

**EXPLANATORY MEMORANDUM TO
THE POLICE (AMENDMENT) REGULATIONS 2005**

2005 No. 2834

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

2. **Description**

This instrument will, subject to annulment in pursuance of a resolution of either House, come into force on 7 November 2005 and make revisions to the Police Regulations 2003 (S.I. 2003/527).

- 2.1 The revisions provide:

- that nationals of the ten states which acceded to the European Union on 1 May 2004 qualify for appointment to a police force;
- for a power to test the following categories of person for controlled drugs (and in some cases for alcohol): candidates applying to join a police force; officers who may be suspected of using drugs; officers serving a period of probation; officers whose work involves dealing with drugs; and officers in specialist roles including firearms officers, police drivers authorised to use the police exemptions under the Road Traffic Act, members of Police Search Advisor teams and police divers;
- that the personal record of a member of a police force shall contain details of any service with the Royal Parks Constabulary;
- that officers joining or rejoining a police force on or after 1 July 2004 may count service with the Royal Parks Constabulary for the purposes of pay and leave; and
- that where members of the Royal Parks Constabulary in receipt of a housing allowance transfer to a police force on or after 1 July 2004 they are entitled to a replacement allowance.

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

None.

4. **Legislative Background**

The regulations are made under section 50 of the Police Act 1996 and section 79A of the Police Act 1997.

5. **Extent**

This instrument applies to England and Wales.

6. **European Convention on Human Rights**

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

7. Policy background

7.1 The change in qualification for appointment to a police force is a consequential amendment following the accession of ten States to the European Union on 1 May 2004. The amendment provides that nationals of all European Union States now enjoy the same qualification for appointment to a Home Department police force.

7.2 In carrying out their functions and exercising authority, police officers and supervisors must maintain the confidence of the public. Any perception that a minority of police officers were using drugs and that there was a lack of effective action to counter this, would damage public confidence. The integrity of police officers is also vital. Substance misuse involving illegal substances would bring into question the integrity of an officer. Substance misuse, whether of drugs or alcohol, can also lead to impairment of judgement. This is of particular concern where the consequences of an accident that might arise from impaired judgement are particularly serious. Officers occupying safety critical roles are examples of this.

In common with other employers, the police service recruits from a young community within which the recreational use of drugs may be seen by some to be socially acceptable. The police service needs to take appropriate measures to avoid the loss of confidence that would occur if police officers were involved in criminality and to guard against impairment of judgement.

The testing policy is rigorously targeted and focused on areas of particular risk. It does not imply any lack of trust in the professionalism of the police.

The insertion into the Police Regulations 2003 of a new regulation 10(1)(i) provides the power to test candidates for appointment to a police force for controlled drugs.

The insertion of new regulation 19A sets out the individuals and posts which will be subject to testing. This includes police officers who give cause to suspect that a controlled drug has been used; police probationers; officers who are vulnerable to allegations of misuse because they have a specific responsibility for dealing with drugs. Officers in safety critical posts as set out in a Determination will be subject to tests for both controlled drugs and for alcohol. This includes firearms officers and their supervisors; officers authorised to use the police exemption under the Road Traffic Regulation Act 1984; members or supervisors of Police Search Advisor teams and police divers. The regulation provides that samples of saliva or urine will be

used for testing in accordance with procedures set out in a Determination.

The insertion of new regulation 19A(3) provides the limit of alcohol above which an officer will face consequences. The limit has been set at a level which does not preclude moderate drinking but is the level at which, for some individuals, impairment may be present.

The Determination accompanying the Regulations sets out who will be tested and the circumstances in which they will be tested. It also sets out the testing procedures and the controlled drugs which testing will cover – amphetamines (including ecstasy); cannabis; cocaine; opiates; and benzodiazepines.

7.3 The amendments relating to the Royal Parks Constabulary are made to facilitate the Metropolitan Police Service taking over the function of policing the Royal Parks.

The amendments provide that the personal record of a member of a police force shall contain details of any service with the Royal Parks Constabulary.

The amendments further provide that officers joining or rejoining a police force on or after 1 July 2004 may count service with the Royal Parks Constabulary for the purposes of calculating entitlements to pay and allowances.

Where members of the Royal Parks Constabulary in receipt of a housing allowance transfer to a police force on or after 1 July 2004 the amendments provide that they are entitled to a replacement allowance.

8. Consultation

In accordance with the provisions of sections 62(1) and 63(3) of the Police Act 1996, this instrument was sent in draft to the Police Negotiating Board and the Police Advisory Board for England and Wales for consultation. The instrument takes account of the responses received from the Police Advisory Board and the Police Negotiating Board.

9. Impact

No Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen.

10. Contact

Further information on this instrument can be obtained from:

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