

38 Police powers for civilian staff and volunteers

(1) The chief officer of police of any police force may **designate a relevant employee** as either or both of the following—

(a) a community support officer;

(b) a policing support officer.

(1A) The chief officer of police of any police force may designate a police volunteer as either or both of the following—

(a) a community support volunteer;

(b) a policing support volunteer.”

(3)F3.

(4) A chief officer of police shall not designate a person under this section unless he is satisfied that that person—

(a) is a suitable person to carry out the functions for the purposes of which he is designated;

(b) is capable of effectively carrying out those functions; and

(c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred or imposed on him by virtue of the designation.

(5) A person designated under this section **shall have the powers and duties** conferred or imposed on him by the designation.

(6B) The powers and duties that may be conferred or imposed on a person designated under this section are—

(a) any power or duty of a constable, other than a power or duty specified in Part 1 of Schedule 3B (excluded powers and duties);

(b) where the person is designated as a community support officer or a community support volunteer, any power or duty that is described in Schedule 3C as a power or duty of a community support officer or community support volunteer.

(6C) The Secretary of State may by regulations amend Part 1 of Schedule 3B so as to add to the list of powers and duties specified in it.

(6D) Part 2 of Schedule 3B makes provision about the application of legislation in relation to powers or duties of a constable that may be exercised or performed by a person designated under this section.

(6E) Any power or duty of a constable that is conferred or imposed on a person designated under this section by a chief officer of police of a police force may (subject to provision included in the designation under subsection (6F)) be exercised or performed by the person—

(a) in the area of that police force, and

(b) in any cases or circumstances in which it could be exercised or performed by a constable who is a member of that force.

(6F) A designation under this section may provide that any power or duty of a constable that is conferred or imposed by the designation may be exercised or performed by the person designated—

(a) in such areas outside the area of the police force in question as are specified in the designation (as well as within the area of the police force);

(b) only in such parts of the area of that police force as are specified in the designation;

(c) only in cases or circumstances so specified.”

(7) A relevant employee authorised or required to do anything by virtue of a designation under this section—

(a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and

(b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.

(7A) A police volunteer authorised or required to do anything by virtue of a designation under this section -

(a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than while acting as a police volunteer;

(b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in the designation.”

(8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.

(9) Where any power exercisable by any person in reliance on his designation under this section includes **power to use force to enter any premises**, that power shall **not** be exercisable by that person except—

(a) in the company, and under the supervision, of a constable; or

(b) for the purpose of saving life or limb or preventing serious damage to property.

(9A) The chief officer of police of a police force must ensure that no person designated by the chief officer under this section is authorised to use a firearm, within the meaning given by section 57(1) of the Firearms Act 1968, in carrying out functions for the purposes of the designation.

(9B) However, subsection (9A) does not apply to—

(a) the use of a weapon, designed or adapted for the discharge of either of the following substances, for the purpose of discharging either of those substances—

(i) the substance, commonly known as “CS spray”, that is produced by the use of 2-chlorobenzalmalononitrile;

(ii) the substance, commonly known as PAVA spray, that is produced by the use of pelargonic acid vanillylamide;

(b) the use of a weapon for a purpose specified in regulations made by the Secretary of State;

(c) the use of a weapon of a description specified in regulations made by the Secretary of State, whether generally or for a purpose so specified.”

(9C) A statutory instrument containing regulations under subsection (6C) or (9B)(b) or (c) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

(11) In this section “relevant employee” means—

(a) in the case of—

(i) a police force maintained for a police area in accordance with section 2 of the Police Act 1996, or

(ii) the police force maintained for the metropolitan police district in accordance with section 5A of that Act,

a member of the civilian staff of that police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);

(b) in the case of any other police force, a person who—

(i) is employed by the police authority maintaining that force, and

(ii) is under the direction and control of the chief officer making a designation under subsection (1)

(12) In this section, “police volunteer” means a person who is under the direction and control of the chief officer making a designation under subsection (1A) otherwise than because the person is a constable, a special constable or a relevant employee.

(13) For the purpose of subsection (12), a person is to be treated as a relevant employee **only in relation to times when the person is acting in the course of the person’s employment.**”

Section 38A now omitted (standard powers and duties of community support officers).

After Schedule 3 insert —

Schedule 3B Section 38(6B)(a) and (6D) DESIGNATIONS UNDER SECTION 38

PART 1 EXCLUDED POWERS AND DUTIES OF CONSTABLES

1 Any power or duty of a constable to make an arrest.

2 Any power or duty of a constable to stop and search an individual or a vehicle or other thing.

3 The power of a constable, under section 36(4) of the Police and Criminal Evidence Act 1984, to perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.

4 Any power that is exercisable only by a constable of a particular rank.

5 Any power of a constable under—

(a) the Terrorism Act 2000;

(b) the Terrorism Act 2006;

(c) the Counter-Terrorism Act 2008;

(d) the Terrorism Prevention and Investigation Measures Act 2011;

(e) the Counter-Terrorism and Security Act 2015.

6 Any power of a constable under the Official Secrets Acts 1911 to 1989.

7 The power of a constable to make an application on behalf of the Commissioner of Police of the Metropolis under section 19 or 21 of the Investigatory Powers Act 2016 (applications for warrants under Chapter 1 of Part 2 of that Act).

PART 2 APPLICATION OF LEGISLATION

8(1) Where a power or duty of a constable is conferred or imposed on a person designated under section 38—

(a) a reference to a constable (however expressed) in legislation relating to the power or duty includes a reference to the person designated under section 38;

(b) a reference in legislation to anything done in the exercise or purported exercise of the power, or in the performance or purported performance of the duty, includes a reference to anything done in the exercise or purported exercise of the power, or the performance or purported performance of the duty, by the person designated under section 38.

(2) The Secretary of State may by regulations make provision for legislation relating to a power or duty of a constable specified in the regulations to apply in relation to a person designated under section 38 in a way that modifies or supplements the effect of sub-paragraph (1).

(3) In this paragraph, “legislation” means any provision of—

(a) an Act;

(b) subordinate legislation within the meaning of the Interpretation Act 1978;

(c) a Measure or Act of the National Assembly for Wales or an instrument made under a Measure or Act of that Assembly.”