a report received by the Secretary of State under section 41(3B)—
 - (a) subsections (1) to (6) above apply as if references to the Department of Justice were references to the Secretary of State;
 - (b) under subsection (2) above, the Secretary of State may also exclude from publication under subsection (1) any part of the report if, in the Secretary of State’s opinion, the publication of that part would be against the interests of national security.”

24. In section 43 (criminal statistics)—

- (a) in subsection (1) for “Secretary of State” (wherever occurring) substitute “Department of Justice”; and
- (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”,
 - (ii) for “him” substitute “it”, and
 - (iii) for “he” substitute “it”.

25. In section 45(17) (research and advice)—

- (a) in subsection (1)—

(16) Section 42 was amended by section 30 of, and Schedule 6 to, the Police (Northern Ireland) Act 2000 (c. 32); Schedule 12 to the Justice (Northern Ireland) Act 2002 (c. 26); section 3 of the Police Reform Act 2002 (c. 30); Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15).

(17) Section 45 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

- (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “him” substitute “the Department of Justice”; and
 - (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “him” (in both places) substitute “the Department of Justice”.
- 26.**—(1) In section 46(**18**) (expenditure by Secretary of State for police purposes)—
- (a) for “Secretary of State” substitute “Department of Justice”, and
 - (b) for “he” substitute “the Department of Justice”.
- (2) In the heading for section 46 for “Secretary of State” substitute “Department of Justice”.
- 27.** In section 52(**19**) (receipt and initial classification of complaints) in subsections (1)(b), (6) and (7) for “Secretary of State” substitute “Department of Justice”.
- 28.**—(1) Amend section 55(**20**) (consideration of other matters by Police Ombudsman) as follows.
- (2) In subsections (1) and (7) after “Board” (wherever occurring) insert “, the Department of Justice”.
 - (3) After subsection (1) insert—
 - “(1A) The Secretary of State may refer a matter to the Ombudsman under subsection (1) only if it appears to the Secretary of State that the matter relates (in whole or in part) to an excepted matter or reserved matter (within the meaning given by section 4 of the Northern Ireland Act 1998(**21**)).”
- 29.** In section 56(2) (power to make provision in relation to investigations by the Police Ombudsman) for “Secretary of State” substitute “Department of Justice”.
- 30.**—(1) Amend section 60(**22**) (constabularies not maintained by the Policing Board) as follows.
- (2) In subsections (1), (2), (3) and (4) for “Secretary of State” substitute “Department of Justice”.
 - (3) After subsection (6) insert—
 - “(7) In the application of this section in relation to the Ministry of Defence Police, references to the Department of Justice are to be read as references to the Secretary of State.”
- 31.** In section 60A(**23**) (investigations into current police practices and policies)—
- (a) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
 - (b) after subsection (3) insert—
 - “(3A) Where it appears to the Ombudsman that an investigation may relate wholly or in part to—
 - (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

(18) Section 46 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(19) Section 52 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32); section 34 of the Justice (Northern Ireland) Act 2002 (c. 26).

(20) Section 55 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). Other amendments to section 55 are not relevant.

(21) 1998 c. 47. There are amendments to section 4, but none are relevant.

(22) Section 60 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(23) Section 60A was inserted by section 13 of the Police (Northern Ireland) Act 2003 (c. 6).

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(b) an excepted matter or reserved matter (within the meaning given by section 4 of the Northern Ireland Act 1998),

the Ombudsman shall also immediately inform the Secretary of State of the matters mentioned in subsection (3)(a) to (c).”; and

(c) after subsection (5) insert—

“(6) The Ombudsman shall send a copy of his report to the Department of Justice, if the investigation relates wholly or in part to a matter in respect of which a function is conferred or imposed on the Department of Justice by or under a statutory provision.”

32.—(1) Amend section 61(**24**) (reports by Ombudsman) as follows.

(2) In subsections (1) and (2)—

(a) for “Secretary of State” (wherever occurring) substitute “appropriate authority”;

(b) for “Secretary of State’s” substitute “appropriate authority’s”.

(3) After subsection (2) insert—

“(2A) In subsections (1) and (2) “the appropriate authority” means, in relation to any matter—

(a) the Secretary of State, if the matter relates (in whole or in part other than incidentally) to an excepted matter or reserved matter or to a function conferred or imposed on the Secretary of State by or under a statutory provision;

(b) otherwise, the Department of Justice;

and in paragraph (a) “excepted matter” and “reserved matter” have the meanings given by section 4 of the Northern Ireland Act 1998.”

(4) In subsections (3) and (4) for “Secretary of State” substitute “Department of Justice”.

(5) After subsection (5) insert—

“(5A) The Department of Justice shall—

(a) lay before the Northern Ireland Assembly a copy of every report received by the Department under this section; and

(b) cause every such report to be published.

(5B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**25**) applies for the purposes of subsection (5A)(a) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

33.—(1) Amend section 63(**26**) (restriction on disclosure of information) as follows.

(2) In subsection (1) for paragraph (b) substitute—

“(b) to the Department of Justice or the Secretary of State;”.

(3) After subsection (3) insert—

“(4) Nothing in subsection (1)(b) permits the disclosure to the Department of Justice of information—

(a) which has been supplied to the Ombudsman under section 66(1) of the Police (Northern Ireland) Act 2000(**27**) for the purposes of or in connection with an investigation under section 60A of this Act, and

(24) Amendments have been made to section 61 but none are relevant.

(25) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(26) Amendments have been made to section 63 but none are relevant.

(27) 2000 c. 32.

(b) in relation to which the Ombudsman has been informed under section 66(3)(b) of the Police (Northern Ireland) Act 2000 that the information is, in the opinion of the Chief Constable or the Board, information which ought not to be disclosed on the ground mentioned in section 76A(1)(a) of that Act.”

(4) In relation to information supplied to the Ombudsman before the coming into force of this Order, section 63(4)(b) (as inserted by sub-paragraph (3) above) has effect as if the reference to section 66(3)(b) of the 2000 Act were a reference to section 66(3)(b) before its substitution by paragraph 77(2) below.

34.—(1) Amend section 64(28) (regulations) as follows.

(2) In subsections (1), (2), (2A), (3) and (4) for “Secretary of State” substitute “Department of Justice”.

(3) Omit subsection (2A)(d).

35. After section 64 insert—

“64A Secretary of State’s power to make regulations

(1) The Secretary of State may make regulations containing provision of any kind within section 64(1), (2) or (2A) for purposes connected with—

(a) excepted or reserved matters (within the meaning given by section 4 of the Northern Ireland Act 1998(29));

(b) matters in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision.

(2) The Secretary of State may by regulations provide that, subject to such exceptions as may be prescribed, to the extent that the subject matter of a complaint falls within the jurisdiction of—

(a) the tribunal constituted under section 65(1) of the Regulation of Investigatory Powers Act 2000(30), or

(b) a person appointed under Part 4 of that Act,

the Ombudsman shall not investigate it.

(3) Regulations under this section may authorise the Secretary of State to make provision for any purposes specified in the regulations.

(4) Before making any regulations under this section, the Secretary of State shall consult the Department of Justice and the persons mentioned in section 64(4)(a) to (c).

(5) Regulations made by the Department of Justice under section 64 have effect subject to regulations made by the Secretary of State under this section.”

36. In section 65(31) (guidance concerning discipline, complaints, etc.)—

(a) in subsections (1), (4) and (5) for “Secretary of State” substitute “Department of Justice”;

(b) after subsection (5) insert—

“(6) In discharging his functions under this Part the Ombudsman shall have regard to any guidance given to him by the Secretary of State with respect to matters the disclosure of which may be prejudicial to the public interest on the ground of national security.

(28) Section 64 was amended by sections 62 and 65 of, and Schedule 6 to, the Police (Northern Ireland) Act 2000 (c. 32); section 6 of the Justice (Northern Ireland) Act 2004 (c. 4).

(29) 1998 c. 47. There are amendments to section 4, but none are relevant.

(30) 2000 c. 23.

(31) Section 65 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

Status: This is the original version (as it was originally made).

(7) Any guidance given by the Department of Justice to the Ombudsman under this section has effect subject to any guidance given by the Secretary of State under subsection (6).”

37. In section 66(**32**) (assaults on constables)—

- (a) in subsection (6)(c) for “Secretary of State” substitute “Department of Justice”; and
- (b) omit subsection (7).

38.—(1) Amend section 72(**33**) (orders and regulations) as follows.

- (2) In subsection (1) before “the Secretary of State” insert “the Department of Justice or”.
- (3) In subsection (2) after “appear to” insert “the Department of Justice or (as the case may be)”.
- (4) In subsection (2A) for “Treasury” substitute “Department of Finance and Personnel”.
- (5) In subsection (4)—
 - (a) for “A statutory rule” substitute “An order or regulations”;
 - (b) omit “one containing”;
 - (c) for the words from “shall be” to “accordingly” substitute—
 - “(a) if made by the Department of Justice, shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**34**));
 - (b) if made by the Secretary of State, shall be 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(**35**) shall apply accordingly.”.

39.—(1) Amend Schedule 3(**36**) (the Police Ombudsman for Northern Ireland) as follows.

- (2) In paragraph 1 (the Ombudsman)—
 - (a) in sub-paragraph (1) after “Her Majesty” insert “on the recommendation of the First Minister and deputy First Minister acting jointly”;
 - (b) in sub-paragraphs (7), (8) and (9) for “Secretary of State” (wherever occurring) substitute “First Minister and deputy First Minister acting jointly”; and
 - (c) in sub-paragraph (8) for “him” substitute “them”.
- (3) In paragraphs 2 (remuneration) and 3 (staff) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
- (4) In paragraph 2(1) for “he” substitute “the Department of Justice”.
- (5) In paragraph 3 (staff)—
 - (a) after sub-paragraph (2) insert—

“(2A) Employment by the Ombudsman shall be included among the kinds of employment

to which a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972(**37**) can apply; and, accordingly, in Schedule 1 to that Order (kinds of employment etc. referred to in Article 3), at the appropriate place in the list of “Other Bodies” insert—

(32) Section 66 was amended by section 104 of the Police Reform Act 2002 (c. 30).

(33) Section 72 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(34) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(35) 1946 c. 36.

(36) Amendments have been made to Schedule 3 but none are relevant.

(37) S.I. 1972/1073 (N.I. 10).

“Employment by the Police Ombudsman for Northern Ireland.”

(2B) Where a person who is employed by the Ombudsman and is by reference to that employment a participant in a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 is appointed to the office of Ombudsman, the Department of Finance and Personnel may determine that his service in that office may be treated for the purposes of the scheme as service as an employee of the Ombudsman; and his rights under the scheme shall not be affected by paragraph 2(1).”; and

- (b) omit sub-paragraphs (3) and (4) (and the Superannuation Act 1972⁽³⁸⁾ has effect accordingly).
- (6) In paragraph 6 (assistance from Chief Constable)—
 - (a) in sub-paragraph (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” substitute “the Department of Justice”; and
 - (b) in sub-paragraphs (3) and (4) for “Secretary of State” substitute “Department of Justice”.
- (7) In paragraph 11 (expenses) for “Secretary of State” (in both places) substitute “Department of Justice”.
- (8) In paragraph 12 (accounts and statements)—
 - (a) in sub-paragraph (1)(b) and (c) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (1)(c) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (c) in sub-paragraph (2) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (d) in sub-paragraph (2) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
 - (e) after sub-paragraph (2) insert—

“(3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³⁹⁾ applies for the purposes of sub-paragraph (2) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”
- (9) Sub-paragraph (5)(b) above does not affect the position of any person under the Superannuation Act 1972⁽⁴⁰⁾ in relation to the person’s employment by the Ombudsman, or the person’s service as the Ombudsman, before the coming into force of this Order.
- (10) Sub-paragraph (11) below applies in relation to a person who immediately before the coming into force of this Order is, by virtue of paragraph 3(3) or (4) of Schedule 3 to the Police (Northern Ireland) Act 1998⁽⁴¹⁾, a participant in the principal civil service pension scheme as defined in section 2(10) of the Superannuation Act 1972.
- (11) In relation to the person’s employment by the Ombudsman, or (as the case may be) service as the Ombudsman, after the coming into force of this Order, the person is entitled to be a participant in the principal civil service pension scheme as defined in Article 4(10) of the Superannuation (Northern Ireland) Order 1972⁽⁴²⁾; and the person’s terms and conditions of service have effect accordingly.

⁽³⁸⁾ 1972 c. 11.

⁽³⁹⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽⁴⁰⁾ 1972 c. 11.

⁽⁴¹⁾ 1998 c. 32.

⁽⁴²⁾ S.I. 1972/1073 (N.I. 10).

Status: This is the original version (as it was originally made).

(12) Sub-paragraph (8) above does not apply in relation to a financial year ending before the coming into force of this Order.

Police (Northern Ireland) Act 2000

- 40.** Amend the Police (Northern Ireland) Act 2000⁽⁴³⁾ as follows.
- 41.** In section 3(4)(c) (Policing Board to have regard to code of practice) for “Secretary of State” substitute “Department of Justice”.
- 42.** In section 4⁽⁴⁴⁾ (police support staff)—
- (a) in subsections (2)(a) and (b), (3), (3B) and (7) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (3B)(d) for “him” substitute “the Department of Justice”.
- 43.** In section 5 (power to transfer certain staff to employment of Policing Board) in subsections (1) and (5) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
- 44.** In section 7 (acquisition and disposal of land by Policing Board)—
- (a) in subsection (3) for “Secretary of State” (in both places) substitute “Department of Justice”; and
 - (b) in subsection (4)(b) for “Secretary of State” substitute “Department of Justice”.
- 45.** In section 8(3) (consent to Policing Board providing advice and assistance to international organisations)—
- (a) for “Secretary of State” substitute “Department of Justice”;
 - (b) for “him” substitute “the Department of Justice”.
- 46.** In section 9⁽⁴⁵⁾ (grants to, and borrowing by, the Policing Board)—
- (a) in subsections (1), (2) and (5), and
 - (b) in subsection (7) (in both places),
- for “Secretary of State” substitute “Department of Justice”.
- 47.** In section 10⁽⁴⁶⁾ (funding for police purposes – ancillary provisions)—
- (a) in subsections (1), (1A) and (4) for “Secretary of State” (wherever occurring) substitute “Department of Justice”; and
 - (b) in subsection (1A) for “he” substitute “the Department of Justice”.
- 48.**—(1) In section 12⁽⁴⁷⁾ (accounts and audit)—
- (a) in subsections (3) and (4) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (5)—
 - (i) for “Secretary of State” (in both places) substitute “Department of Justice”;
 - (ii) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (c) in subsection (6)—

⁽⁴³⁾ 2000 c. 32.

⁽⁴⁴⁾ Section 4 was amended by S.I. 2007/912 (N.I. 6).

⁽⁴⁵⁾ Section 9 was amended by section 6 of the Police (Northern Ireland) Act 2003 (c. 6).

⁽⁴⁶⁾ Section 10 was amended by section 6 of the Police (Northern Ireland) Act 2003 (c. 6).

⁽⁴⁷⁾ Section 12 was amended by section 7 of the Police (Northern Ireland) Act 2003 (c. 6).

- (i) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”; and
- (ii) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
- (d) after subsection (6) insert—

“(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(48) applies for the purposes of subsection (6)(b) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”

(2) Sub-paragraph (1) above does not apply in relation to a financial year ending before the coming into force of this Order.

49.—(1) Amend section 15 (default of council) as follows.

(2) In subsection (1)—

- (a) for “Secretary of State” substitute “Department of Justice”; and
- (b) for “he” substitute “the Department of Justice”.

(3) In subsection (2)—

- (a) for “Secretary of State” substitute “Department of Justice”; and
- (b) for “him” substitute “the Department of Justice”.

50.—(1) Amend section 15A(49) (default of council: Belfast sub-groups) as follows.

(2) In subsection (1)—

- (a) for “Secretary of State” substitute “Department of Justice”; and
- (b) for “he” substitute “the Department of Justice”.

(3) In subsection (2)—

- (a) for “Secretary of State” substitute “Department of Justice”; and
- (b) for “him” substitute “the Department of Justice”.

51. In section 19(2) (agreement of Secretary of State to Board issuing code of practice for district policing partnerships) for “Secretary of State” substitute “Department of Justice”.

52.—(1) In section 24(50) (Secretary of State’s long term policing objectives)—

- (a) in subsections (1), (2), (2A) (in both places) and (3) for “Secretary of State” substitute “Department of Justice”;
- (b) in subsection (3) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
- (c) after subsection (3) insert—

“(4) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(51) applies for the purposes of subsection (3) in relation to the laying of a statement as it applies in relation to the laying of a statutory document under an enactment.”

(2) In the heading to section 24 for “Secretary of State’s” substitute “Department of Justice’s”.

53. In section 26 (Policing Board’s policing plan) in subsections (2)(b), (3) and (6) for “Secretary of State” substitute “Department of Justice”.

(48) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(49) Section 15A was inserted by Schedule 1 to the Police (Northern Ireland) Act 2003 (c. 6).

(50) Section 24 was amended by section 1 of the Police (Northern Ireland) Act 2003 (c. 6).

(51) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

Status: This is the original version (as it was originally made).

54. In section 27(**52**) (codes of practice on exercise of functions by Policing Board and Chief Constable)—

- (a) in subsections (1), (2) and (2A) (in both places) for “Secretary of State” substitute “Department of Justice”; and
- (b) in subsection (3)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” substitute “the Department of Justice”.

55. In section 28(6)(**53**) (consultation on performance plan and performance summary) for “Secretary of State” substitute “Department of Justice”.

56.—(1) In section 29(**54**) (audit of performance plans and performance summaries)—

- (a) in subsection (1) after “General” insert “for Northern Ireland”;
- (b) for subsection (3) substitute—

“(3) Article 3 of the Audit and Accountability (Northern Ireland) Order 2003(**55**) (right of Comptroller and Auditor General for Northern Ireland to obtain documents and information) applies in relation to an examination under this section as it applies in relation to an examination under Article 8 or 9 of the Audit (Northern Ireland) Order 1987(**56**).”;
- (c) in subsection (4)—
 - (i) after “General” insert “for Northern Ireland”; and
 - (ii) for “Secretary of State” substitute “Department of Justice”;
- (d) in subsection (4A)—
 - (i) after “General” insert “for Northern Ireland”; and
 - (ii) for “Secretary of State” substitute “Department of Justice”;
- (e) in subsection (5)—
 - (i) after “General” insert “for Northern Ireland”; and
 - (ii) for “Secretary of State” substitute “Department of Justice”;
- (f) in subsection (6) after “General” insert “for Northern Ireland”; and
- (g) in subsection (10)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) after “General” insert “for Northern Ireland”.

(2) Sub-paragraph (1) above does not apply in relation to a performance plan or a performance summary for a financial year ending before the coming into force of this Order.

57.—(1) Amend section 30 (examinations of the Policing Board’s compliance with section 28) as follows.

- (2) In subsection (1) after “General” insert “for Northern Ireland”.
- (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) after “General” (in each place) insert “for Northern Ireland”.

(52) Section 27 was amended by sections 2 and 6 of the Police (Northern Ireland) Act 2003 (c. 6).

(53) Section 28(6) was amended by section 8 of the Police (Northern Ireland) Act 2003 (c. 6).

(54) Section 29 was amended by section 9 of the Police (Northern Ireland) Act 2003 (c. 6).

(55) S.I. 2003/418 (N.I. 5).

(56) S.I. 1987/460 (N.I. 5).

- (4) In subsection (3)—
- (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) after “General” insert “for Northern Ireland”.
- (5) For subsection (4) substitute—
- “(4) Article 3 of the Audit and Accountability (Northern Ireland) Order 2003 (right of Comptroller and Auditor General for Northern Ireland to obtain documents and information) applies in relation to an examination under this section as it applies in relation to an examination under Article 8 or 9 of the Audit (Northern Ireland) Order 1987.”
- (6) In subsection (5) after “General” insert “for Northern Ireland”.
- (7) In subsection (6)—
- (a) in paragraph (a) after “General” insert “for Northern Ireland”; and
 - (b) in paragraph (b) for “Secretary of State” substitute “Department of Justice”.
- (8) In subsection (7)—
- (a) after “General” insert “for Northern Ireland”; and
 - (b) for “Secretary of State” substitute “Department of Justice”.
- (9) In subsection (8)—
- (a) after “General” insert “for Northern Ireland”;
 - (b) for “each House of Parliament” substitute “the Northern Ireland Assembly”.
- (10) After subsection (8) insert—
- “(8A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁵⁷⁾ applies for the purposes of subsection (8) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 58.**—(1) In section 31⁽⁵⁸⁾ (enforcement of duties under section 28)—
- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” substitute “it”;
 - (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” (in both places) substitute “the Department of Justice”;
 - (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”; and
 - (d) in subsection (4) for “Secretary of State” substitute “Department of Justice”.
- (2) Sub-paragraph (1) above does not apply in the case of a report under section 29(4) or (4A) relating to a performance plan or a performance summary mentioned in paragraph 56(2) above.
- 59.**—(1) Amend section 33A⁽⁵⁹⁾ (provision of information to Policing Board) as follows.
- (2) For subsections (3) and (4) substitute—
- “(3) Subsection (4) applies if the Chief Constable supplies the Board with information which, in his opinion, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

⁽⁵⁷⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽⁵⁸⁾ Section 31 was amended by section 9 of the Police (Northern Ireland) Act 2003 (c. 6).

⁽⁵⁹⁾ Section 33A was inserted by section 22 of the Police (Northern Ireland) Act 2003 (c. 6).

Status: This is the original version (as it was originally made).

(4) The Chief Constable—

- (a) must inform the Secretary of State that the information has been supplied to the Board, and
- (b) must inform the Secretary of State and the Board that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(5) Subsection (6) applies if the Chief Constable supplies the Board with information which, in his opinion, is—

- (a) information the disclosure of which would be likely to put an individual in danger, or
- (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).

(6) The Chief Constable—

- (a) must inform the Minister of Justice that the information has been supplied to the Board, and
- (b) must inform the Minister of Justice and the Board that, in his opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (5).”

60. In section 34(2) (deputy Chief Constable) for “Secretary of State” substitute “Department of Justice”.

61. In section 35 (appointment and removal of senior officers)—

- (a) in subsection (1) for “Secretary of State” substitute “Minister of Justice”;
- (b) in subsection (2) for “Secretary of State” substitute “Minister of Justice”;
- (c) in subsection (3)(a) and (b) for “Secretary of State” substitute “Minister of Justice”;
- (d) in subsection (4) for “Secretary of State” substitute “Minister of Justice”;
- (e) in subsection (7) for “Secretary of State” substitute “Department of Justice”; and
- (f) in subsection (8)(a) for “Secretary of State” substitute “Minister of Justice”.

62. In section 36A(**60**) (fixed-term appointments)—

- (a) in subsection (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “he” substitute “it”; and
- (b) in subsection (5) for “Secretary of State” substitute “Department of Justice”.

63. In section 41(**61**) (status etc. of trainees)—

- (a) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
- (b) in subsection (5)(a) for “Secretary of State” substitute “Department of Justice”; and
- (c) in subsection (6) for “Secretary of State” substitute “Department of Justice”.

64. In section 42(2) (police cadets) for “Secretary of State” substitute “Department of Justice”.

65. In section 43 (contracting-out of certain recruitment functions of Chief Constable)—

- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;

(60) Section 36A was inserted by section 24 of the Police (Northern Ireland) Act 2003 (c. 6).

(61) Amendments have been made to section 41 but none are relevant.

- (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (3)(b) for “Secretary of State” substitute “Department of Justice”.
- 66.** In section 44(**62**) (recruitment arrangements: trainees and support staff)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (4) for “Secretary of State” substitute “Department of Justice”.
- 67.** In section 48(4)(c) (action plans) for “Secretary of State” substitute “Department of Justice”.
- 68.** In section 51(3)(b) (notifiable memberships) for “Secretary of State” substitute “Department of Justice”.
- 69.** In section 52(**63**) (code of ethics)—
- (a) in subsection (5)(b) for “Secretary of State” substitute “Department of Justice”; and
 - (b) in subsection (10) for “Secretary of State” substitute “Department of Justice”.
- 70.** In section 53 (guidance as to use of equipment for maintaining or restoring public order)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (3)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “he” substitute “it”.
- 71.** In section 54 (regulations as to emblems and flags)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”;
 - (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”; and
 - (d) in subsection (3)(d) for “him” substitute “the Department of Justice”.
- 72.** In section 57(**64**) (annual and other reports by the Policing Board)—
- (a) in subsection (3)(b) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (4) for “Secretary of State” (in each place) substitute “Department of Justice”;
 - (c) in subsection (5)(b) for “Secretary of State” substitute “Department of Justice”; and
 - (d) in subsection (6)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “him” substitute “the Department of Justice”.
- 73.** In section 58 (annual report by Chief Constable to Policing Board)—
- (a) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
 - (iii) for “him” substitute “the Department of Justice”; and

(62) Amendments have been made to section 44 but none are relevant.

(63) Amendments have been made to section 52 but none are relevant.

(64) Amendments have been made to section 57 but none are relevant.

Status: This is the original version (as it was originally made).

(c) after subsection (4) insert—

“(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁶⁵⁾ applies for the purposes of subsection (4) in relation to the laying of a report as it applies in relation to the laying of a statutory document under an enactment.”

74.—(1) Amend section 59⁽⁶⁶⁾ (general duty of Chief Constable to report to Policing Board) as follows.

(2) In subsection (3) for “any of the grounds mentioned in section 76A(1)” substitute “the ground mentioned in section 76A(1)(a)”.

(3) After subsection (3) insert—

“(3A) The Chief Constable may refer to the Minister of Justice 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)(b) or (c).”

(4) For subsection (4) substitute—

“(4) Where a requirement to submit a report is referred to the Secretary of State under subsection (3) or to the Minister of Justice under subsection (3A), the Secretary of State or (as the case may be) the Minister of Justice may—

(a) within the period of 30 days from the date of the referral, or

(b) within such longer period as may be agreed between the Board and (as the case may be) the Secretary of State or the Minister of Justice,

modify or set aside the requirement, as necessary, for either or both of the purposes mentioned in subsection (4A).”

(5) In subsection (4A)(a) for “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)” substitute—

“, as the case may be—

(i) information which, in the opinion of the Secretary of State, ought not to be disclosed on the ground mentioned in section 76A(1)(a); or

(ii) information which, in the opinion of the Minister of Justice, ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c);”.

(6) In subsection (4B)(b) after “subsection (3)” insert “or to the Minister of Justice under subsection (3A)”.

(7) For subsections (4H) and (4I) substitute—

“(4H) Subsection (4I) applies if—

(a) the Chief Constable supplies to a committee under subsection (4D) information which, in the opinion of the Chief Constable, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a), or

(b) the Chief Constable includes information in a report to the Board and is of the opinion that the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(4I) 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; and

⁽⁶⁵⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽⁶⁶⁾ Section 59 was amended by sections 10 and 27 of the Police (Northern Ireland) Act 2003.

- (b) inform the Secretary of State and the recipient of the information that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).
- (4J) Subsection (4K) applies if—
 - (a) the Chief Constable supplies to a committee under subsection (4D) information which, in the opinion of the Chief Constable, is—
 - (i) information the disclosure of which would be likely to put an individual in danger, or
 - (ii) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c), or
 - (b) the Chief Constable includes information in a report to the Board and is of the opinion that the information is—
 - (i) information the disclosure of which would be likely to put an individual in danger, or
 - (ii) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).
- (4K) The Chief Constable must—
 - (a) inform the Minister of Justice that the information has been included in a report to the Board or supplied to the committee; and
 - (b) inform the Minister of Justice and the recipient of the information that, in his opinion, the information is information of a kind mentioned in sub-paragraph (i) or (ii) of paragraph (a) or (b) of subsection (4J).”

75.—(1) Amend section 60(~~67~~) (inquiry by Policing Board following report by Chief Constable) as follows.

- (2) In subsection (2)—
 - (a) in paragraph (a) for “Secretary of State” substitute “Minister of Justice”;
 - (b) in paragraph (b) for “Secretary of State” substitute “Minister of Justice”.
- (3) After subsection (2) insert—

“(2A) Where it appears to the Board that an inquiry under this section may relate wholly or in part to—

 - (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 or reserved matter (within the meaning given by section 4 of the Northern Ireland Act 1998),

the Board shall immediately inform the Secretary of State of the decision to cause the inquiry to be held and of any matter into which inquiry is to be made, and shall send a copy of the relevant report under section 59 to the Secretary of State.”
- (4) In subsections (3) and (5) for “any of the grounds mentioned in section 76A(2)” substitute “the ground mentioned in section 76A(2)(a)”.
- (5) After subsection (5) insert—

(67) Section 60 was amended by section 11 of the Police (Northern Ireland) Act 2003. Other amendments to section 60 are not relevant.

Status: This is the original version (as it was originally made).

“(5A) The Chief Constable may refer to the Minister of Justice 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)(b) or (c).

(5B) The Minister of Justice may within the period of 30 days from the date of referral of the decision of the Board by the Chief Constable, or within such longer period as may be agreed between the Board and the Minister of Justice, overrule the decision of the Board.

(5C) The Minister of Justice may overrule the Board only if, in the opinion of the Minister of Justice, the inquiry ought not to be held on any of the grounds mentioned in section 76A(2)(b) or (c).”

(6) In subsection (7) for “Secretary of State” substitute “Minister of Justice”.

(7) In subsection (8)(a) after “General” insert “for Northern Ireland”.

(8) In subsection (9) for “Secretary of State” substitute “Minister of Justice”.

(9) For subsections (10A) and (10B) substitute—

“(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 information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(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; and

(b) inform the Secretary of State, the Board and the person conducting the inquiry that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(10C) Subsection (10D) 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

(b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).

(10D) The Chief Constable must—

(a) inform the Minister of Justice and the Board that the information has been supplied to the person conducting the inquiry; and

(b) inform the Minister of Justice, 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 (10C).”

(10) In subsection (16) for paragraph (c) and the “and” before it substitute—

“(c) the Minister of Justice; and

(d) the Secretary of State, but only if the decision to cause the inquiry to be held was notified to the Secretary of State under subsection (2A) or if subsection (10A) applied in relation to the inquiry.”

76.—(1) Amend section 61 (reports by Chief Constable to Secretary of State) as follows.

(2) In subsections (1), (2) and (3) for “Secretary of State” (wherever occurring) substitute “appropriate authority”.

(3) After subsection (1) insert—

“(1A) In this section “the appropriate authority” means, in relation to any matter—

- (a) the Secretary of State, if the matter relates (in whole or in part other than incidentally) to an excepted matter or reserved matter or to a function conferred or imposed on the Secretary of State by or under a statutory provision;
- (b) otherwise, the Minister of Justice;

and in paragraph (a) “excepted matter” and “reserved matter” have the meanings given by section 4 of the Northern Ireland Act 1998(68).”

(4) After subsection (3) insert—

“(4) If it appears to the Chief Constable that a report that the Chief Constable is required to submit under subsection (1) to the Minister of Justice may contain information which, in the opinion of the Chief Constable, ought not to be disclosed on the ground mentioned in section 76A(1)(a), the Chief Constable may refer the report to the Secretary of State.

(5) If it appears to the Secretary of State that—

- (a) the Chief Constable is required to submit a report under subsection (1) to the Minister of Justice, and
- (b) the report may contain (or once completed may contain) information which ought not to be disclosed on the ground mentioned in section 76A(1)(a),

the Secretary of State may require the Chief Constable to refer the report to the Secretary of State (or, if the report is not completed when the requirement is imposed, to refer the report once completed).

(6) The Secretary of State must, within—

- (a) the period of 30 days from the date on which a report is referred to the Secretary of State under subsection (4) or (5), or
- (b) such longer period as may be agreed between the Secretary of State and the Minister of Justice,

notify the Chief Constable whether, in the opinion of the Secretary of State, the report contains any information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(7) Where the Chief Constable has referred a report to the Secretary of State under subsection (4) or the Secretary of State has required that a report be referred to the Secretary of State under subsection (5), the Chief Constable must not disclose the report to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (8), or
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(8) Where the Secretary of State notifies the Chief Constable under subsection (6) that, in the opinion of the Secretary of State, a report contains information which ought not to be disclosed on the ground mentioned in section 76A(1)(a)—

- (a) the Secretary of State may direct the Chief Constable to exclude from the report any information which, in the opinion of the Secretary of State, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a);
- (b) the Chief Constable must exclude that information from the report;
- (c) the Secretary of State must inform the Minister of Justice that the Secretary of State has given a direction under paragraph (a); and

Status: This is the original version (as it was originally made).

(d) the Secretary of State must lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).

(9) When the Chief Constable submits a report to the Minister of Justice from which information has been excluded under subsection (8), the Chief Constable must at the same time provide the report to the Secretary of State.

(10) In determining for the purposes of subsection (2)(b) when the period of one month, or the agreed longer period, expires in a case where a report has been referred to the Secretary of State under subsection (4) or (5), the period beginning with the day on which the report is referred to the Secretary of State and ending with the day on which the Secretary of State's notification is given under subsection (6) is to be disregarded.

(11) Subsection (12) applies if—

- (a) a requirement to submit a report has been made under subsection (1) by the Minister of Justice;
- (b) the Chief Constable has not referred the report to the Secretary of State under subsection (4) and has not been required to refer the report to the Secretary of State under subsection (5); and
- (c) the Chief Constable includes in the report submitted to the Minister of Justice information which, in the opinion of the Chief Constable, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(12) The Chief Constable must—

- (a) inform the Secretary of State that the information has been included in the report to the Minister of Justice;
- (b) inform the Secretary of State and the Minister of Justice that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a)."

(5) In the heading to section 61 after "Secretary of State" insert "and Minister of Justice".

77.—(1) Amend section 66(69) (access by Ombudsman to information and documents) as follows.

(2) For subsections (2) to (4) substitute—

“(2) Subsection (3) applies if—

- (a) the Chief Constable or the Board supplies information to the Ombudsman under subsection (1) for the purposes of or in connection with an investigation under section 60A of the 1998 Act; and
- (b) the person supplying the information is of the opinion that it is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(3) The person supplying the information must—

- (a) inform the Secretary of State that the information has been supplied to the Ombudsman; and
- (b) inform the Secretary of State and the Ombudsman that, in his or its opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(4) Subsection (5) applies if—

(69) Section 66 was amended by section 13 of the Police (Northern Ireland) Act 2003 (c. 6).

- (a) the Chief Constable or the Board supplies information to the Ombudsman under subsection (1) for the purposes of or in connection with an investigation under section 60A of the 1998 Act; and
- (b) the person supplying the information is of the opinion that it is—
 - (i) information the disclosure of which would be likely to put an individual in danger, or
 - (ii) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).
- (5) The person supplying the information must—
 - (a) inform the Minister of Justice that the information has been supplied to the Ombudsman; and
 - (b) inform the Minister of Justice and the Ombudsman that, in his or its opinion, the information is information of a kind mentioned in sub-paragraph (i) or (ii) of paragraph (b) of subsection (4).”

78.—(1) Amend section 69 (general duty of Secretary of State) as follows.

(2) In subsection (1) for “The Secretary of State shall exercise his functions under the Police Acts” substitute “A Minister with functions under the Police Acts shall exercise those functions”.

(3) In subsection (2) for “Secretary of State” substitute “Minister”.

(4) After subsection (2) insert—

“(3) In this section “Minister” means—

- (a) the Secretary of State,
- (b) the Minister of Justice,
- (c) the Department of Justice,
- (d) the First Minister and deputy First Minister, or
- (e) the Office of the First Minister and deputy First Minister.”

(5) In the heading for section 69 for “Secretary of State” substitute “Ministers”.

79. In section 70 (RUC George Cross Foundation)—

- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
- (b) in subsection (2)(f) for “Secretary of State” substitute “Department of Justice”; and
- (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”.

80. In section 71(1) (traffic wardens) for “Secretary of State” substitute “Department of Justice”.

81. In section 73 (places of detention: lay visitors)—

- (a) in subsection (3)(c) for “Secretary of State” substitute “Department of Justice”; and
- (b) for subsection (10) substitute—

“(10) For the purposes of this section—

- (a) the Secretary of State may by order specify as a designated place of detention a part of any police station if that part is for the time being designated for the purposes of paragraph 1 of Schedule 8 to the Terrorism Act 2000(70); and

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- (b) the Department of Justice may by order specify as a designated place of detention any other place which is designated under any enactment as a place in which persons may be detained.”

82.—(1) Amend section 74A(71) (restriction on disclosure of information) as follows.

(2) For subsection (2)(c) substitute—

“(c) in relation to the information, the Chief Constable informs the person as required by section 60(10B)(b) or (10D)(b).”

(3) For subsection (3)(b) substitute—

“(b) in relation to the information, the Chief Constable informs the Board as required by section 33A(4)(b) or (6)(b).”

(4) For subsection (4)(b) substitute—

“(b) in relation to the information, the Chief Constable informs the Board or the committee as required by section 59(4I)(b) or (4K)(b).”

(5) In subsection (6) after paragraph (g) insert—

“(h) to the Minister of Justice or the Department of Justice.”

(6) In subsection (7) after paragraph (g) insert—

“(h) to the Minister of Justice or the Department of Justice.”

(7) After subsection (7) insert—

“(7A) In subsections (7B) to (7D) “protected information” means information in relation to which the Chief Constable has given an opinion under section 33A(4)(b), 59(4I)(b) or 60(10B)(b).

(7B) Subsection (6)(h) does not authorise the disclosure of any protected information.

(7C) In the case of protected information supplied to a special purposes committee, subsection (7)(h) does not authorise the disclosure of the information.

(7D) In the case of protected information supplied to the Board, a person disclosing the information by virtue of subsection (7)(h) must inform the Minister of Justice or the Department of Justice that the information is protected information.”

(8) Section 74A continues to apply in relation to any information in relation to which it applies immediately before the coming into force of this Order.

(9) Such information is “protected information” for the purposes of section 74A(7B) to (7D) (as inserted by sub-paragraph (7) above) if, before the coming into force of this Order, the Chief Constable informed (as the case may be)—

- (a) the person conducting the inquiry under section 60, or
 (b) the Board or a special purposes committee,

that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a) of the Police (Northern Ireland) Act 2000(72).

83. In section 76(73) (orders and regulations)—

- (a) in subsection (1) after “Secretary of State” insert “, the Minister of Justice or the Department of Justice”;
 (b) in subsection (2)—

(71) Section 74A was inserted by section 27 of the Police (Northern Ireland) Act 2003 (c. 6).

(72) 2000 c. 32.

(73) Section 76 was amended by S.I. 2001/2513 (N.I. 3).

- (i) for “Orders” substitute “An order”, and
 - (ii) in paragraph (b) for “Secretary of State” substitute “person making the order or regulations”;
 - (c) in subsection (3) for “and (2)” substitute “, (2) and (6)”;
 - (d) in subsection (4) omit “or 54”;
 - (e) after subsection (4) insert—
 - “(4A) No regulations may be made under section 54 unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
 - (4B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁷⁴⁾ applies for the purposes of subsection (4A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”;
 - (f) in subsection (5) after “made” (where it occurs first) insert “by the Secretary of State”; and
 - (g) after subsection (5) insert—
 - “(6) An order or regulations made by the Minister of Justice or the Department of Justice under this Act (other than regulations under section 54) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”
- 84.** In section 76A(1)⁽⁷⁵⁾ (disclosure of information and holding of inquiries) after “59” insert “, 60, 61”.
- 85.** In section 77(1)⁽⁷⁶⁾ (interpretation), at the appropriate place, insert—
“the Minister of Justice” means the Minister in charge of the Department of Justice;”.
- 86.**—(1) Amend Schedule 1⁽⁷⁷⁾ (the Northern Ireland Policing Board) as follows.
- (2) In paragraphs 6(1)(b), 7(3), (4) and (13), 8(1), (2), (3) and (8), 9(1) and (2) and 12 for “Secretary of State” (wherever occurring) substitute “Minister of Justice”.
 - (3) In paragraph 13(1) for “Secretary of State” substitute “Department of Justice”.
 - (4) In paragraph 14—
 - (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (4) for “Secretary of State” (in each place) substitute “Department of Justice”.
 - (5) In paragraph 15—
 - (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (2) for “Secretary of State may” substitute “Department of Justice may, with the approval of the Department of Finance and Personnel,”.
 - (6) In paragraph 16—
 - (a) in sub-paragraph (2) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (3)—
 - (i) for “Secretary of State and the Comptroller and Auditor General” substitute “Department of Justice and the Comptroller and Auditor General for Northern Ireland”;

⁽⁷⁴⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽⁷⁵⁾ Section 76A(1) was inserted by section 29 of the Police (Northern Ireland) Act 2003 (c. 6).

⁽⁷⁶⁾ Amendments have been made to section 77(1) but none are relevant.

⁽⁷⁷⁾ Amendments have been made to Schedule 1 but none are relevant.

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- (ii) for “Secretary of State” (where it occurs for the second time) substitute “Department of Justice”;
 - (c) in sub-paragraph (4)—
 - (i) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (ii) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
 - (d) after sub-paragraph (4) insert—

“(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4)(b) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”
 - (7) Sub-paragraph (6) above does not apply in relation to a financial year ending before the coming into force of this Order.
 - (8) In paragraph 22(2) for “Secretary of State” substitute “Department of Justice”.
 - (9) In paragraph 23—
 - (a) in sub-paragraph (a)(iii) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (c) for the words from “any” to “Secretary of State” substitute “any reference to the Ministry were a reference to the Department of Justice”.
 - (10) In paragraph 24(1A)(b) after “Secretary of State” insert “or the Minister of Justice”.
- 87.** In paragraph 3(3) of Schedule 2 (transfer of assets and liabilities to the Policing Board) for “Secretary of State” substitute “Department of Justice”.
- 88.**—(1) Amend Schedule 3(78) (district policing partnerships) as follows.
- (2) In paragraph 6—
 - (a) in sub-paragraph (2) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (3) for “Secretary of State” substitute “Department of Justice”;
 - (c) in sub-paragraph (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “him” substitute “the Department of Justice”.
 - (3) In paragraph 14(c) for the words from “any” to “Secretary of State” substitute “any reference to the Ministry were a reference to the Department of Justice”.
 - (4) In paragraph 16—
 - (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (2)(a) and (b) for “Secretary of State” substitute “Department of Justice”;
 - (c) in sub-paragraph (3) for “Secretary of State” substitute “Department of Justice”.
- 89.**—(1) Amend Schedule 3A(79) (Belfast sub-groups) as follows.
- (2) In paragraph 6—
 - (a) in sub-paragraph (2) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (3) for “Secretary of State” substitute “Department of Justice”;
 - (c) in sub-paragraph (4)—

(78) Amendments have been made to Schedule 3 but none are relevant.

(79) Schedule 3A was inserted by Schedule 1 to the Police (Northern Ireland) Act 2003 (c. 6). Amendments have been made to Schedule 3A but none are relevant.

- (i) for “Secretary of State” substitute “Department of Justice”;
- (ii) for “him” substitute “the Department of Justice”.

(3) In paragraph 16(c) for the words from “any” to “Secretary of State” substitute “any reference to the Ministry were a reference to the Department of Justice”.

Royal Ulster Constabulary (Complaints etc.) Regulations 2000

90.—(1) Amend the Royal Ulster Constabulary (Complaints etc.) Regulations 2000(**80**) as follows.

(2) In regulation 20(ii) (supply of report on the investigation of matters not the subject of a complaint) for “Secretary of State” substitute “Department of Justice”.

(3) In regulation 21(2)(b) (copies of complaints) for “Secretary of State” substitute “Department of Justice”.

(4) In regulation 26 (expenses of complainants and witnesses) for “Department” substitute “Department of Justice”.

(5) After regulation 30 insert—

“Regulation relating to excepted and reserved matters etc

31.—(1) At the end of an investigation of a matter investigated under section 55 of the Act of 1998(**81**), the Ombudsman shall send a copy of the report on the investigation to the Secretary of State if the report relates wholly or in part to an excepted matter (within the meaning given by section 4 of the Northern Ireland Act 1998(**82**)), a reserved matter (within the meaning given by that section) or a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision.

(2) In a case where, for the purposes of regulation 21(2)(b) above, the Ombudsman is of the opinion that compliance with the request would be contrary to the public interest on the ground of national security (or on grounds including national security), in regulation 21(2)(b) above the reference to the Department of Justice is to be read as a reference to the Secretary of State.”

91.—(1) Regulations 1 to 30 of the Royal Ulster Constabulary (Complaints etc.) Regulations 2000 (as amended by paragraph 90(2) to (4) above) continue in effect as if made by the Department of Justice under section 64 of the Police (Northern Ireland) Act 1998(**83**).

(2) Regulation 31 of those Regulations (as inserted by paragraph 90(5) above) has effect as if made by the Secretary of State under section 64A of the 1998 Act (as inserted by paragraph 35 above).

(3) Any other regulations in effect under section 64 of the 1998 Act immediately before the coming into force of this Order continue in effect as if made by the Department of Justice and any functions of the Secretary of State under those regulations are transferred to the Department of Justice.

(80) S.R. (N.I.) 2000 No. 318, as amended by S.R. (N.I.) 2001 No. 184.

(81) The “Act of 1998” is the Police (Northern Ireland) Act 1998 (c. 32).

(82) 1998 c. 47.

(83) 1998 c. 32.

Status: This is the original version (as it was originally made).

Royal Ulster Constabulary GC Regulations 2002

- 92.**—(1) Amend the Royal Ulster Constabulary GC Regulations 2002⁽⁸⁴⁾ as follows.
- (2) In regulations 11 and 11A, wherever occurring—
- (a) for “Secretary of State” substitute “Department of Justice”;
 - (b) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”.
- (3) In regulation 11A(b) for “Parliament” substitute “the Assembly”.
- (4) Sub-paragraphs (2) and (3) above do not apply in relation to a financial year ending before the coming into force of this Order.

Police (Northern Ireland) Act 2003

- 93.**—(1) Amend the Police (Northern Ireland) Act 2003⁽⁸⁵⁾ as follows.
- (2) In section 34⁽⁸⁶⁾ (complaints and misconduct)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”; and
 - (b) in subsection (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) in paragraph (e) for “him” substitute “the Department of Justice”.
- (3) After section 34 insert—

“34A Secretary of State’s power to make regulations

- (1) The Secretary of State may make regulations containing provision of any kind within section 34(1) to (3) for purposes connected with—
- (a) excepted or reserved matters (within the meaning given by section 4 of the Northern Ireland Act 1998);
 - (b) matters in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954⁽⁸⁷⁾).
- (2) Before making regulations under this section the Secretary of State must consult the Department of Justice, the persons mentioned in section 34(4)(a) to (d) and any other person or body appearing to the Secretary of State to have an interest in the matter.
- (3) Regulations made by the Department of Justice under section 34 have effect subject to regulations made by the Secretary of State under this section.”
- (4) In section 37(1)⁽⁸⁸⁾ (code of ethics) for “Secretary of State” substitute “Department of Justice”.
- (5) In section 44 (orders and regulations)—
- (a) in subsection (1) after “Secretary of State” insert “or the Department of Justice”;
 - (b) in subsection (5) after “made” insert “by the Secretary of State”;
 - (c) after subsection (5) insert—

⁽⁸⁴⁾ S.R. (N.I.) 2002 No. 260. Regulation 11 was amended, and regulation 11A was inserted, by article 7 of S.I. 2008/817.

⁽⁸⁵⁾ 2003 c. 6.

⁽⁸⁶⁾ Section 34 was amended by S.I. 2007/912 (N.I. 6).

⁽⁸⁷⁾ 1954 c. 33 (N.I.). Section 1(f) was amended by S.I. 1999/663.

⁽⁸⁸⁾ Section 37(1) was amended by S.I. 2007/912 (N.I. 6).

“(6) An order or regulations made by the Department of Justice under this Act shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽⁸⁹⁾).”

Civil Contingencies Act 2004

94. Amend the Civil Contingencies Act 2004⁽⁹⁰⁾ as follows.

95.—(1) Amend section 1 (meaning of “emergency”) as follows.

(2) After subsection (4) insert—

“(4A) In relation to Northern Ireland, the power to make orders—

- (a) under subsection (4)(a) in relation to subsection (1)(a) or (b), and
- (b) under subsection (4)(b),

is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

96.—(1) Amend section 2 (duty to assess, plan and advise) as follows.

(2) After subsection (6) insert—

“(7) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (3) to make regulations in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(8) Subsection (5) has effect in relation to the power of the Department of Justice under subsection (3) as if—

- (a) paragraphs (e), (h) and (i) were omitted;
- (b) in paragraph (p) for the words from “a Minister of the Crown” to “department” there were substituted “a Northern Ireland department”.

(9) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (5)(h) or (i) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.”

97.—(1) Amend section 3 (section 2: supplemental) as follows.

(2) After subsection (5) insert—

“(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to issue guidance to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

98.—(1) Amend section 5 (general measures) as follows.

(2) After subsection (5) insert—

“(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to perform a function is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(7) Subsection (4) has effect in relation to the power of the Department of Justice under subsection (1) as if—

⁽⁸⁹⁾ Section 41(6) was amended by [S.I. 1999/663](#).

⁽⁹⁰⁾ [2004 c. 36](#). Schedule 1 to the Act was amended by [S.I. 2005/2043](#), [S.I. 2005/3050](#), Schedule 1 to the National Health Service (Consequential Provisions) Act [2006 \(c. 43\)](#) and [S.I. 2008/3012](#). There are other amendments to the Act, but none are relevant.

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- (a) paragraphs (d) and (e) were omitted;
- (b) in paragraph (f) for the words from “a Minister of the Crown” to “department” there were substituted “a Northern Ireland department”.

(8) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (4)(d) or (e) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.”

99.—(1) Amend section 6 (disclosure of information) as follows.

(2) After subsection (6) insert—

“(7) In relation to emergencies that do not fall within section 1(1)(c), the following powers are exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown)—

- (a) the power under subsection (1) to make regulations requiring or permitting the Chief Constable (PSNI) to disclose information to another person or body listed in any Part of Schedule 1;
- (b) the power under subsection (4) to issue guidance to the Chief Constable (PSNI).”

100.—(1) Amend section 7 (urgency) as follows.

(2) After subsection (4) insert—

“(4A) In relation to provision of a kind that could be made by the Department of Justice in Northern Ireland by an order under section 5(1) or by regulations under section 6(1), in subsection (2) the reference to the Minister is to be read as a reference to the Department of Justice and subsection (4) is to be read accordingly.”

(3) At the end of subsection (5) insert “made by the Minister or the Department of Justice (as the case may be)”.

101.—(1) Amend section 9 (monitoring by Government) as follows.

(2) After subsection (4) insert—

“(5) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to provide information or an explanation is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(6) If it appears to the Chief Constable (PSNI) that a requirement imposed by virtue of subsection (5) may require the Chief Constable (PSNI) to provide national security information, the Chief Constable (PSNI) may refer the requirement to a Minister of the Crown.

(7) The Minister may set aside or otherwise modify the requirement as the Minister considers appropriate so that the Chief Constable (PSNI) is not required to provide any information which appears to the Minister to be national security information.

(8) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.”

102.—(1) Amend section 10 (enforcement) as follows.

(2) In subsection (1) for “or 15(7)” substitute “, 15(7) or 15A(8)”.

(3) After subsection (2) insert—

“(3) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1)(a) to bring proceedings in respect of a failure by the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

103. After section 12 insert—

“12A Northern Ireland: provision or disclosure of national security information

(1) A Minister of the Crown may, for the purposes mentioned in subsection (2), make regulations addressing the provision or disclosure of national security information.

(2) Regulations under this section are to apply for the purposes of any regulations or order made by the Department of Justice in Northern Ireland under this Part; and any regulations or order made by the Department has effect subject to regulations under this section.

(3) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.

(4) Regulations under this section may (in particular)—

(a) provide that national security information is not to be provided or disclosed, or is to be provided or disclosed only in specified circumstances or in a specified way, despite any provision of regulations or an order made by the Department of Justice;

(b) provide that a certificate signed by a Minister of the Crown certifying that the disclosure of information to the public would, or would be likely to, adversely affect national security is conclusive evidence of that fact;

(c) provide that such a certificate may identify the information to which it applies by means of a general description and may be expressed to apply to information within that description that comes into existence after the certificate is made;

(d) confer other functions on a Minister of the Crown or any other specified person or body (and a function conferred may, in particular, be a power or duty to exercise a discretion).”

104.—(1) Amend section 13 (amendment of lists of responders) as follows.

(2) After subsection (3) insert—

“(4) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to make provision in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

105. After section 14 insert—

“14A Northern Ireland: consultation

(1) A Minister of the Crown must consult the Department of Justice in Northern Ireland before making regulations or an order under this Part in relation to the Chief Constable (PSNI).

(2) The Department of Justice must consult a Minister of the Crown before making regulations or an order under this Part.”

106.—(1) Amend section 15 (cross-border collaboration) as follows.

(2) In subsection (5) for “a Minister of the Crown makes an order” substitute “an order is made”.

107. After section 15 insert—

“15A Northern Ireland: cross-border collaboration

- (1) In relation to emergencies that do not fall within section 1(1)(c)—
 - (a) the power under section 15(3) or (6) to make regulations or an order permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 2 of Schedule 1 is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown);
 - (b) the power under section 15(4) to issue guidance is exercisable by the Department of Justice (and not by a Minister of the Crown) in relation to regulations made by the Department.
- (2) Where the Chief Constable (PSNI) has a duty under section 2, a Minister of the Crown may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—
 - (a) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to co-operate, to such extent and in such manner as may be specified, with the Chief Constable (PSNI) in connection with the performance of the duty;
 - (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the performance of the duty.
- (3) A Minister of the Crown may issue guidance about a matter addressed in regulations under subsection (2).
- (4) If the Department of Justice in Northern Ireland makes an order under section 5(1) imposing a duty on the Chief Constable (PSNI), a Minister of the Crown may make an order—
 - (a) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to co-operate, to such extent and in such manner as may be specified, with the Chief Constable (PSNI) in connection with the duty;
 - (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the duty.
- (5) Where a person or body listed in Part 1 of Schedule 1 (other than the Chief Constable (PSNI)) has a duty under section 2 or 4, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—
 - (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty;
 - (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty.
- (6) The Department of Justice in Northern Ireland may issue guidance about a matter addressed in regulations under subsection (5).
- (7) If a Minister of the Crown makes an order under section 5(1) imposing a duty on a person or body listed in Part 1 of Schedule 1, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make an order—
 - (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the duty;

(b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the duty.

(8) A person or body must comply with regulations or an order under this section and must have regard to guidance under this section.

(9) In this Act, except where the contrary intention appears, a reference to an order under section 5(1) includes a reference to an order under subsection (4) or (7) above.”

108.—(1) Amend section 17 (regulations and orders) as follows.

(2) In subsection (1) after “made” insert “by a Minister of the Crown or the Scottish Ministers”.

(3) After subsection (1) insert—

“(1A) Any power of the Department of Justice in Northern Ireland under this Part to make regulations or an order is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(91).”

(4) After subsection (3) insert—

“(3A) An order under section 1(4), 5(1) or 13(1) may not be made by the Department of Justice in Northern Ireland unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.

(3B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(92) applies for the purposes of subsection (3A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(5) After subsection (5) insert—

“(5A) Regulations made by the Department of Justice in Northern Ireland under this Part are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

109. In section 18(1) (interpretation), at the appropriate place, insert—

“Chief Constable (PSNI)” means the Chief Constable of the Police Service of Northern Ireland.”

110.—(1) Subject to what follows, the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005(93) continue in effect ignoring paragraphs 94 to 109 above.

(2) The regulations that may be made by a Minister of the Crown in the exercise of a relevant power after the coming into force of this Order include regulations revoking, modifying or otherwise affecting any provision of the 2005 Regulations (so long as the regulations revoking, modifying or otherwise affecting any such provision are within the scope of the Minister’s power as modified or conferred by virtue of paragraphs 94 to 109 above).

(3) The regulations that may be made by the Department of Justice in the exercise of a relevant power after the coming into force of this Order include—

(a) regulations revoking, modifying or otherwise affecting any provision of the 2005 Regulations (so long as the regulations revoking, modifying or otherwise affecting any such provision are within the scope of the Department’s power as conferred by virtue of paragraphs 94 to 109 above);

(91) [S.I. 1979/1573 \(N.I. 12\)](#).

(92) [1954 c. 33 \(N.I.\)](#). Section 41(3) was substituted by [S.I. 1999/663](#).

(93) [S.I. 2005/2042](#)

Status: This is the original version (as it was originally made).

(b) regulations revoking any provision of the 2005 Regulations so far as the provision cannot be revoked by virtue of sub-paragraph (2) above or paragraph (a) of this sub-paragraph (and so long as the regulations revoking any such provision could have been made by a Minister of the Crown in the exercise of the relevant power immediately before the coming into force of this Order).

(4) In this paragraph “a relevant power” means a power conferred by any of the following provisions of the Civil Contingencies Act 2004⁽⁹⁴⁾—

- (a) section 2(3) and (5);
- (b) section 4(2), (4) and (5);
- (c) section 6(1);
- (d) section 12;
- (e) section 12A;
- (f) section 15(3);
- (g) section 15A(2);
- (h) section 15A(5);
- (i) section 17(6).

(5) In section 12A(2) of the 2004 Act (as inserted by paragraph 103 above) references to regulations made by the Department of Justice include regulations made by virtue of sub-paragraph (3) above.

Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008

111.—(1) Amend the Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008⁽⁹⁵⁾ as follows.

(2) In regulation 4(4) (modification of section 65 of the 1998 Act) for “Secretary of State” substitute “Department of Justice”.

(3) In regulation 8(5)(c) (complaints: making and receipt) for “Secretary of State” substitute “Department of Justice”.

(4) In regulation 14(1)(c) (modification of section 55 of the 1998 Act) in the text inserted as section 55(8) after “the Board” insert “, the Department of Justice”.

(5) In regulation 19(3)(b) (Ombudsman’s report on investigation under section 55 of the 1998 Act) for “Secretary of State” substitute “Department of Justice”.

(6) In regulation 23 (expenses of complainants and witnesses) for “Secretary of State” substitute “Department of Justice”.

(7) After Part 7 insert—

“PART 8

A. In section 65 of the 1998 Act as it applies by virtue of regulation 4(1) above, the power of the Secretary of State to issue guidance includes power to issue guidance concerning the discharge of functions under Parts 1 to 7 above and this Part (and section 65(7) of the 1998 Act applies accordingly).

⁽⁹⁴⁾ 2004 c. 36.

⁽⁹⁵⁾ S.R. (N.I) 2008 No. 242.

- B. In a case where, for the purposes of regulation 8(5)(c) above, the Ombudsman is of the opinion that compliance with the request would be contrary to the public interest on the ground of national security (or on grounds including national security), in regulation 8(5)(c) above the reference to the Department of Justice is to be read as a reference to the Secretary of State.
- C. At the end of an investigation of a matter investigated under section 55 of the 1998 Act concerning the relevant conduct of a designated person, the Ombudsman shall send a copy of the report on the investigation to the Secretary of State if the report relates wholly or in part to an excepted matter (within the meaning given by section 4 of the Northern Ireland Act 1998⁽⁹⁶⁾), a reserved matter (within the meaning given by that section) or a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision.”

112.—(1) Parts 1 to 7 of the Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008 (as amended by paragraph 111(2) to (6) above) continue in effect as if made by the Department of Justice under section 34 of the Police (Northern Ireland) Act 2003⁽⁹⁷⁾.

(2) Part 8 of those Regulations (as inserted by paragraph 111(7) above) has effect as if made by the Secretary of State under section 34A of the 2003 Act (as inserted by paragraph 93(3) above).

(3) Any other regulations in effect under section 34 of the 2003 Act immediately before the coming into force of this Order continue in effect as if made by the Department of Justice and any functions of the Secretary of State under those regulations are transferred to the Department of Justice.

⁽⁹⁶⁾ 1998 c. 47.

⁽⁹⁷⁾ 2003 c. 6.