



# Police (Northern Ireland) Act 2003

## 2003 CHAPTER 6

### PART 2

#### POLICE POWERS

##### *Designation of civilians*

### **30 Police powers for designated police support staff**

- (1) The Chief Constable may designate a member of the police support staff as an officer of one or more of these descriptions—
  - (a) investigating officer;
  - (b) detention officer;
  - (c) escort officer.
- (2) The Chief Constable may designate a person under this section only if he is satisfied that these requirements are met—
  - (a) the person is a suitable person to carry out the functions for the purposes of which he is to be designated;
  - (b) the person is capable of effectively carrying out those functions;
  - (c) the person has received adequate training in the carrying out of those functions and in the exercise of the powers and performance of the duties to be conferred or imposed on him by his designation.
- (3) A person designated under this section has—
  - (a) the powers conferred on him by his designation;
  - (b) the duties imposed on him by his designation.
- (4) A designation under this section may confer powers or impose duties on a person only by applying the powers or duties to him.
- (5) The powers and duties that may be applied to a person designated under this section by his designation are any or all of those specified in the applicable Part of Schedule 2.

- (6) The applicable Part of Schedule 2 is—
- (a) Part 1, in the case of a person designated under this section as an investigating officer;
  - (b) Part 2, in the case of a person designated under this section as a detention officer;
  - (c) Part 3, in the case of a person designated under this section as an escort officer.
- (7) If a power is conferred or a duty imposed on a person designated under this section by his designation—
- (a) the power or duty does not authorise or require him to engage in any conduct otherwise than in the course of his employment as a member of the police support staff;
  - (b) the power may be conferred or the duty imposed subject to restrictions or conditions specified in the designation.
- (8) Subsection (9) applies in relation to the exercise of a power by a person designated under this section in reliance on his designation if the power is one which, if exercised by a police officer, includes or is supplemented by a power to use reasonable force.
- (9) The designated person has the same entitlement to use reasonable force as a police officer would have if the power were exercised by him.
- (10) If a power exercisable by a person designated under this section in reliance on his designation includes power to use force to enter any premises, the power is exercisable by the person only—
- (a) in the company of a police officer and under the supervision of a police officer, or
  - (b) for the purpose of saving life or limb or preventing serious damage to property.

### **31 Police powers for designated contracted-out staff**

- (1) This section applies if the Board has entered into a contract with a person (“the contractor”) for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody.
- (2) The Chief Constable may designate an employee of the contractor as an officer of either or both of these descriptions—
- (a) detention officer;
  - (b) escort officer.
- (3) The Chief Constable may designate a person under this section only if he is satisfied that these requirements are met—
- (a) the person is a suitable person to carry out the functions for the purposes of which he is to be designated;
  - (b) the person is capable of effectively carrying out those functions;
  - (c) the person has received adequate training in the carrying out of those functions and in the exercise of the powers and performance of the duties to be conferred or imposed on him by his designation;
  - (d) the contractor is a fit and proper person to supervise the carrying out of the functions for the purposes of which the person is to be designated.
- (4) A person designated under this section has—

- (a) the powers conferred on him by his designation;
  - (b) the duties imposed on him by his designation.
- (5) A designation under this section may confer powers or impose duties on a person only by applying the powers or duties to him.
- (6) The powers and duties that may be applied to a person designated under this section by his designation are any or all of those specified in the applicable Part of Schedule 2.
- (7) The applicable Part of Schedule 2 is—
  - (a) Part 2, in the case of a person designated under this section as a detention officer;
  - (b) Part 3, in the case of a person designated under this section as an escort officer.
- (8) If a power is conferred or a duty imposed on a person designated under this section by his designation—
  - (a) the power or duty does not authorise or require him to engage in any conduct otherwise than in the course of his employment as an employee of the contractor;
  - (b) the power may be conferred or the duty imposed subject to restrictions or conditions specified in the designation.
- (9) Subsection (10) applies in relation to the exercise of a power by a person designated under this section in reliance on his designation if the power is one which, if exercised by a police officer, includes or is supplemented by a power to use reasonable force.
- (10) The designated person has the same entitlement to use reasonable force as a police officer would have if the power were exercised by him.
- (11) A designation under this section, unless it is previously withdrawn or ceases to have effect under subsection (12), shall remain in force for such period as may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.
- (12) A designation under this section shall cease to have effect—
  - (a) if the designated person ceases to be an employee of the contractor; or
  - (b) if the contract between the Board and the contractor is terminated or expires.

## **32 Police powers: amendments**

- (1) Schedule 3 contains amendments consequential on sections 30 and 31.
- (2) In Schedule 3 “the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

## **33 Designations: supplementary**

- (1) Subsection (2) applies if, in reliance on his designation under section 30 or 31, a person exercises or performs a power or duty in relation to another or purports to do so.
- (2) The designated person must produce his designation to the other if requested to do so.
- (3) A failure to comply with subsection (2) does not make the exercise or performance of the power or duty invalid.

- (4) The Chief Constable may at any time modify or withdraw a person's designation under section 30 or 31 by notice to him.
- (5) If the Chief Constable modifies or withdraws a person's designation under section 31, he must send a copy of the notice of the modification or withdrawal to the contractor responsible for supervising the designated person in the carrying out of the functions for the purposes of which the designation was granted.
- (6) In subsection (5) "contractor" means a person who has entered into a contract with the Board such as is mentioned in section 31(1).

### **34 Complaints and misconduct**

- (1) The Secretary of State may by regulations make provision for the handling of—
  - (a) complaints relating to the carrying out by a person designated under section 30 or 31 of any of the functions mentioned in subsection (2);
  - (b) instances of misconduct involving the carrying out by such a person of any of those functions.
- (2) The functions are those for the purposes of which any power or duty is conferred or imposed on the person by his designation.
- (3) Regulations under subsection (1) may in particular provide that any provision of Part 7 of the [Police \(Northern Ireland\) Act 1998 \(c. 32\)](#) is to apply, with such modifications as may be prescribed by the regulations, with respect to persons designated under section 30 or 31.
- (4) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) the Ombudsman;
  - (b) the Board;
  - (c) the Chief Constable;
  - (d) the Police Association;
  - (e) any other person or body appearing to him to have an interest in the matter.

### **35 Liability for unlawful conduct**

- (1) For the purposes of determining liability for the unlawful conduct of members of the police support staff—
  - (a) a member of the police support staff must be treated as an employee of the Chief Constable in relation to conduct in reliance or purported reliance on a designation under section 30;
  - (b) conduct by a member of the police support staff in reliance or purported reliance on a designation under section 30 must be taken to be conduct in the course of that employment;
  - (c) in the case of a tort, the Chief Constable accordingly falls to be treated as a joint tortfeasor.
- (2) For the purposes of determining liability for the unlawful conduct of employees of a contractor, conduct by such an employee in reliance or purported reliance on a designation under section 31 must be taken to be conduct in the course of his employment by the contractor; and, in the case of a tort, the contractor accordingly falls to be treated as a joint tortfeasor.

- (3) In subsection (2) “contractor” means a person who has entered into a contract with the Board such as is mentioned in section 31(1).

### **36 Notifiable memberships**

- (1) Section 51 of the [Police \(Northern Ireland\) Act 2000 \(c. 32\)](#) (notifiable memberships of police officers) applies in relation to persons designated under section 30 or 31 as it applies in relation to police officers.
- (2) As so applied, that section has effect as if the reference in subsection (1) to the duties of a police officer were to the functions for the purposes of which any power or duty is conferred or imposed on a person by his designation under section 30 or 31.

### **37 Code of ethics**

- (1) The Secretary of State may by order apply the code of ethics issued by the Board under section 52 of the [Police \(Northern Ireland\) Act 2000 \(c. 32\)](#) to persons designated under section 30 or 31.
- (2) An order under subsection (1) may apply the code with such modifications as are specified in the order.
- (3) If an order is made under subsection (1) applying the code to a person designated under section 30 or 31 he must be guided by the code as it applies to him in carrying out the functions for the purposes of which any power or duty is conferred or imposed on him by his designation.

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

- (1) Section 66 of the [Police \(Northern Ireland\) Act 1998 \(c. 32\)](#) (assaults on, and obstruction of, constables etc.) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Any person who assaults, resists, obstructs or impedes a designated person in the execution of his duty, or a person assisting a designated person in the execution of his duty, shall be guilty of an offence.”
- (3) In subsection (2) after “subsection (1)” insert “or (1A)”.
- (4) In subsection (3) after “subsection (1)” insert “or (1A)”.
- (5) After subsection (3) insert—
- “(3A) In subsection (1A) the references to the execution of the duty of a designated person are to—
- (a) the exercise of a power conferred on him by his designation;
- (b) the performance of a duty imposed on him by his designation.
- (3B) In this section “designated person” means a person designated under section 30 or 31 of the [Police \(Northern Ireland\) Act 2003](#).”

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

- (1) Section 67 of the Police (Northern Ireland) Act 1998 (impersonation etc.) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) Any person who, with intent to deceive—
    - (a) impersonates a designated person; or
    - (b) makes any statement or does any act calculated falsely to suggest that he is a designated person; or
    - (c) makes any statement or does any act calculated falsely to suggest that he has powers as a designated person that exceed the powers he actually has,shall be guilty of an offence.”
- (3) In subsection (3) after “subsection (1)” insert “, (1A)”.
- (4) After subsection (5) insert—
  - “(6) In this section “designated person” means a person designated under section 30 or 31 of the Police (Northern Ireland) Act 2003.”

### **40 Designated persons: interpretation**

- (1) This section applies for the interpretation of sections 30 to 39.
- (2) “Conduct” includes omissions and statements.
- (3) Expressions used in those sections and in the [Police \(Northern Ireland\) Act 2000 \(c. 32\)](#) have the same meanings in those sections as they have in that Act.

#### *Searches and samples*

### **41 Intimate searches**

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

### **42 Intimate samples**

- (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as set out in subsections (2) to (5).
- (2) In Article 62 (intimate samples) for paragraph (9) substitute—
  - “(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.

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

### *Codes of practice*

## **43 Codes of practice**

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

- “(6A) Subject to paragraph (6B), the Secretary of State may by order subject to Article 89 provide that a code of practice for the time being in force is to be treated as having effect with such modifications as may be set out in the order.
- (6B) The effect of the modifications made by an order under paragraph (6A) must be confined to one or more of the following—
- (a) the effect of the code during such period, not exceeding two years, as may be so specified;
  - (b) the effect of the code in relation to such offences or descriptions of offender as may be so specified.”