

EXPLANATORY MEMORANDUM TO
THE POLICE (AMENDMENT NO. 2) REGULATIONS 2012

2012 No. 680

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 Police Regulations 2003 (“the 2003 Regulations”) to make minor changes to the provisions governing drug and alcohol testing of police officers and candidates for appointment as police officers.

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

3.1 None

4. Legislative Context

4.1 The 2003 Regulations make provision for various matters concerning the government, administration and conditions of service of police forces in England and Wales. Regulation 10 sets out qualifications for appointment to a police force, and at paragraph (1)(i) makes provision for the taking of samples from candidates for appointment for the purpose of testing for the presence of controlled drugs. Regulation 19A makes provision for the taking of samples from serving police officers for the same purpose, and for the purpose of testing for the presence of alcohol.

4.2 Regulation 19A(1) lists four categories of serving police officers from whom samples can be taken: any officer who gives reasonable cause to suspect that the officer has used a controlled drug; any probationary officer; any officer who is identified as being vulnerable because the officer’s duties involve dealing with drugs; and any officer of a description specified in a determination of the Secretary of State. In relation to the last category, the Secretary of State has specified, for these purposes, officers carrying out a number of “safety critical” roles, where abuse of alcohol and drugs would create particular dangers, such as firearms officers.

5. Territorial Extent and Application

5.1 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

- *What is being done and why*

7.1 This instrument amends regulation 19A(1)(d) of the 2003 Regulations so that any serving police selected in accordance with a regime of routine random testing may be required to provide a sample. This replaces the existing provision for the Secretary of State to specify categories of officers who may be tested. This amendment implements the recommendation of the Police Advisory Board for England and Wales (the PABEW).

7.2 Further amendments are made at various points in Regulations 10, 19 and 19A of the 2003 Regulations to replace references to “saliva” with references to “oral fluid”. This is a technical change, again made at the recommendation of the PABEW..

- *Consolidation*

7.3 These Regulations make only limited amendments to the 2003 Regulations. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to the 2003 Regulations.

8. Consultation outcome

8.1 A draft of these Regulations were supplied to the PABEW, as is required by section 63(3) of the Police Act 1996, and the PABEW’s comments have been taken into consideration.

9. Guidance

9.1 The Regulations are intended to be self-explanatory to the lay reader. Guidance on Protocols for Testing Procedures will be issued to police forces.

10. Impact

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

10.2 The impact on the public sector is negligible as the additional powers are not mandatory.

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 2003 Regulations make extensive provision about the terms and conditions of service of police officers 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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