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## SCHEDULE 1

(introduced by section 1(2))

### THE SCOTTISH POLICE SERVICES AUTHORITY

*F1* ...

#### Textual Amendments

**F1** Schs. 1-3 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

**F1** .....

## SCHEDULE 2

(introduced by section 12(2))

### MEMBERSHIP OF THE SCOTTISH CRIME AND DRUG ENFORCEMENT AGENCY

*F1* ...

**F1** .....

## SCHEDULE 3

(introduced by section 31)

### TRANSFERS OF STAFF AND PROPERTY

*F1* ...

**F1** .....

## SCHEDULE 4

(introduced by section 33(3))

### [<sup>F2</sup>THE POLICE INVESTIGATIONS AND REVIEW COMMISSIONER]

#### Textual Amendments

**F2** Sch. 4 heading substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [Sch. 7 para. 33\(16\)](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

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### *Status*

- 1 (1) The Commissioner—
  - (a) is not a servant or agent of the Crown; and
  - (b) has no status, immunity or privilege of the Crown.
- (2) The Commissioner's property is not property of, or property held on behalf of, the Crown.

### *Limitations on appointment*

- 2 (1) A person is disqualified for appointment to the office of Commissioner if the person—
  - (a) is or has been a member of—
    - (i) the House of Lords;
    - (ii) the House of Commons;
    - (iii) the Scottish Parliament;
    - (iv) the European Parliament; or
    - (v) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
  - (b) is or has been a constable of [<sup>F3</sup>the Police Service (or of a police force previously maintained under the Police (Scotland) Act 1967 (c.77))];
  - (c) is or has been a member of—
    - (i) a police force maintained under section 2 of the Police Act 1996 (c. 16);
    - (ii) the metropolitan police force or of the City of London police force;
    - (iii) the Police Service of Northern Ireland;
    - (iv) the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c. 4);
    - (v) the British Transport Police Force;
    - (vi) the Civil Nuclear Constabulary;
    - (vii) the States of Jersey Police Force;
    - (viii) the salaried police force of the Island of Guernsey; or
    - (ix) the Isle of Man Constabulary;
  - (d) is or has been—
    - (i) a special constable appointed under section 27 of the Police Act 1996 (c. 16);
    - (ii) a member of the Police Service of Northern Ireland Reserve;
    - (iii) a member of the Ministry of Defence Police by virtue of section 1(1)(b) of the Ministry of Defence Police Act 1987 (c. 4);
    - (iv) a special constable of the British Transport Police Force; or
    - (v) a member of any force of special constables established for the States of Jersey, the Island of Guernsey or the Isle of Man;
  - [<sup>F4</sup>(da) is or has been a member of the Authority;]
  - (e) is or has been a member of staff of the Authority [<sup>F5</sup>or has been a member of staff of the body which was known as the Scottish Police Services Authority];

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- <sup>F6</sup>(f) .....
- (g) is or has been [<sup>F7</sup>employed as a member of police staff or as a member of the Authority's staff or has been] employed, by virtue of section 9 of the 1967 Act (employees other than constables) by a police authority or a joint police board;
- (h) has been a member of—
- (i) the National Criminal Intelligence Service or;
- (ii) the National Crime Squad; or
- (i) is or has been a member of the Serious Organised Crime Agency.
- (2) The disqualification under sub-paragraph (1)(a) does not extend to any membership ending more than 3 years before the person is appointed to the office of Commissioner.
- (3) A person who has previously been appointed to the office of Commissioner is not eligible to be appointed again, except in accordance with sub-paragraph (4).
- (4) A person holding office as Commissioner may be reappointed on the expiry of the person's period of appointment, but only if—
- (a) the person has not previously been reappointed to the office; and
- (b) the Scottish Ministers consider that, by reason of special circumstances, it is desirable in the public interest.

#### Textual Amendments

- F3** Words in Sch. 4 para. 2(1)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(17\)\(a\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)
- F4** Sch. 4 para. 2(1)(da) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(17\)\(a\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)
- F5** Words in Sch. 4 para. 2(1)(e) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(17\)\(a\)\(iii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)
- F6** Sch. 4 para. 2(1)(f) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)
- F7** Words in Sch. 4 para. 2(1)(g) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(17\)\(a\)\(iv\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)

#### *Tenure and removal from office*

- 3 (1) Subject to this paragraph and paragraph 4, a person holds office as Commissioner on such terms and conditions as the Scottish Ministers may determine.
- (2) The period of a person's appointment as Commissioner is—
- (a) in the case of a first appointment, [<sup>F8</sup>5] years; and
- (b) in the case of a reappointment, [<sup>F9</sup>3] years.

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- (3) A person holding office as Commissioner may, by written notice to the Scottish Ministers, resign at any time.
- (4) The Scottish Ministers may remove a person from the office of Commissioner if satisfied that any of the grounds mentioned in sub-paragraph (5) is the case.
- (5) Those grounds are—
  - (a) the person has failed without reasonable excuse to carry out the functions of the office for a continuous period of 3 months;
  - (b) the person falls within one or more of the sub-sub-paragraphs of paragraph 2(1);
  - (c) the person has, since appointment, been convicted of a criminal offence;
  - (d) the person's estate has been sequestrated or the person has been adjudged bankrupt, has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract;
  - (e) the person is subject to a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under [<sup>F10</sup>the Company Directors Disqualification (Northern Ireland) Order 2002];
  - (f) the person has acted improperly in relation to the person's duties;
  - (g) the person is otherwise unable or unfit to perform the person's duties.

#### Textual Amendments

- F8** Figure in Sch. 4 para. 3(2)(a) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(17\)\(b\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)
- F9** Figure in Sch. 4 para. 3(2)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 33\(17\)\(b\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)
- F10** Words in Sch. 4 para. 3(5)(e) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 261\(3\)](#) (with art. 10)

#### *Remuneration*

- 4 The Commissioner is entitled to—
  - (a) a salary of such amount; and
  - (b) such allowances
 as the Scottish Ministers determine.

#### *Pensions etc.*

- 5 (1) The Scottish Ministers may pay or make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to hold office as the Commissioner.
- (2) The reference in sub-paragraph (1) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.
- (3) The arrangements mentioned in sub-paragraph (1) may include—

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- (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there; and
- (b) the establishment and administration of pension schemes.

#### *Vacancy in office of Commissioner*

- 6
- (1) The Scottish Ministers may appoint a person (who may be a member of the Commissioner's staff) to carry out the functions of the Commissioner during a period in which the office is vacant (an “acting Commissioner”).
  - (2) A person who is disqualified for appointment to the office of Commissioner is also disqualified for appointment as an acting Commissioner.
  - (3) A person appointed to be acting Commissioner—
    - (a) may, by written notice to the Scottish Ministers, resign at any time;
    - (b) may be dismissed by the Scottish Ministers at any time;
    - (c) in other respects, holds appointment on such terms and conditions as the Scottish Ministers may determine.
  - (4) While holding appointment as acting Commissioner, a person is to be treated as the Commissioner for all purposes other than those of paragraphs 3, 4 and 5.

#### *Staff*

- 7
- (1) The Commissioner may appoint such staff as the Commissioner considers appropriate.
  - (2) Members of staff are to be appointed on such terms and conditions as the Commissioner determines.
  - (3) The Commissioner must pay to members of the Commissioner's staff such remuneration, allowances and expenses as the Commissioner determines.
  - (4) The Commissioner may pay or make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff.
  - (5) The reference in sub-paragraph (4) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment.
  - (6) The arrangements mentioned in sub-paragraph (4) may include—
    - (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there; and
    - (b) the establishment and administration of pension schemes.
  - (7) The Commissioner may make such other arrangements for staffing as the Commissioner thinks fit.
  - (8) Paragraph 1(1) applies to staff appointed under this paragraph as it applies to the Commissioner.

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## *Staff officers*

### Textual Amendments

**F11** Sch. 4 paras. 7A, 7B and cross-headings inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [Sch. 7 para. 33\(17\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)

- 7A (1) The Commissioner may make arrangements for constables of the Police Service to be appointed to serve as members of the Commissioner's staff.
- (2) The Commissioner may make arrangements for a person falling within sub-paragraph (3) to be appointed to serve as a member of the Commissioner's staff.
- (3) A person falls within this sub-paragraph if the person is a member of—
- a police force maintained under section 2 of the Police Act 1996 (c.16);
  - the metropolitan police force;
  - the City of London police force;
  - the Police Service of Northern Ireland;
  - the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c.4);
  - the British Transport Police Force;
  - the Civil Nuclear Constabulary;
  - the States of Jersey Police Force;
  - the salaried police force of the Island of Guernsey; or
  - the Isle of Man Constabulary.
- (4) A constable or other person appointed under arrangements made under sub-paragraph (1) or (2) is to be appointed on such terms and conditions (including as regards remuneration, allowances and expenses) as the Commissioner determines.
- (5) The Commissioner's determination under sub-paragraph (4) may be made by reference to provision made by regulations made under section 48 of the Police and Fire Reform (Scotland) Act 2012 (asp 8).
- (6) A constable or other person appointed under arrangements made under sub-paragraph (1) or (2)—
- has all the powers and privileges of a constable throughout Scotland; and
  - is subject to the direction and control of the Commissioner.
- (7) The Commissioner is liable in respect of any unlawful conduct on the part of any constable or other person appointed under arrangements made under sub-paragraph (1) or (2) in the carrying out (or purported carrying out) of that person's functions in the same manner as an employer is liable in respect of any unlawful conduct on the part of an employee in the course of employment.
- (8) The Scottish Ministers may by order apply any provision of the Police and Fire Reform (Scotland) Act 2012 or any other enactment relating to constables (including any such provision or other enactment creating offences against or as regards constables), with such modifications as are considered appropriate, in relation to a person appointed under arrangements made under sub-paragraph (2).]

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### *7<sup>th</sup> Staff involved in investigations*

- 7B (1) The Commissioner may designate—
- (a) any member of the Commissioner's staff appointed under paragraph 7 or 7A to take charge of any investigation on behalf of the Commissioner; and
  - (b) other members of the Commissioner's staff to assist the member designated to take charge.
- (2) This sub-paragraph applies to a person who is a member of the Commissioner's staff appointed under paragraph 7 and is designated under sub-paragraph (1).
- (3) A person to whom sub-paragraph (2) applies—
- (a) has all the powers and privileges of a constable throughout Scotland; but
  - (b) is not as a result of the designation to be treated as being in police service for the purposes of—
    - (i) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52); or
    - (ii) section 200 of the Employment Rights Act 1996 (c.18).
- (4) The Scottish Ministers may by order apply any enactment relating to the investigation of offences by constables (subject to such modifications as they consider appropriate) in relation to investigations carried out in pursuance of paragraph (b)(i) of section 33A by a member of the Commissioner's staff designated under sub-paragraph (1).]

### *General powers*

- 8 The Commissioner may do anything which appears necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the carrying out of the Commissioner's functions, including—
- (a) entering into contracts; and
  - (b) acquiring and disposing of property.

### *Financial provision*

- 9 (1) The Scottish Ministers are to pay—
- (a) the salary and allowances of the Commissioner; and
  - (b) any sums payable by virtue of paragraph 6(3)(c) to, or in respect of, a person who is appointed, or has ceased to hold office, as acting Commissioner.
- (2) The Scottish Ministers are to pay to the Commissioner such sums as they consider appropriate to enable the Commissioner to fulfil the Commissioner's functions.
- (3) The Commissioner is not to borrow money unless authorised to do so (whether generally or specially) by the Scottish Ministers.

### *Accounts*

- 10 The Commissioner must, in accordance with such directions as the Scottish Ministers may give—
- (a) keep proper accounting records and accounts;
  - (b) prepare annual accounts for each financial year;

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- (c) send a copy of the annual accounts to the Auditor General for Scotland for auditing.

*Provision of information*

11 <sup>[F12]</sup>(1) The Commissioner must provide the Scottish Ministers with all such information and documents as appear to them to be required for the purposes of satisfying themselves that the Commissioner is carrying out the Commissioner's functions efficiently and effectively.

<sup>[F13]</sup>(2) Nothing in this paragraph requires or authorises the provision of any information or document relating to a particular investigation carried out by the Commissioner on the direction of the appropriate prosecutor in pursuance of paragraph (b) of section 33A (unless the appropriate prosecutor consents to disclosure of the information or document).]

**Textual Amendments**

**F12** Sch. 4 para. 11 renumbered as Sch. 4 para. 11(1) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 33\(17\)\(d\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)

**F13** Sch. 4 para. 11(2) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 33\(17\)\(d\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121, arts. 1(1), 11)

SCHEDULE 5

*(introduced by section 54(1))*

SECTION 53(2)(B): RELEVANT EVENTS ETC.

- 1 For the purpose of section 53(2)(b)—
- (a) relevant events are the events specified in the left-hand column of the following table; and
- (b) the prescribed information, in relation to a relevant event, is the information in the right-hand column of that table opposite the event.

TABLE

<i>Relevant event</i>	<i>Prescribed information</i>
A change of any of the names of the person against whom the football banning order is made	The change of name
The first use by that person, after the making of the order, of a name for himself or herself which was not disclosed by that person at the time of the making of the order	The newly used name
A change of that person's home address	The new home address



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The acquisition by that person of a temporary address	The temporary address
A change of that person's temporary address or that person's ceasing to have one	The new temporary address or, as the case may be, the fact that the person has ceased to have a temporary address
The loss of that person's passport	That fact
That person's ceasing to have a passport	That fact
Receipt by that person of a new passport	The details of the passport
An application made by that person under section 57 for variation of the order	That fact
An application made by that person under section 58 for termination of the order	That fact
An appeal made by that person in relation to the order	That fact

- 2 In the table in paragraph 1—
- “details”, in relation to a passport, means—
    - (a) the number of the passport
    - (b) the dates of issue and expiry of the passport
    - (c) the name and date of birth given in the passport as being those of the passport holder
  - “home address”, in relation to a person, means the address of the person's sole or main residence
  - “loss” includes theft or destruction
  - “new”, in relation to a passport, includes replacement
  - “temporary address”, in relation to a person, means the address (other than the person's home address) of a place at which the person intends to reside, or has resided, for a period of at least 4 weeks.

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## SCHEDULE 6

*(introduced by section 101)*

### MODIFICATIONS OF ENACTMENTS

#### PART 1

#### ACTS

#### *The Police (Scotland) Act 1967 (c. 77)*

F14<sub>1</sub> .....

#### **Textual Amendments**

**F14** Sch. 6 para. 1 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

#### *The Criminal Justice Act 1988 (c. 33)*

- 2 In section 142(3) of the Criminal Justice Act 1988 (power of justice of peace to authorise entry and search of premises for offensive weapons), for “subsection (1) (b)” there is substituted “ “subsection (1)(c) ”.

#### *The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)*

- 3 In Part II of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (increase in certain penalties), the entry relating to section 41(1) of the 1967 Act is repealed.

#### *The Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 4 (1) The 1995 Act is modified as follows.
- (2) In section 18 (prints, samples etc. in criminal investigations), in each of subsections (3) and (4), after “(6)” there is inserted “ “or (6A) ”.
- (3) In section 19A(3) (limitation on exercise of power to take samples etc from persons convicted of sexual and violent offences), for “19(1)(a) of this Act” there is substituted “ “subsection (2) of section 19 of this Act in a case where the power conferred by that subsection was exercised by virtue of subsection (1)(a) of that section ”.

#### *The Police Act 1996 (c. 16)*

- 5 (1) The Police Act 1996 is modified as follows.
- (2) After section 60 (regulations for police federations), there is inserted—

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### **“60A Sections 59 and 60: special provision for the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency**

- (1) For the purposes of sections 59 and 60, persons appointed as police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to the 2006 Act shall be treated as members of a police force in Scotland, and references in section 59 to police service shall be construed accordingly.
- (2) The reference in section 59(2) to regulations made in accordance with section 26(2A) of the Police (Scotland) Act 1967 shall—
  - (a) in the case of police members of the Scottish Crime and Drug Enforcement Agency, be construed as a reference to regulations made in accordance with either of—
    - (i) [F15section 23(2)(g)] of the 2006 Act, and
    - (ii) section 26(2A) of the Police (Scotland) Act 1967 as applied to police members of that Agency by virtue of paragraph 9(1) of schedule 2 to the 2006 Act
  - (b) in the case of persons engaged on relevant service within paragraph (bd) of section 38A(1) of the Police (Scotland) Act 1967 (temporary service with the Scottish Police Services Authority), be construed as a reference to regulations made in accordance with section 26(2A) of the Police (Scotland) Act 1967 as applied to such persons by virtue of paragraph 10(10) of schedule 1 to the 2006 Act.
- (3) The reference in [F16section 60(2)(e)] to regulations under section 26 of the Police (Scotland) Act 1967 shall—
  - (a) in the case of police members of the Scottish Crime and Drug Enforcement Agency, be construed as a reference to regulations under either of—
    - (i) section 23 of the 2006 Act, and
    - (ii) section 26 of the Police (Scotland) Act 1967 as applied to police members of that Agency by virtue of paragraph 9(1) of schedule 2 to the 2006 Act
  - (b) in the case of persons engaged on relevant service within paragraph (bd) of section 38A(1) of the Police (Scotland) Act 1967, be construed as a reference to regulations made under section 26 of the Police (Scotland) Act 1967 as applied to such persons by virtue of paragraph 10(10) of schedule 1 to the 2006 Act.
- (4) For the purposes of paragraphs (c) and (d) of subsection (2) of section 60—
  - (a) the Scottish Police Services Authority shall be treated as a police authority, and
  - (b) the Director General of the Scottish Crime and Drug Enforcement Agency shall be treated as a chief officer of police, and the reference in paragraph (d) of that subsection to police purposes shall be construed accordingly.
- (5) In this section, “the 2006 Act” means the Police, Public Order and Criminal Justice (Scotland) Act 2006.”.

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- (3) In section 61 (Police Negotiating Board for the United Kingdom), in subsection (1), after paragraph (c) there is inserted—
- “(ca) the Scottish Police Services Authority,
  - (cb) constables seconded to that Authority under paragraph 10(2) of schedule 1 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 but not appointed to be police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act,
  - (cc) persons seconded to that Authority under paragraph 10(3) of schedule 1 to that Act but not appointed as mentioned in paragraph (cb),
  - (cd) persons appointed as police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act.”.
- (4) In section 62 (functions of the Board with respect to regulations)—
- (a) in subsection (1A)—
    - (i) the words “regulations under section 26 or 27 of the Police (Scotland) Act 1967 (other than regulations relating to special constables)” become paragraph (a) of the subsection;
    - (ii) after that paragraph there is inserted—
      - “(b) regulations under section 23 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 or an order under paragraph 10(10) of schedule 1 to, or paragraph 9(1) of schedule 2 to, that Act,”
    - (iii) after “regulations”, where last occurring, there is inserted ““or order”; and
  - (b) after that subsection there is inserted—
    - “(1AA) Before determining the terms and conditions on which an appointment mentioned in subsection (1AB) below is made, the Scottish Police Services Authority shall—
      - (a) consult the Police Negotiating Board for the United Kingdom about any term or condition which relates to any of the matters mentioned in section 61(1) (other than pensions), and
      - (b) take into consideration any recommendation made by the Board.
    - (1AB) Those appointments are—
      - (a) the appointment of a constable seconded as a member of the staff of the Authority under paragraph 10(2) of schedule 1 to the Police, Public Order and Criminal Justice (Scotland) Act 2006,
      - (b) the appointment of a person seconded as member of staff of the Authority under paragraph 10(3) of schedule 1 to that Act, and
      - (c) the appointment of a person as a police member of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act.

*Status: Point in time view as at 01/04/2013.*

**Changes to legislation:** Police, Public Order and Criminal Justice (Scotland) Act 2006 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (1AC) Before determining the terms and conditions on which the Director General or the Deputy Director General of the Scottish Crime and Drug Enforcement Agency is to be appointed, the Scottish Ministers shall—
- (a) consult the Police Negotiating Board for the United Kingdom about any term or condition which relates to any of the matters mentioned in section 61(1) (other than pensions), and
  - (b) take into consideration any recommendation made by the Board.”; and
  - (c) in subsection (2), after “above” there is inserted “ “, or for the purposes of subsection (1AA) or (1AC) above, ”.
- (5) In section 63 (Police Advisory Boards for England and Wales and for Scotland), after subsection (1) there is inserted—
- “(1ZA) The Police Advisory Board for Scotland shall also advise the Scottish Ministers on general questions affecting—
- (a) constables seconded to the Scottish Police Services Authority under paragraph 10(2) of schedule 1 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 but not appointed to be police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act,
  - (b) persons seconded to the Scottish Police Services Authority under paragraph 10(3) of schedule 1 to that Act but not appointed as mentioned in paragraph (a); or
  - (c) persons appointed as police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act.”.

#### Textual Amendments

**F15** Words in Sch. 6 para. 5(2) (in the inserted s. 60A of the Police Act 1996 (c. 16)) substituted (31.3.2007) by The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Modification of Agency's Powers and Incidental Provision) Order 2007 (S.S.I. 2007/260), **art. 2(3)(a)**

**F16** Words in Sch. 6 para. 5(2) (in the inserted s. 60A of the Police Act 1996 (c. 16)) substituted (31.3.2007) by The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Modification of Agency's Powers and Incidental Provision) Order 2007 (S.S.I. 2007/260), **art. 2(3)(b)**

#### Commencement Information

**II** Sch. 6 para. 5 wholly in force at 1.4.2007; Sch. 6 para. 5 not in force at Royal Assent see s. 104; Sch. 6 para. 5(4)(5) in force at 1.1.2007 by S.S.I. 2006/607, **art. 3, Sch.**; Sch. 6 para. 5 in force at 1.4.2007 insofar as not already in force by S.S.I. 2007/84, **art. 3(3)**

#### *The Police Act 1997 (c. 50)*

- 6 (1) The Police Act 1997 is modified as follows.
- (2) In section 93 (authorisations to interfere with property)—
- (a) in subsection (3), after paragraph (e) there is inserted—

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- “(f) if the authorising officer is within subsection (5)(j), by a police member of the Scottish Crime and Drug Enforcement Agency appointed in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10).”;
  - (b) in subsection (5), after paragraph (i) there is inserted—
    - “(j) the Director General of the Scottish Crime and Drug Enforcement Agency.”; and
  - (c) in subsection (6), after paragraph (cb) there is inserted—
    - “(cc) in relation to the Director General of the Scottish Crime and Drug Enforcement Agency, means Scotland.”.
- (3) In section 94 (authorisations given in absence of authorising officer)—
  - (a) in subsection (2), after paragraph (g) there is inserted—
    - “(h) where the authorising officer is within paragraph (j) of that subsection, by a person mentioned in subsection (5).”;
  - (b) in subsection (4)—
    - (i) in paragraph (a), the words “or (d)” and “or, as the case may be, section 5(4) of the Police (Scotland) Act 1967” are repealed; and
    - (ii) after that paragraph there is inserted—
      - “(aa) in the case of an authorising officer within paragraph (d) of section 93(5), means the person holding the rank of—
        - (i) deputy chief constable and, where there is more than one person in a police force who holds that rank, who is designated as the officer having the powers and duties conferred on a deputy chief constable by section 5A(1) of the Police (Scotland) Act 1967; or
        - (ii) assistant chief constable who is designated to act under section 5A(2) of that Act.”; and
  - (c) after subsection (4) there is inserted—
    - “(5) The person referred to in subsection (2)(h) is—
      - (a) the chief constable whose relevant area (within the meaning of section 93(6)(b)) is the area to which the application for authorisation relates; or
      - (b) his designated deputy (within the meaning of subsection (4)(aa)); or
      - (c) where it is not reasonably practicable for the chief constable or his designated deputy to consider the application, a person holding the rank of assistant chief constable in the chief constable's police force.”.
- (4) In section 95(7) (designated deputy permitted to exercise authorising officer's powers), for “or (d)” there is substituted ““(d) or (j) ”.
- (5) In section 107(4) (power of Prime Minister to exclude matters from a report), after paragraph (b) there is inserted—

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“(ba) the functions of the Scottish Crime and Drug Enforcement Agency;”.

*The Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

F177

#### Textual Amendments

F17 Sch. 6 para. 7 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

*The Regulation of Investigatory Powers Act 2000 (c. 23)*

8 In section 76A(11) of the Regulation of Investigatory Powers Act 2000 (foreign surveillance operations: definitions) for paragraph (c) of the definition of “United Kingdom officer” there is substituted—

“(c) a police member of the Scottish Crime and Drug Enforcement Agency appointed in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”

*The Regulation of Investigatory Powers (Scotland) Act 2000 (asp 11)*

9 (1) The Regulation of Investigatory Powers (Scotland) Act 2000 is modified as follows.

(2) In section 9 (special provision for the Scottish Crime Squad)—

- (a) subsection (1) is repealed
- (b) in subsection (2), for “Scottish Crime Squad and constables seconded to it” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”
- (c) in subsection (3), for “Scottish Crime Squad” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”
- (d) in subsection (4)—
  - (i) for “Scottish Crime Squad” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
  - (ii) for “constable seconded to that Squad” there is substituted “ “police member of that Agency ”;
- (e) subsections (5) and (6) are repealed; and
- (f) the section heading becomes “ “**Special provision for the Scottish Crime and Drug Enforcement Agency** ”.

(3) In section 10 (authorisation of intrusive surveillance)—

- (a) in subsection (1), after “force” there is inserted “ “and the Director General of the Scottish Crime and Drug Enforcement Agency ”; and
- (b) in subsection (2), for “chief constable” there is substituted “ “person ”.

(4) In section 11 (grant of authorisations)—

- (a) in subsection (2), at the beginning there is inserted “ “Subject to section 12A below, ”;
- (b) for subsection (3) there is substituted—

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- “(3) The Director General of the Scottish Crime and Drug Enforcement Agency shall not grant an authorisation for the carrying out of intrusive surveillance except on an application made by a police member of that Agency.”;
- (c) in subsection (4)—
- (i) in paragraph (a), after “force” there is inserted “ “or is a police member of the Scottish Crime and Drug Enforcement Agency””; and
- (ii) in paragraph (b), for “a police force,” there is substituted—
- “(i) where that individual is a member of a police force, a police force; or
- (ii) where that individual is a police member of the Scottish Crime and Drug Enforcement Agency, that Agency,”; and
- (d) in subsection (5), after “section” there is inserted “ “and section 12A below ””.
- (5) In section 12 (grant of authorisations in cases of urgency)—
- (a) in subsection (1), after “application” there is inserted “ “(other than an application to which section 12A below applies) ””
- (b) in subsection (4), after “rank of” there is inserted “ “deputy chief constable or ””; and
- (c) in subsection (5), for the words from “assistant” to the end there is substituted—
- “(a) deputy chief constable and, where there is more than one person in a police force who holds that rank, who is designated as the officer having the powers and duties conferred on a deputy chief constable by section 5A(1) of the Police (Scotland) Act 1967 (c. 77); or
- (b) assistant chief constable who is designated to act under section 5A(2) of that Act.”.
- (6) After section 12 there is inserted—

**“12A Grant of authorisations in cases of urgency: Scottish Crime and Drug Enforcement Agency**

- (1) This section applies in the case of an application to the Director General of the Scottish Crime and Drug Enforcement Agency for an authorisation for the carrying out of intrusive surveillance where the case is urgent.
- (2) If it is not reasonably practicable, having regard to the urgency of the case, for the application to be considered by the Director General or the Deputy Director General of that Agency, the application may be made to and considered by—
- (a) the chief constable of the police force to which subsection (3) below applies
- (b) a person (if there is one) who is entitled, as a designated deputy of that chief constable, to exercise the functions in relation to that application of that chief constable; or
- (c) if it is not reasonably practicable, having regard to the urgency of the case, for the application to be considered by a person such as is mentioned in paragraph (a) or (b) above, any person who is entitled



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under subsection (4) of section 12 above to act, for the purposes of that section, for that chief constable.

- (3) This subsection applies to a police force if—
- (a) in the case of an authorisation for the carrying out of intrusive surveillance in relation to any residential premises, those premises are in; and
  - (b) in the case of an authorisation for the carrying out of intrusive surveillance in relation to any private vehicle, the chief constable of that police is satisfied that the operation will commence in, the area of operation of that police force.
- (4) In this section “designated deputy” has the same meaning as in section 12 above.”.
- (7) In section 14(5)(b) (meaning of “most senior relevant person”), for the words from “member” to the end there is substituted “ “police member of the Scottish Crime and Drug Enforcement Agency, the Director General of that Agency. ”.
- (8) In section 15(7) (persons receiving a report when authorisation is quashed), after paragraph (a) there is inserted—
- “(aa) in the case of an authorisation granted under section 12A above, to the chief constable mentioned in subsection (2)(a) of that section;”.
- (9) In section 16(1) (appeals), after “force” there is inserted “ “or the Director General of the Scottish Crime and Drug Enforcement Agency ”.
- (10) In section 18 (information to be provided to the Surveillance Commissioners), for paragraph (b) there is substituted—
- “(b) the Director General, the Deputy Director General and every police member of the Scottish Crime and Drug Enforcement Agency;”.
- (11) In section 20(6) (meaning of “deputy” in relation to cancellations)—
- (a) the words from “in”, where it second occurs, to “constable”, where it second occurs, become paragraph (a); and
  - (b) after those words there is inserted—
- “(b) in relation to the Director General of the Scottish Crime and Drug Enforcement Agency, to the Deputy Director General of that Agency”.
- (12) In section 23(5)(b) (conduct taking place in challengeable circumstances), after “force” there is inserted “ “or to the Scottish Crime and Drug Enforcement Agency ”.
- (13) In section 24(2)(b) (powers and duties in relation to which codes of practice must be issued), after “force” there is inserted “ “or to the Scottish Crime and Drug Enforcement Agency ”.
- (14) In section 31(1) (interpretation), after the definition of “police force” there is inserted—
- ““police member”, in relation to the Scottish Crime and Drug Enforcement Agency, means a person appointed as such a member in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”

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*The Scottish Public Services Ombudsman Act 2002 (asp 11)*

- 10 (1) The Scottish Public Services Ombudsman Act 2002 is amended as follows.
- (2) In schedule 2 (listed authorities)—
- (a) the entry numbered 14 is repealed; and
  - (b) after the entry numbered 32 there is inserted—
 

“32A The Police Complaints Commissioner for Scotland.”.
- (3) In schedule 4 (matters which the Ombudsman must not investigate)—
- (a) for paragraph 1(b) there is substituted—
 

“(c) by the Police Complaints Commissioner for Scotland,”; and
  - (b) after paragraph 15 there is inserted—
 

“16 Action taken—

    - (a) by a local authority in discharge of its functions as a police authority, or
    - (b) by any other person in discharge of the functions of a local authority as a police authority, by virtue of section 56(1) of the Local Government (Scotland) Act 1973 (c. 65).”.

*The Freedom of Information (Scotland) Act 2002 (asp 13)*

F18<sup>11</sup> .....

**Textual Amendments**

**F18** Sch. 6 para. 11 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

*The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)*

F19<sup>12</sup> .....

**Textual Amendments**

**F19** Sch. 6 para. 12 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

*The Serious Organised Crime and Police Act 2005 (c. 15)*

- 13 (1) The Serious Organised Crime and Police Act 2005 is modified as follows.
- (2) In section 3(5)(d) (meaning of “special police force”), for “Scottish Drug Enforcement Agency” there is substituted “Scottish Crime and Drug Enforcement Agency”.
- (3) In section 23 (mutual assistance between SOCA and law enforcement agencies: voluntary arrangements)—
- (a) for subsection (5) there is substituted—

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- “(5) In subsection (4)(a), “constables or members of staff” in relation to the Scottish Crime and Drug Enforcement Agency means police members or support staff members of that Agency.”;
- (b) in subsection (7), for paragraph (b) there is substituted—
- “(b) a police member or support staff member of the Scottish Crime and Drug Enforcement Agency.”;
- (c) in subsection (10)(b) for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
- (d) in subsection (11)—
- (i) after the definition of “police force” there is inserted—
- ““police member”, in relation to the Scottish Crime and Drug Enforcement Agency, means a person appointed as such a member in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”;
- (ii) in paragraph (f) of the definition of “relevant police authority”, for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
- (iii) after the definition of “relevant police authority” there is inserted—
- ““support staff member”, in relation to the Scottish Crime and Drug Enforcement Agency, means a person appointed as such a member in accordance with paragraph 8 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006;”.
- (4) In section 24(2)(b) (bodies to which section 24 applies), for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”.
- (5) In section 25 (directed arrangements: Scotland)—
- (a) in subsection (2)(b), for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”
- (b) in subsection (3)(b)—
- (i) for “Director of the Scottish Drug Enforcement Agency” there is substituted “ “Director General of the Scottish Crime and Drug Enforcement Agency ”; and
- (ii) for “constables or other persons” there is substituted “ “police members or support staff members ”
- (c) in subsection (4), in both paragraphs (a) and (b), for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
- (d) after subsection (4), there is inserted—
- “(5) In this section, “police member” and “support staff member” have the same meaning as in section 23.”.
- (6) In section 31(5)(d) (meaning of “relevant authority” in section 31), for “Scottish Drug Enforcement Agency, means” there is substituted “ “Scottish Crime and Drug Enforcement Agency, means the Director General of ”.
- (7) In section 42 (interpretation)—

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- (a) in subsection (1), for paragraph (g) of the definition of “chief officer” there is substituted—
    - “(g) in relation to the Scottish Crime and Drug Enforcement Agency, the Director General of that Agency”; and
  - (b) subsection (2) is repealed.
- (8) In section 47 (person having powers of constable: exercise of such powers in Scotland and Northern Ireland)—
- (a) in subsection (3)(a), for “Director of the Scottish Drug Enforcement Agency” there is substituted “ “Director General of the Scottish Crime and Drug Enforcement Agency ”
  - (b) in subsection (4)(a), for “Deputy Director” there is substituted “ “Deputy Director General ”; and
  - (c) in subsection (7), the definition of “the Scottish Drug Enforcement Agency” and “the Director” is repealed.
- (9) In section 82(5) (persons who are protection providers), for paragraph (f), there is substituted—
- “(f) the Director General of the Scottish Crime and Drug Enforcement Agency;”
- (10) In section 94 (interpretation of Chapter 4), subsection (9) is repealed.
- (11) In Schedule 5—
- (a) in paragraph 20—
    - (i) in sub-paragraph (1), the words “is or” are repealed and for “Scottish Drug Enforcement Agency” there is substituted “ “organisation known as the Scottish Drug Enforcement Agency and established under section 36(1)(a)(ii) of the Police (Scotland) Act 1967 (c. 77), that is to say a person who was engaged on central service (as defined by section 38(5) of that Act) and was appointed by the Scottish Ministers to exercise control in relation to the activities carried out in exercise of that organisation's functions ”; and
    - (ii) in sub-paragraph (2), the words “is or” are repealed; and
  - (b) after paragraph 20 there is inserted—
    - “20A1) A person who is or has been the Director General of the Scottish Crime and Drug Enforcement Agency.
    - (2) A person who is or has been under the direction and control of the Director General of the Scottish Crime and Drug Enforcement Agency.”.

## PART 2

### SUBORDINATE LEGISLATION

*The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) (Scotland) Order 2000 (S.S.I. 2000/343)*

- 14 In the Schedule to the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) (Scotland) Order 2000, for “The Operational and Intelligence

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Group of the Scottish Drug Enforcement Agency” there is substituted “ “The Scottish Crime and Drug Enforcement Agency ”.

**Status:**

Point in time view as at 01/04/2013.

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