

EXPLANATORY MEMORANDUM TO
THE POLICE REFORM ACT 2002 (STANDARD POWERS AND DUTIES OF
COMMUNITY SUPPORT OFFICERS) ORDER 2007

2007 No. 3202

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

2. Description

2.1 This order brings into effect the standard powers and duties of Police Community Support Officers (PCSOs) under section 38A of the Police Reform Act 2002 (PRA). The introduction of standard powers will ensure that all PCSOs have appropriate powers in order to support effective neighbourhood policing and enable them to deal with low level anti-social behaviour and disorder. It will also lead to a greater harmonisation of PCSO powers and increase public understanding around the role and powers of PCSOs.

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

3.1 None

4. Legislative Background

4.1 Section 38 of the PRA enables a Chief Officer to designate an individual employed by the police authority but under his/her direction and control as a PCSO and confer upon them any of the powers listed under Part 1 of Schedule 4 to the PRA. Before designating a person as a PCSO the Chief Officer must be satisfied that the individual is trained, suitable and capable for carrying out the functions of a PCSO.

4.2 Section 7 of the Police and Justice Act 2006 (PJA):

- amends section 38 of the PRA so that any person designated under that section as a PCSO will have the standard powers and duties of a community support officer (section 7(1) PJA).
- inserts section 38A into the PRA which enables the Secretary of State to make an order that creates a standard set of powers and duties for PCSOs.

4.3 Any provision under Part 1 of Schedule 4 to the PRA may be applied to PCSOs under the order.

4.4 This is the first exercise of this order making power.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 The Rt Hon Tony McNulty MP has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Police Reform Act 2002 (Standard Powers and Duties of Community Support Officers) Order 2007 are compatible with the Convention rights.

7. Policy background

7.1 At present the designation of any powers (from Part 1 of Schedule 4 to the PRA) on a PCSO is entirely at the discretion of the Chief Officer of the police force concerned. While this enables Chief Officers to designate those powers that are appropriate given the operational priorities and demands in each force area this has led to an inconsistent approach to the use and role of PCSOs across England & Wales. That inconsistency has also led to confusion within the police and for the public around the role and powers of PCSOs.

7.2 The aim of this order is to provide all PCSOs with a minimum set of standard powers that will enable them to support the effective delivery of Neighbourhood Policing and empower them to deal with low level anti-social behaviour and disorder. Importantly, the introduction of standard powers will also lead to a greater harmonisation of PCSO powers and increase public understanding around the role and powers of PCSOs.

7.3 These principles have been supported by all the key stakeholders from across the police, including the Association of Chief Police Officers (ACPO), the Association of Police Authorities (APA), the Police Superintendents Association, the Police Federation and Unison. While there is broad support for the key principles there has been a great deal of discussion and debate about what powers should be included in the standard list.

7.4 Following the publication of the consultation paper '*Standard Powers for Community Support Officers and A Framework for the Future Development of Powers*' (published on 31 August 2005 in advance of the Police and Justice Act 2006) respondents from across the policing family raised concerns around the inclusion of powers to detain and those powers that engage PCSOs in higher levels of enforcement activity.

7.5 In response to that consultation Ministers agreed a revised list of standard powers to take into account these concerns and the revised list was subject to formal consultation as required under section 38A(3) of the PRA. Given the levels of interest and debate in this area, although statute only requires the Secretary of State to consult with ACPO and the APA, the

consultation was also extended to other police representative groups (the Police Superintendents Association, the Police Federation, Unison, Public and Commercial Services Union (PCS) and the Transport and Salaried Staff's Association (TSSA)). The consultation lasted from 14 May to 8 June 2007.

7.6 The full summary of responses to the recent statutory consultation and the 2005 consultation can be found on the Home Office PCSO web page at:

<http://police.homeoffice.gov.uk/community-policing/community-support-officers/>

7.7 In summary respondents expressed support for the principle of standard powers but stakeholders remain divided as to which powers should be included as standard. The proposed list seeks to strike an appropriate balance between the need to harmonise the powers of PCSOs across England and Wales while retaining a degree of discretion for Chief Officers to enable them to deploy their PCSOs with the appropriate additional powers to meet local needs.

7.8 While there are concerns across the policing family about ensuring the roles of PCSOs and Police Constables remain distinct all of the powers in the standard list can already be designated by Chief Officers. This order does not create any additional powers for PCSOs. It simply provides for greater harmonisation of PCSO powers which, given the broad support from across the police organisations, is not considered to be politically important. The issue does not attract significant public interest.

7.9 A table explaining the 20 powers in the standard list is attached at Annex A.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 Regarding the impact on the public sector, the Order only affects police forces in England and Wales. The impact is expected to be minimal as the majority of police forces already designate most, if not all, of the powers that are included in the list of standard powers. A small number of police forces who designate their PCSOs with the least amount of powers will incur greater costs, however, we envisage that the costs of introducing standard powers will be outweighed by the benefits, in particular through savings in police officer time.

9. Contact

Neil Curtis at the Home Department Tel: 020 735 0881 or e-mail: neil.curtis@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX A

TABLE OF PROPOSED STANDARD POWERS AND DUTIES FOR PCSOs

POWERS TO TACKLE ANTI-SOCIAL BEHAVIOUR	
Power to require name and address for anti-social behaviour: Power to require a person whom a CSO has reason to believe has been acting, or is acting, in an anti-social manner to give his name and address. Subparagraph 3(2) provides the PCSO with the power to detain (under subparagraphs 2(3) to (5) of Schedule 4). However, by virtue of paragraph 2(8) of Schedule 4 the power to detain has no effect unless the PCSO has been designated with the power to detain under paragraph 2 of Schedule 4.	Paragraph 3 of Schedule 4 to the Police Reform Act 2002
ALCOHOL & TOBACCO POWERS	
Power to require persons drinking in designated places to surrender alcohol: Power to require a person whom a CSO reasonably believes is, or has been, consuming alcohol in a designated public place or intends to do so, to not consume that alcohol and to surrender any alcohol or container for alcohol. Power to dispose of alcohol surrendered.	Paragraph 5 of Schedule 4 to the Police Reform Act 2002
Power to require persons to surrender alcohol: Power to require a person who he reasonably suspects is aged under 18 or intends to or has been supplying alcohol to a person aged under 18 to surrender any alcohol in his possession and to give their name and address. Power to require such a person to surrender sealed containers of alcohol if the CSO has reason to believe that the person is or has been consuming or intends to consume alcohol. Power to dispose of alcohol surrendered.	Paragraph 6 of Schedule 4 to the Police Reform Act 2002
Power to seize tobacco from a person aged under 16 and to dispose of that tobacco.	Paragraph 7 of Schedule 4 to the Police Reform Act 2002
Power to seize drugs and require name and address for possession of drugs: The Serious Organised Crime and Police Act 2005 allows CSOs to be designated with a power to seize unconcealed controlled drugs or controlled drugs found when searching for alcohol, tobacco or other items if the CSO reasonably believes the person is in unlawful possession of them. The CSO must retain the drugs until a constable instructs them what to do with it. If a CSO finds controlled drugs in a person's possession or has reason to believe that a person is in possession of controlled drugs and reasonably believes such possession is unlawful then the CSO may require that persons name and address.	Paragraphs 7B of Schedule 4 to the Police Reform Act 2002 (inserted by paragraph 8 of Schedule 8 to the Serious Organised Crime and Police Act 2005).
ENFORCEMENT POWERS	

<p>Power to require name and address: Power to require the name and address of a person whom a CSO has reason to believe has committed a relevant offence or a relevant licensing offence (Relevant offences are defined under paragraph 2(6) of Schedule 4 of the Police Reform Act 2002 and include relevant fixed penalty offences which the CSO is designated to enforce under paragraph 1 of Schedule 4, an offence under section 32(2) of the Anti-Social Behaviour Act 2003 (failure to follow an instruction to disperse) and an offence which appears to have caused injury, alarm or distress to another person or loss of or damage to another person's property. Relevant licensing offence is defined in paragraph 2(6A) as specified offences under the Licensing Act 2003) Paragraph 1A enables chief constables to designate the power to require name and address without also designating the power of detention.</p>	<p>Paragraph 1A of Schedule 4 to the Police Reform Act 2002 (inserted by paragraph 2 of Schedule 8 to the Serious Organised Crime and Police Act 2005).</p>
<p>Power to photograph persons away from a police station: The Serious Organised Crime and Police Act 2005 enables CSOs to be designated with the power to photograph a person who has been arrested, detained or given a fixed penalty notice away from the police station.</p>	<p>Paragraph 15ZA of Schedule 4 to the Police Reform Act 2002 (inserted by paragraph 12 of Schedule 8 to the Serious Organised Crime and Police Act 2005).</p>
<p>ENVIRONMENTAL POWERS</p>	
<p>Power to issue fixed penalty notices for littering: Power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (fixed penalty notices in respect of litter).</p>	<p>Paragraph 1(2)(d) of Schedule 4 to the Police Reform Act 2002</p>
<p>Power to issue fixed penalty notices in respect of offences under dog control orders: power of an authorised officer of a primary or secondary authority, within the meaning of section 59 of the Clean Neighbourhoods and Environment Act 2005, to give a notice under that section (fixed penalty notices in respect of offences under dog control orders.)</p>	<p>Paragraph 1(2)(e) of Schedule 4 to the Police Reform Act 2002 (see section 62(2) of the Clean Neighbourhoods and Environment Act 2005).</p>
<p>Power to remove abandoned vehicles under regulations made under section 99 of the Road Traffic Regulation Act 1984.</p>	<p>Paragraph 10 of Schedule 4 to the Police Reform Act 2002.</p>
<p>TRANSPORT POWERS</p>	
<p>Power to issue fixed penalty notices for cycling on a footpath: Power of a constable in uniform to give a person a fixed penalty notice under section 54 of the Road Traffic Offenders Act 1988 (fixed penalty notices) in respect of an offence under section 72 of the Highway Act 1835 (riding on a footway) committed by cycling.</p>	<p>Paragraph 1(2)(b) of Schedule 4 to the Police Reform Act 2002</p>
<p>Power to stop cycles: Power of a constable in uniform to stop a cycle under section 163(2) of the Road Traffic Act 1988 when a CSO has reason to believe that a person has committed the offence of cycling on a footpath.</p>	<p>Paragraph 11A of Schedule 4 to the Police Reform Act 2002 (inserted by section 89(3) of the Anti-Social Behaviour Act 2003)</p>

<p>Power to control traffic for purposes other than escorting a load of exceptional dimensions: Powers to direct traffic (for purposes other than escorting loads of exceptional dimensions) based on the powers constables have under sections 35 and 37 of the Road Traffic Act 1988. It also gives CSOs the power to direct traffic for the purposes of conducting a traffic survey. CSOs designated under this paragraph must also be designated with powers under paragraph 3A of Schedule 4 to the Police Reform Act.</p>	<p>Paragraph 11B of Schedule 4 to the Police Reform Act 2002 (inserted by paragraph 10 of Schedule 8 to the Serious Organised Crime and Police Act 2005).</p>
<p>Power to carry out road checks: Power to carry out a road check which has been authorised by a superintendent (or a police officer of higher rank) and power to stop vehicles for the purposes of carrying out a road check</p>	<p>Paragraph 13 of Schedule 4 to the Police Reform Act 2002</p>
<p>Power to require name and address for road traffic offences: The Serious Organised Crime and Police Act 2005 allows CSOs to be designated with the power to require the name and address of a driver or pedestrian who fails to follow the directions of a community support officer or police officer under sections 35 or 37 of the Road Traffic Act 1988. Paragraph 3A(2) provides the PCSO with the power to detain (under paragraphs 2(3) to (5) of Schedule 4). However, by virtue of paragraph 2(8) of Schedule 4 the power to detain has no effect unless the PCSO has been designated with the power to detain under paragraph 2 of Schedule 4.</p>	<p>Paragraph 3A of Schedule 4 to the Police Reform Act 2002 (inserted by paragraph 6 of Schedule 8 to the Serious Organised Crime and Police Act 2005).</p>
<p>Power to place signs: The Serious Organised Crime and Police Act 2005 enables CSOs to be designated with the power of a constable under section 67 of the Road Traffic Regulation Act 1984 to place and maintain traffic signs.</p>	<p>Paragraph 13A of Schedule 4 to the Police Reform Act 2002 (inserted by paragraph 11 of Schedule 8 to the Serious Organised Crime and Police Act 2005.)</p>
<p>Power to seize vehicles used to cause alarm: Power to stop and seize a vehicle which a CSO has reason to believe is being used in a manner which contravenes sections 3 or 34 of the Road Traffic Act 1988 (careless and inconsiderate driving and prohibition of off-road driving) and is causing or is likely to cause alarm, distress or annoyance under section 59 of the Police Reform Act 2002.</p>	<p>Paragraph 9 of Schedule 4 to the Police Reform Act 2002</p>
<p>SECURITY POWERS</p>	
<p>Power to enter and search any premises for the purposes of saving life and limb or preventing serious damage to property.</p>	<p>Paragraph 8 of Schedule 4 to the Police Reform Act 2002</p>
<p>Power to stop and search in authorised areas: Powers under the Terrorism Act 2000 in authorised areas to stop and search vehicles and pedestrians when in the company and under the supervision of a constable.</p>	<p>Paragraph 15 of Schedule 4 to the Police Reform Act 2002</p>
<p>Power to enforce cordoned areas: under section 36 of the</p>	<p>Paragraph 14 of Schedule 4</p>

Terrorism Act 2000

to the Police Reform Act
2002