

**EXPLANATORY MEMORANDUM TO
THE POLICE SERVICE OF NORTHERN IRELAND RESERVE (PART-TIME)
(AMENDMENT) REGULATIONS 2009**

2009 No. 393

1. 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

1.2 It has been prepared by the Northern Ireland Office to assist the reader in understanding this statutory rule (SR). It does not form part of the SR.

1.3 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of the instrument is to give corrective action, as requested by the Joint Committee on Statutory Instruments regarding the Police Service of Northern Ireland Reserve (Part-time) Regulations 2004. The instrument also clarifies the rules about prohibited business interests. Provision is made within the instrument to take DNA samples from every member.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The SR corrects errors in the Police Service of Northern Ireland Reserve (Part-Time) Regulations 2004 (S.R. 2004/3) as previously reported by the Joint Committee on Statutory Instruments in its 8th Report for the Session 2003-2004.

4. Legislative Context

4.1 Section 37 of the Police (Northern Ireland) Act 2000 gives the Chief Constable the power to appoint to the Police Service of Northern Ireland Reserve, in accordance with regulations under section 26 of the Police (Northern Ireland) Act 1998.

4.2 Section 26 of the Police (Northern Ireland) Act 1998 allows for the Secretary of State to make regulations as to the government, administration and conditions of service of reserve constables.

4.3 The Police Service of Northern Ireland Reserve (Part-Time) Regulations 2004, as amended, make provision for different aspects of the conditions of service of a part-time member of the Police Service of Northern Ireland Reserve, including the restrictions which may be applied, the duties a member is expected to carry out and the various allowances and other emoluments to which a member may be entitled.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The main purpose of the Police Service of Northern Ireland Reserve (Part-Time) (Amendment) Regulations 2009 is to amend current regulations in relation to the restrictions on private life and business interests of members of the Police Service of Northern Ireland Reserve.

7.2 The need to amend the restriction on the private life of members arose due to concerns raised by the Joint Committee on Statutory Instruments that the restrictions may be incompatible with Article 8 of the European Convention on Human Rights. The amendment specifies the purposes for which restrictions may be imposed and limits it to the interests of public safety, the prevention of disorder or crime and the protection of the rights and freedoms of others.

7.3 The regulations also clarify the rules about business interests which are prohibited for members of the Police Service of Northern Ireland Reserve and their relatives. The relatives who will be considered are also specified. This reflects the changes which have recently been made for police officers and police trainees.

7.4 Provision is made within the regulations to take DNA samples from every member. The regulations also specify that these samples will be destroyed when the person ceases to become a member.

- *Consolidation*

7.7 No consolidation is planned.

8. Consultation outcome

8.1 As required by Section 26(6) of the Police (Northern Ireland) Act 1998, the Secretary of State consulted the Northern Ireland Policing Board and the Police Association for Northern Ireland. In addition, views were sought from the Chief Constable and the Equality Commission for Northern Ireland. The draft regulations were issued for a 12 week consultation from 1 May to 24 July.

8.2 Most responses were broadly supportive of the proposed changes. However, the regulations originally contained a provision to ban members of the PSNI Reserve from membership of organisations determined by the Secretary of State. Following a

response from the Equality Commission, this provision was removed while we consider the legality of making such a provision.

9. Guidance

9.1 It is not intended that these regulations will be accompanied by guidance.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Regulations will be reviewed in line with any comments received from the Police Service of Northern Ireland. Any changes to the conditions of service for regular officers in the Police Service of Northern Ireland will be considered for members of the Police Service of Northern Ireland Reserve.

13. Contact

Clare Brady at the Northern Ireland Office Tel: 028 9052 3458 or email: Clare.Brady@nio.x.g.si.gov.uk can answer any queries regarding the instrument.