



# Police (Northern Ireland) Act 2000

## 2000 CHAPTER 32

### PART VI

#### THE POLICE

##### *Temporary provisions concerning composition of the police*

#### **46 Discrimination in appointments.**

[<sup>F1</sup>(1) Subject to subsection (2), in making appointments under section 39 on any occasion, the Chief Constable shall proceed as set out in subsections (1A) to (1F).

(1A) He shall provisionally appoint from the pool of applicants formed by virtue of section 44(5) an even number of persons of whom—

- (a) one half shall be persons who are treated as Roman Catholic; and
- (b) one half shall be persons who are not so treated.

(1B) Where following the provisional appointment of any person under subsection (1A) it is determined in accordance with regulations under section 44 that the person—

- (a) is physically and mentally fitted for appointment; and
- (b) is not unsuitable for appointment;

the Chief Constable shall confirm the appointment.

(1C) Subsections (1D), (1E) and (1F) apply where following the provisional appointment of any person under subsection (1A) it is determined in accordance with regulations under section 44 that the person—

- (a) is not physically and mentally fitted for appointment; or
- (b) is unsuitable for appointment.

(1D) The provisional appointment of that person (the unsuccessful applicant) shall cease to be of any effect.

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*Changes to legislation: There are currently no known outstanding effects for the Police (Northern Ireland) Act 2000, Section 46. (See end of Document for details)*

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- (1E) The Chief Constable shall provisionally appoint from the pool of applicants formed by virtue of section 44(5) a person to replace the unsuccessful applicant being a person who—
- (a) is treated as Roman Catholic, where the unsuccessful applicant was so treated; or
  - (b) is not so treated, where the unsuccessful applicant was not so treated.
- (1F) Subsections (1B) to (1E) apply in relation to a person provisionally appointed under subsection (1E) as they apply in relation to a person provisionally appointed under subsection (1A).
- (1G) In subsections (1B) and (1C) references to a person being “physically and mentally fitted for appointment” and “unsuitable for appointment” have such meanings as may be prescribed by regulations under section 41(3).
- (2) The Secretary of State may, after consultation with the Board and the Chief Constable, by order amend any of the preceding subsections in their application to the making of appointments under section 39 on any occasion specified in the order.]
- (3) The Secretary of State shall not make an order under subsection (2) in relation to the making of appointments under section 39 on any occasion unless he is satisfied that—
- (a) were those appointments to be made in compliance with [F<sup>2</sup>subsections (1) to (1F)] the number of police trainees which the Chief Constable requires to be appointed on that occasion could not be appointed; or
  - (b) one or more orders under subsection (2) have been made in the previous three years and he considers that it is appropriate to make the order for the purpose of redressing, or partially redressing, the imbalance occurring during that period.
- (4) No order may be made under subsection (2) as a result of subsection (3)(b) which has the effect, as respects an occasion specified in the order, of requiring more than three-quarters of the persons appointed on that occasion to be—
- (a) the persons who are treated as Roman Catholic; or
  - (b) the persons who are not so treated.
- [F<sup>3</sup>(5) Subject to subsection (6), in making appointments to relevant posts in the police support staff under subsection (3) of section 4 on any occasion, the Chief Constable (acting by virtue of subsection (5) of that section) shall proceed as set out in subsections (5A) to (5F).
- (5A) He shall provisionally appoint from the pool of applicants formed by virtue of section 44(6) an even number of persons of whom—
- (a) one half shall be persons who are treated as Roman Catholic; and
  - (b) one half shall be persons who are not so treated.
- (5B) Where following the provisional appointment of any person under subsection (5A) it is determined in accordance with regulations under section 44 that the person—
- (a) is physically and mentally fitted for appointment; and
  - (b) is not unsuitable for appointment;
- the Chief Constable shall confirm the appointment.

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- (5C) Subsections (5D), (5E) and (5F) apply where following the provisional appointment of any person under subsection (5A) it is determined in accordance with regulations under section 44 that the person—
- (a) is not physically and mentally fitted for appointment; or
  - (b) is unsuitable for appointment.
- (5D) The provisional appointment of that person (the unsuccessful applicant) shall cease to be of any effect.
- (5E) The Chief Constable shall provisionally appoint from the pool of applicants formed by virtue of section 44(6) a person to replace the unsuccessful applicant being a person who—
- (a) is treated as Roman Catholic, where the unsuccessful applicant was so treated; or
  - (b) is not so treated, where the unsuccessful applicant was not so treated.
- (5F) Subsections (5B) to (5E) apply in relation to a person provisionally appointed under subsection (5E) as they apply in relation to a person provisionally appointed under subsection (5A).
- (6) The Secretary of State may, after consultation with the Board and the Chief Constable, by order amend any of subsections (5) to (5F) in their application to the making of appointments under section 4(3) on any occasion specified in the order.]
- (7) The Secretary of State shall not make an order under subsection (6) in relation to the making of appointments under section 4 on any occasion unless he is satisfied that were those appointments to be made in compliance with [<sup>F4</sup>subsections (5) to (5F)] the number of police support staff which the Chief Constable requires to be appointed on that occasion could not be appointed.
- (8) In [<sup>F5</sup>this section] “treated as Roman Catholic” means treated by the Chief Constable in accordance with the Monitoring Regulations as belonging to the Roman Catholic community in Northern Ireland.
- (9) In subsection (8) “the Monitoring Regulations” means the <sup>M1</sup>Fair Employment (Monitoring) Regulations (Northern Ireland) 1999 or any regulations replacing those regulations and for the time being in operation.
- (10) In Part VIII of the Fair <sup>M2</sup>Employment and Treatment (Northern Ireland) Order 1998 (exceptions) after Article 71 there shall be inserted—

**“71A The police and the police support staff**

- (1) Nothing in Part III or V shall render unlawful anything done by the Chief Constable in order to comply with the requirements of section 46(1) of the Police (Northern Ireland) Act 2000 (selection of persons for appointment as police trainees).
- (2) Nothing in Part III or V shall render unlawful anything done by the Chief Constable in order to comply with the requirements of section 46(5) of the Police (Northern Ireland) Act 2000 (selection of persons for certain posts in police support staff).
- (3) The application of any requirement or condition to any person applying for appointment as a police reserve trainee with a view to service in the

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Police Service of Northern Ireland Reserve on a part-time basis where the requirement or condition is one that the person applying is resident in a particular area is not by virtue of Article 3(2) unlawful under any provision of Part III or V.”

- (11) In Part VI of the <sup>M3</sup>Race Relations (Northern Ireland) Order 1997 (exceptions) after Article 40 there shall be inserted—

“40A **The Police Service of Northern Ireland and the police support staff**

- (1) Nothing in Parts II to IV shall render unlawful any act done by the Chief Constable in order to comply with the requirements of section 46(1) of the Police (Northern Ireland) Act 2000 (selection of persons for appointment as police trainees).
- (2) Nothing in Parts II to IV shall render unlawful any act done by the Chief Constable in order to comply with the requirements of section 46(5) of the Police (Northern Ireland) Act 2000 (selection of persons for certain posts in police support staff).”

**Textual Amendments**

- F1** S. 46(1)-(2) substituted for s. 46(1)(2) (22.4.2007) by [The Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), **8(2)**
- F2** Words in s. 46(3)(a) substituted (22.4.2007) by [The Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), **8(3)(a)**
- F3** S. 46(5)-(6) substituted for s. 46(5)(6) (22.4.2007) by [The Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), **9(3)**
- F4** Words in s. 46(7) substituted (22.4.2007) by [The Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), **9(4)**
- F5** Words in s. 46(8) substituted (22.4.2007) by [The Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), **8(3)(b)**

**Modifications etc. (not altering text)**

- C1** S. 46 shall expire on the third anniversary of the commencement date unless continued by order as mentioned in s. 47.
- C2** S. 46 continued (30.3.2004) (temp. until 28.3.2007) by [Police \(Northern Ireland\) Act 2000 \(Renewal of Temporary Provisions\) Order 2004 \(S.R. 2004/114\)](#), **art. 2**
- C3** S. 46 continued (29.3.2007) (temp. from 28.3.2007 until 28.3.2010) by [Police \(Northern Ireland\) Act 2000 \(Renewal of Temporary Provisions\) Order 2007 \(S.R. 2007/214\)](#), arts. 1, **2**
- C4** S. 46 continued (29.3.2010 with effect in accordance with art. 2 of the amending S.R.) by [Police \(Northern Ireland\) Act 2000 \(Renewal of Temporary Provisions\) Order 2010 \(S.R. 2010/112\)](#), arts. 1, **2**

**Marginal Citations**

- M1** SR 1999 No. 148.
- M2** 1998 NI 21.
- M3** 1997 NI 6.

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**Changes to legislation:**

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