This explanatory memorandum is laid before Parliament by command of Her Majesty

THE PRISONER CUSTODY OFFICERS (SEARCHING OF PRISONERS) RULES (NORTHERN IRELAND) 2004 (No. 1408)

EXPLANATORY MEMORANDUM

I Title of the Instrument and SI Registration Number

The Prisoner Custody Officers (Searching of Prisoners) Rules (Northern Ireland) 2004 Number 1408.

II Laying authority and purpose

This explanatory memorandum is laid before Parliament by Command of Her Majesty.

III Department responsible

Northern Ireland Prison Service, an executive agency of the Northern Ireland Office.

IV Description

The instrument provides for the circumstances and manner in which a prisoner custody officer may search a prisoner for whose delivery or custody he is responsible.

V Legislative Background

Under section 118 of the Criminal Justice and Public Order Act 1994 ("the 1994 Act") the Secretary of State has the power to make arrangements for the functions of delivering prisoners between premises and of supervising their custody at any court or during delivery to be carried out by prisoner custody officers. Section 120 of the 1994 Act sets out the powers and duties of prisoner custody officers. Under section 120(1)(a) a prisoner custody officer only has the power to search prisoners in accordance with rules. This instrument makes those rules.

This is the first exercise of the power under section 120(1)(a) of the 1994 Act.

VI Extent

The instrument applies only to Northern Ireland.

VII European Convention on Human Rights

It is the view of the Secretary of State that the provisions of this instrument are compatible with the European Convention on Human Rights.

VII Policy

- The objective of Chapter III, Part VIII of the 1994 Act is to provide for the Secretary of State to make the necessary arrangements so that prisoner custody officers may escort prisoners between premises and supervise their custody at any court and during delivery.
- The Secretary of State has made arrangements for a private contractor to supply prisoner custody officers to supervise the custody of prisoners held at Belfast, Newry, Armagh and Banbridge Magistrates' courts, arrangements are being rolled out from 24 May 2004.
- This instrument provides the circumstances and manner in which a prisoner custody officer may search prisoners for whose delivery or custody he is responsible. The power to search is an integral and essential part of a prisoner custody officer's duty to ensure the security of prisoners and those who may come into contact with them. Prisoner custody officers have no inherent powers to search prisoners.
- At the moment the functions of the delivery between premises and custody of prisoners at courts and during delivery are carried out by police officers in Magistrates' courts and prison officers in Crown courts. It is the policy intention that all these functions will eventually be taken over by prisoner custody officers. It is the intention to have this in place by April 2005.
- It is an inefficient use of the resources of the Police Service of Northern Ireland and the Northern Ireland Prison Service to use them for delivery and custody functions. The introduction of prisoner custody officers will release police and prison officers to engage in more frontline policing and prisons duties.
- It is thought to be unlikely that this instrument will attract any public interest.

VIII Impact

The prisoner custody officers for Belfast, Newry, Armagh and Banbridge Magistrates' courts will be provided by a private contractor The contractor is subject to the provisions of, and those made under, the 1994 Act and to contractual obligations. Prisoner custody officers will eventually be recruited and employed directly by the Secretary of State.

Implementation of the new arrangements will impact upon the Police Service of Northern Ireland (PSNI) in that 28 officers will immediately be released after 24 May with around a further 50 being released by April 2005 for front-line duty. Within the Northern Ireland Prison Service around 80 prison officers will be released for staffing of the separated houses in Maghaberry prison.

Impact upon the Exchequer — While the project will incur additional cost to the Exchequer, there are benefits to the wider Criminal Justice system within Northern Ireland. There are no costs arising as a result of giving effect to the statutory instrument.

No impact on voluntary or other private or public sector bodies is foreseen.

IX Contact

The following official can be contacted in the event of any queries on the proposed legislation:

David McCall
Head of Business Performance Branch
Room 310
Dundonald House
Upper Newtownards Road
Belfast
BT4 3SU

Telephone: (028) 9052 5232

Email: David.McCall@nio.x.gsi.gov.uk