

EXPLANATORY MEMORANDUM TO
THE SPECIAL CONSTABLES (AMENDMENT) REGULATIONS 2012

2012 No. 1961

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

2. **Purpose of the instrument**

2.1 This instrument amends the Special Constables Regulations 1965 (“the 1965 Regulations”) to add provisions, modelled on those applicable to regular police officers, about the scrutiny of business interests, the testing of special constables for controlled drugs and alcohol, and the taking of fingerprints and DNA samples for the purposes of vetting candidates for appointment and so that any finger marks or DNA left by a special constable at a crime scene in the course of his or her duties can be discounted.

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

3.1 None

4. **Legislative Context**

4.1 The 1965 Regulations make provision for various matters concerning the administration and conditions of service of special constables in England and Wales. Regulation 1 deals with qualifications for appointment. Regulation 1A deals with the taking of fingerprints from special constables after appointment for elimination purposes – in other words, for checking against fingerprints and DNA retrieved from crime scenes, so that any trace left by a special constable in the course of investigating the crime can be discounted.

4.2 The Police Regulations 2003 (“the 2003 Regulations”) make provision in relation to regular police officers in England and Wales. Of particular relevance are regulations 7 to 9 (business interests), 10 (qualifications for appointment), 19 (samples) and 19A (testing for substance misuse). Relevant amendments are being made to the 2003 Regulations, to coincide with the making of this instrument, by the Police (Amendment No. 3) Regulations 2012.

5. **Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

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 This instrument amends the 1965 Regulations so as to apply to special constables various provisions applicable to regular police officers by virtue of the 2003 Regulations, as amended by the Police (Amendment No. 3) Regulations 2012.

7.2 New regulation 1ZA of the 1965 Regulations, inserted by this instrument, makes provision for the taking of fingerprints and samples from candidates for appointment as special constables, for checking against the unmatched crime scene marks database to establish whether the candidate is suspected of involvement in any unsolved crime. This is the equivalent of the new regulation 10A of the 2003 Regulations.

7.3 New regulations 1ZB to 1ZE of the 1965 Regulations make provision in relation to business interests of candidates for appointment as special constables, serving special constables, and their relatives. These are the equivalent of the revised regulations 7 to 9 and the new regulation 9A of the 2003 Regulations.

7.4 New regulation 1B of the 1965 Regulations makes provision about the taking of DNA samples from serving special constables for elimination purposes. This is the equivalent of regulation 19 of the 2003 Regulations.

7.5 New regulation 1C of the 1965 Regulations makes provision about the testing of serving special constables for substance misuse. This is the equivalent of regulation 19A of the 2003 Regulations. Provision is also added to regulation 1 of the 1965 Regulations to allow the testing of candidates for appointment as special constables. This is the equivalent of regulation 10(1)(i) of the 2003 Regulations.

- *Consolidation*

7.6 These Regulations make only limited amendments to the 1965 Regulations. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to the 1965 Regulations.

8. Consultation outcome

8.1 A draft of these Regulations has been considered and approved by the Special Constable National Consultative Group, which represents the parties affected by the changes.

9. Guidance

9.1 The Regulations are intended to be self-explanatory to the lay reader.

10. Impact

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

10.2 The impact on the public sector of the new provisions about fingerprints and samples is negligible as the tests will be carried out only for candidates who are to be offered appointment to a police force as a special – fingerprints and samples are already taken from officers after appointment. The new business interest regulations reflect the processes which forces already undertake in relation to specials, and will result in reduced bureaucracy and therefore a lessening of the burden on the public sector. The substance misuse regulations are not mandatory and therefore the impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The 1965 Regulations make provision about the terms and conditions of service of special constables in England and Wales, and the effective operation of the Regulations is the subject of ongoing attention by the Home Office.

13. Contact

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