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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations specify the circumstances in which a police station can be used as a place of safety for an adult, for the purposes of powers in sections 135 and 136 of the Mental Health Act 1983 (that is, powers to remove or take an adult to, or to keep an adult at, a place of safety), as amended by the Policing and Crime Act 2017. Where a police station is used, the Regulations also describe the safeguards and steps to be taken to protect the person detained.

Regulation 2 provides that a police station can only be used as a place of safety for an adult where the person exercising, or authorising the exercise of, the power under section 135 or section 136 is satisfied that: (a) the behaviour of the adult presents an imminent risk of serious injury or death to that adult or to others; (b) as a result, no other place of safety in the police area in which the adult is located can reasonably be expected to detain them; and (c) the adult will have access to a healthcare professional, so far as is reasonably practicable, throughout the period in which they are detained at the police station.

Regulation 2 further provides that, where the person considering using a police station as a place of safety is a police officer, they must, if reasonably practicable, consult with a registered medical practitioner, a registered nurse, an approved mental health professional, an occupational therapist or a paramedic, before making the decision.

The decision to use a police station as a place of safety must be authorised by an officer of the rank of inspector or above.

Regulations 4 to 7 set out how adults detained at a police station must be treated during the period that they are detained.

They require the custody officer to ensure that the welfare of the adult is checked at least every thirty minutes by a healthcare professional, and any appropriate action is taken for their treatment and care, and that so far as reasonably practicable a healthcare professional is present and available to the adult at all times. In any case where it is no longer possible for those requirements to be met, the adult must be taken to another place of safety. (However, there is no requirement to transfer the adult to another place of safety where arrangements have been made for a mental health assessment to be carried out at the police station, the transfer would delay such an assessment taking place, and the delay would be likely to cause the adult distress.)

They also require the custody officer to review the adult's behaviour at least once an hour, so that the custody officer can consider (if reasonably practicable, with the advice of a healthcare professional) whether it is still the case that the adult's behaviour presents an imminent risk that no other place of safety in the police area can manage. If the custody officer determines that those circumstances no longer exist, the adult must be transferred to another place of safety that is not a police station. (Again, there is no requirement to transfer the adult where arrangements have been made for a mental health assessment to be carried out at the police station, the transfer would delay the assessment taking place, and the delay would be likely to cause the adult distress.) The frequency of the reviews may be reduced to no less than once every three hours if the adult is sleeping, and a healthcare professional has not identified any risk sufficient to warrant waking them more frequently.

The Regulations do not apply where a person's removal began, or the warrant for their removal was issued, before the coming into force of these Regulations.

The Mental Health Act 1983 requires that, before making a decision to remove a person to, or to keep a person at, a place of safety under section 136(1) the constable must, if it is reasonably

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practicable to do so, consult a registered medical practitioner, a registered nurse, an approved mental health professional, or a person of a specified description. These Regulations specify an occupational therapist and a paramedic for the purposes of that provision.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.