

# **POLICE REFORM ACT 2002**

---

## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary on Sections*

#### **Part 1: Powers of the Secretary of State**

#### *Section 4: Directions to police authorities*

30. This section substitutes a new section 40 of the 1996 Act for the existing one. Section 40 currently enables the Secretary of State to direct a police authority to take specific remedial action following an adverse inspection report by HMIC. New *section 40(1)* broadens the circumstances in which the direction making power may be exercised. First, as it stands the power is exercisable only in response to a specifically commissioned inspection by HMIC; in future the power will be exercisable after either a routine or a special inspection. Second, it is a necessary prerequisite of the existing power that HMIC concludes that the force as a whole is not efficient or effective. Under the new section the trigger will be that the force or a part of it is not efficient or effective either as a whole or in any aspect of its operations (or will become so unless remedial measures are taken).
31. New *section 40(2) to (9)* provide new safeguards against inappropriate use of the powers under this section. The Secretary of State can only specify remedial measures which address existing or approaching inefficiency or ineffectiveness in the whole or any part of the relevant force, as identified in HMIC's report. In addition, the Secretary of State must prepare and submit to Parliament reports on the use of his power under this section (new *section 40(3) and (4)*). The other subsections ensure that the power to give directions is only used as a last resort. New *section 40(5)* places a duty on the Secretary of State to put the evidence that a force or part of a force is failing to the chief officer and police authority and afford them the opportunity to make representations. He will be under a duty to have regard to such representations. New *section 40(5)* further requires the Secretary of State to afford the chief officer or police authority the opportunity to put in place their own remedial measures before they are directed to do so. The intention is that where such remedial measures fully address the area of concern there would be no need for the Secretary of State to issue a formal direction. New *section 40(6) to (9)* allow the Secretary of State to make by regulations further provision for the procedures to be followed. Before doing so, he must consult those whom he considers represent the interests of police authorities (currently the APA), those whom he considers represent the interests of chief officers of police (currently ACPO), and anyone else he sees fit. Regulations made under this section are subject to the affirmative resolution procedure.