
Status: This is the original version (as it was originally enacted).

SCHEDULE 1

(introduced by section 1(2))

THE SCOTTISH POLICE SERVICES AUTHORITY

Interpretation

- 1 In this schedule—
- “lay member” means a person who is neither a police authority member nor a police force member;
 - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
 - “police authority member” means a person—
 - (a) who is a member of a local authority; and
 - (b) who, whether by election or otherwise, has the function of chairing meetings of any of the police bodies (whether or not referred to in that capacity as “convener”); and
 - “police force member” means a person who holds the rank of chief constable in a police force.

Status

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

Membership

- 3 (1) The Scottish Ministers must appoint the members of the Authority.
- (2) Each member must fall within one of the categories mentioned in sub-paragraph (3).
- (3) Those categories are—
- (a) police force members;
 - (b) police authority members;
 - (c) lay members.
- (4) The Authority is to consist of not more than 10 members and, subject to sub-paragraph (5), must include—
- (a) a convener (who must be a lay member); and
 - (b) at least two members (not including the convener) falling within each of the categories mentioned in sub-paragraph (3).
- (5) Sub-paragraph (4)(b) does not apply if, in the opinion of the Scottish Ministers, its application would—
- (a) prevent the Authority from operating; or
 - (b) prevent or impede the effective or efficient operation of the Authority.
- (6) A person may be appointed as a police force member of the Authority only if nominated for such appointment by persons whom the Scottish Ministers consider represent the interests of chief constables of police forces.

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- (7) A person may be appointed as a police authority member of the Authority only if nominated for such appointment by persons whom the Scottish Ministers consider represent the interests of police bodies.
- (8) Sub-paragraph (4)(b) does not apply if—
- (a) the Scottish Ministers request the persons referred to in sub-paragraph (6) or (7) to nominate persons for appointment as a police force member or a police authority member of the Authority; and
 - (b) the persons requested fail, within such reasonable time as the Scottish Ministers may specify, to comply with the request.
- (9) A person is disqualified from appointment, and from holding office, as a police authority member or a lay member of the Authority if that person is—
- (a) a member of—
 - (i) the House of Lords;
 - (ii) the House of Commons;
 - (iii) the Scottish Parliament;
 - (iv) the European Parliament; or
 - (b) disqualified from standing for election as a member of—
 - (i) the House of Commons;
 - (ii) the Scottish Parliament; or
 - (iii) a local authority.
- (10) A person is disqualified from appointment, and from holding office, as a lay member of the Authority if that person is—
- (a) a constable of a police force;
 - (b) 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;
 - (c) a member of the Serious Organised Crime Agency;
 - (d) a member of a local authority; or
 - (e) a member of staff of the Authority.
- (11) The Scottish Ministers may by order amend sub-paragraph (4) by substituting for the maximum number of members for the time being specified there such other number as they think fit.
- (12) Before making an order under sub-paragraph (11) the Scottish Ministers must consult—

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- (a) the Authority;
- (b) persons whom the Scottish Ministers consider represent the interests of chief constables of police forces; and
- (c) persons whom the Scottish Ministers consider represent the interests of police bodies.

Deputy convener

- 4 Members of the Authority must elect, from among their number, a member to chair meetings when the convener is not present (the “deputy convener”).

Tenure

- 5 (1) Subject to this paragraph, each member holds and vacates office on such terms and conditions, and for such period, as the Scottish Ministers may determine.
- (2) The Scottish Ministers may, on the expiry of a period of appointment of a member, reappoint the member for a single further period.
- (3) Each member may, by written notice to the Scottish Ministers, resign as a member.
- (4) A police force member ceases to be a member of the Authority on ceasing to hold the rank of chief constable of a police force.
- (5) Subject to sub-paragraphs (6) and (7), a police authority member ceases to be a member of the Authority on ceasing to be a member of a local authority.
- (6) Sub-paragraph (7) applies where a member of the Authority ceases to be a member of a local authority by reason only of the member’s retirement by virtue of section 5(4) of the Local Government etc. (Scotland) Act 1994 (c. 39) (elections and terms of office of councillors).
- (7) Where—
- (a) the member had the function of chairing meetings of a police authority, the member continues to hold office as a member of the Authority until the date of the first meeting of the local authority following the election in consequence of which that person retired;
 - (b) the member had the function of chairing meetings of a joint police board, the member continues to hold office as a member of the Authority until the date of the first meeting of the board following the election in consequence of which that person retired.

Removal from office

- 6 (1) The Scottish Ministers may remove a person from office as a member of the Authority if they consider that any of the grounds mentioned in sub-paragraph (2) is satisfied.
- (2) Those grounds are—
- (a) the member’s estate has been sequestrated or the member has been adjudged bankrupt, has made an arrangement with creditors, or has granted a trust deed for creditors or a composition contract;
 - (b) the member is incapacitated as a result of physical or mental illness;

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- (c) the member has, without reasonable excuse, been absent from meetings of the Authority for a period longer than 4 consecutive months;
- (d) the member has, without reasonable excuse, been absent from 3 consecutive meetings of the Authority;
- (e) the member has been convicted (whether before or after the member's appointment) of a criminal offence;
- (f) the member has failed to comply with the terms of the member's appointment;
- (g) the member, being a police force member, has been suspended from duty by virtue of regulations made under section 26 of the 1967 Act;
- (h) the member, being a police authority member, has had the member's entitlement to attend meetings suspended under section 19(1)(b) or (c) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7); or
- (i) the member is otherwise unfit or unable to carry out the member's functions as convener or member.

Members to ensure Authority is run efficiently and effectively

- 7 It is the duty of each member to ensure that the Authority is run efficiently and effectively.

Remuneration and pensions of convener and lay members

- 8 (1) The Authority must pay to the convener and each of the other lay members such remuneration, allowances and expenses as the Scottish Ministers determine.
- (2) The Authority must pay or make arrangements for the payment of such pensions, allowances or gratuities to, or in respect of, any person who has ceased to be the convener or a lay member of the Authority as the Scottish Ministers determine.
- (3) The reference in sub-paragraph (2) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.
- (4) The arrangements mentioned in sub-paragraph (2) 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.
- (5) Sub-paragraph (6) applies where a person ceases to be the convener or a lay member of the Authority and the Scottish Ministers determine that there are special circumstances making it right for the person to receive compensation.
- (6) The Scottish Ministers may direct the Authority to pay such amount of compensation to the person as the Scottish Ministers consider appropriate.
- (7) Police force members and police authority members are not entitled to remuneration, allowances or expenses from the Authority in respect of their work as members of the Authority.

Chief Executive

- 9 (1) The Authority is to have a Chief Executive who—
- (a) must not be a member of the Authority; and

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- (b) reports to the members of the Authority.
- (2) The first appointment of the Chief Executive is to be made by the Scottish Ministers after consultation with—
- (a) persons whom the Scottish Ministers consider represent the interests of chief constables of police forces;
 - (b) persons whom the Scottish Ministers consider represent the interests of police bodies; and
 - (c) if the Scottish Ministers have appointed a person as convener of the Authority, that person.
- (3) The first appointment of the Chief Executive is to be made on such terms and conditions as the Scottish Ministers may determine.
- (4) The Authority must pay the person appointed under sub-paragraph (3) such remuneration, allowances and expenses as the Scottish Ministers determine.
- (5) Subsequent appointments of the Chief Executive are to be made by the Authority with the approval of the Scottish Ministers on such terms and conditions as the Authority may with such approval determine.
- (6) The Authority must pay the Chief Executive appointed by the Authority such remuneration, allowances and expenses as the Scottish Ministers determine.
- (7) The Authority must pay or make arrangements for the payment of such pensions, allowances or gratuities to, or in respect of, any person who has ceased to be the Chief Executive as the Scottish Ministers determine.
- (8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment.
- (9) The arrangements mentioned in sub-paragraph (7) 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.

Staff of the Authority

- 10 (1) Subject to sub-paragraphs (6)(b) and (8)(a), the Authority may appoint other employees on such terms and conditions as the Authority determines.
- (2) The Authority may make arrangements for constables of police forces to be seconded to the Authority to serve as members of its staff.
- (3) The Authority may make arrangements for persons falling within sub-paragraph (4) to be seconded to the Authority to serve as members of its staff.
- (4) A person falls within this sub-paragraph if the person is a member of—
- (a) a police force maintained under section 2 of the Police Act 1996 (c. 16);
 - (b) the metropolitan police force or of the City of London police force;
 - (c) the Police Service of Northern Ireland;
 - (d) the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Minister of Defence Police Act 1987 (c. 4);
 - (e) the British Transport Police;

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- (f) the Civil Nuclear Constabulary;
 - (g) the States of Jersey Police Force;
 - (h) the salaried police force of the Island of Guernsey;
 - (i) the Isle of Man Constabulary; or
 - (j) the Serious Organised Crime Agency.
- (5) Sub-paragraph (6) applies if—
- (a) a constable is seconded to the Authority under sub-paragraph (2); and
 - (b) the Authority does not appoint the constable to be a police member of the Agency in accordance with paragraph 7 of schedule 2.
- (6) The constable—
- (a) is engaged with the Authority on a period of relevant service within the meaning of section 38A(1)(bd) of the 1967 Act;
 - (b) is, subject to sub-paragraph (10), appointed on such terms and conditions as the Authority may, with the approval of the Scottish Ministers, determine; and
 - (c) is under the direction and control of the Authority.
- (7) Sub-paragraph (8) applies if—
- (a) a person is seconded to the Authority under sub-paragraph (3); and
 - (b) the Authority does not appoint the person to be a police member of the Agency in accordance with paragraph 7 of schedule 2.
- (8) The person—
- (a) is, subject to sub-paragraph (10), appointed on such terms and conditions as the Authority may, with the approval of the Scottish Ministers, determine; and
 - (b) is under the direction and control of the Authority.
- (9) A determination under sub-paragraph (6)(b) or (8)(a) may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act or section 23 of this Act.
- (10) The Scottish Ministers may by order apply such provisions of the 1967 Act and subordinate legislation made under it (subject to such modifications as they consider appropriate) to—
- (a) constables seconded to the Authority under sub-paragraph (2); or
 - (b) persons seconded to the Authority under sub-paragraph (3),
- who are not appointed to be police members of the Agency in accordance with paragraph 7 of schedule 2.
- (11) Before making an order under sub-paragraph (10) other than an order with respect to any of the matters mentioned in section 61(1) of the Police Act 1996 (c. 16), the Scottish Ministers must—
- (a) submit a draft to the Police Advisory Board for Scotland; and
 - (b) consider any representations made by the Board as to the draft.

Remuneration and pensions of staff

- 11 (1) Subject to section 23, paragraph 10(10) of this schedule and paragraph 9(1) of schedule 2, the Authority must pay to members of its staff such remuneration, allowances and expenses as the Authority determines.
- (2) A determination under sub-paragraph (1) as respects persons within sub-paragraph (3) may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act or section 23 of this Act.
- (3) Those persons are—
- (a) constables seconded to the Authority under paragraph 10(2); and
 - (b) persons seconded to the Authority under paragraph 10(3),
- who are not appointed to be police members of the Agency in accordance with paragraph 7 of schedule 2.
- (4) A determination under sub-paragraph (1) as respects police members of the Agency may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act.
- (5) The Authority 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.
- (6) The reference in sub-paragraph (5) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment or, as the case may be, loss of office.
- (7) The arrangements mentioned in sub-paragraph (5) 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.
- (8) In this paragraph references to members of staff of the Authority do not include the Chief Executive or the Director General or Deputy Director General of the Agency.

Committees and sub-committees

- 12 (1) The Authority may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) Any such committee or sub-committee must be chaired by a member of the Authority.
- (4) A person who is not a member of the Authority may be appointed to any such committee or sub-committee.
- (5) Subject to sub-paragraph (6), the Authority may pay such remuneration, allowances and expenses as it may determine to a member of any such committee or sub-committee who is not—
- (a) a member of the Authority; or
 - (b) a member of the Authority's staff.
- (6) Sub-paragraph (5) does not apply to a member of a committee or sub-committee who is—
- (a) a constable of, or otherwise employed by, a police force; or

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- (b) a member of a local authority.

Procedure

- 13 (1) Subject to sub-paragraph (2), the Authority may regulate—
- (a) its own procedure (including the number of members required to constitute a quorum); and
 - (b) the procedure (including the number of members required to constitute a quorum) of its committees and sub-committees.
- (2) Any determination as to the quorum for meetings of the Authority or any of its committees or sub-committees must be made at a meeting of the Authority attended by the convener and at least 4 other members.

Delegation of functions

- 14 (1) Subject to sub-paragraph (2), the Authority may authorise—
- (a) any of its committees; or
 - (b) any of its members of staff,
- to perform on behalf of the Authority such of its functions as it may determine.
- (2) The Authority may not authorise any of its committees to perform on its behalf any functions of the Authority under Part V of the Police Act 1997 (c. 50).
- (3) A committee of the Authority may authorise—
- (a) any of its sub-committees; or
 - (b) any of the Authority's members of staff,
- to perform on behalf of the committee such of its functions as it may determine.

Incidental powers

- 15 (1) The Authority 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 its functions, including in particular—
- (a) entering into contracts;
 - (b) acquiring and disposing of property (whether heritable or moveable);
 - (c) borrowing money;
 - (d) forming or promoting (whether alone or with another) companies (within the meaning of the Companies Act 1985 (c. 6)).
- (2) The power conferred by sub-paragraph (1)(b) includes power to accept—
- (a) gifts of money; and
 - (b) gifts or loans of other property
- on such terms as the Authority considers appropriate.
- (3) The Authority may not exercise the powers conferred by paragraphs (b) to (d) of sub-paragraph (1) without the consent of the Scottish Ministers.
- (4) Such consent may be given—
- (a) with respect to a particular case or a particular class of cases;
 - (b) subject to such conditions as the Scottish Ministers consider appropriate.

Accounts

- 16 (1) The Authority must—
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare a statement of accounts in respect of each financial year in relation to each of the Authority and the Agency.
- (2) A statement of accounts under sub-paragraph (1) must be in such form and contain such information as the Scottish Ministers may direct.
- (3) The Authority must send a copy of each statement of accounts to the Scottish Ministers.
- (4) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General of Scotland for auditing.

SCHEDULE 2

(introduced by section 12(2))

MEMBERSHIP OF THE SCOTTISH CRIME AND DRUG ENFORCEMENT AGENCY

The Director General

- 1 (1) The first Director General of the Agency is to be the person who, immediately before the coming into force of this paragraph, is the Director of the Scottish Drug Enforcement Agency (“the old Agency”).
- (2) The first Director General holds office as Director General until the term of appointment as Director of the old Agency would have ended.
- (3) Each subsequent Director General —
- (a) is to be appointed by the Authority; and
 - (b) holds office for a term of 3 years.
- (4) The Authority may extend the Director General’s term of office by a single period not exceeding 3 years.
- (5) A person is disqualified from appointment, and from holding office, as Director General if that person is a member of the Authority.
- (6) A person may be appointed as Director General only if the person satisfies any requirements that the Scottish Ministers may specify in regulations and—
- (a) holds the rank of deputy chief constable in a police force; or
 - (b) is eligible to apply for a post of that rank.
- (7) Despite section 5(3) of the 1967 Act, a person referred to in sub-paragraph (6)(b) who is appointed as Director General is, by virtue of the appointment, promoted to the rank of deputy chief constable.
- (8) The Scottish Ministers may by order amend sub-paragraphs (6) and (7) so as to substitute for the rank for the time being specified there another rank.

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- (9) In sub-paragraph (1), “the Scottish Drug Enforcement Agency” means the organisation known by that name and established under section 36(1)(a)(ii) of the 1967 Act.

The Deputy Director General

- 2 (1) The first Deputy Director General of the Agency is to be the person who, immediately before the coming into force of this paragraph, is the Deputy Director of the old Agency.
- (2) The first Deputy Director General holds office as Deputy Director General until the term of appointment as Deputy Director of the old Agency would have ended.
- (3) Each subsequent Deputy Director General—
- (a) is to be appointed by the Authority; and
 - (b) holds office for a term of 3 years.
- (4) The Authority may extend the Deputy Director General’s term of office by a single period not exceeding 3 years.
- (5) A person is disqualified from appointment, and from holding office, as Deputy Director General if that person is a member of the Authority.
- (6) A person may be appointed as Deputy Director General only if the person satisfies any requirements that the Scottish Ministers may specify in regulations and—
- (a) holds the rank of assistant chief constable in a police force; or
 - (b) is eligible to apply for a post of that rank.
- (7) Despite section 5(3) of the 1967 Act, a person referred to in sub-paragraph (6)(b) who is appointed as Deputy Director General is, by virtue of the appointment, promoted to the rank of assistant chief constable.
- (8) The Scottish Ministers may by order amend sub-paragraphs (6) and (7) so as to substitute for the rank for the time being specified there another rank.
- (9) In sub-paragraphs (1) and (2), “the old Agency” has the meaning given by paragraph 1(1).

Termination or suspension of appointment of Director General and Deputy Director General

- 3 (1) Where the Authority has complied with sub-paragraphs (2) to (4) in relation to the Director General, it may call on the Director General to retire or to resign from office as Director General—
- (a) in the interests of efficiency or effectiveness; or
 - (b) by reason of any misconduct by the Director General.
- (2) The Authority must give the Director General—
- (a) an explanation in writing of the grounds on which the Authority proposes to call upon the Director General to retire or resign as mentioned in sub-paragraph (1)(a) or (b); and
 - (b) an opportunity to make representations to the Authority (including an opportunity to make them in person).

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- (3) The Authority must consider any representations made by or on behalf of the Director General.
- (4) The Authority must consult the Scottish Ministers.
- (5) If the Director General is, under sub-paragraph (1), called upon to retire or resign, the Director General must retire or resign with effect from—
 - (a) such date as the Authority may specify; or
 - (b) such earlier date as may be agreed between the Director General and the Authority.
- (6) If the Authority considers that it is necessary for the maintenance of public confidence in the Agency to do so, the Authority may, after consulting the Scottish Ministers, suspend the Director General from duty.
- (7) Nothing in this paragraph affects any power of the Authority to terminate or suspend the Director General’s appointment in accordance with the terms and conditions of that appointment.
- (8) Sub-paragraphs (1) to (7) apply in relation to the Deputy Director General as they apply in relation to the Director General.

Director General and Deputy Director General: common provisions

- 4 (1) A person appointed as Director General or Deputy Director General—
- (a) is, subject to paragraph 9(1), appointed on such terms and conditions as the Scottish Ministers may specify;
 - (b) is by virtue of the appointment a member of the staff of the Authority;
 - (c) is, if immediately before appointment a constable of a police force, engaged with the Agency on a period of relevant service within the meaning of section 38A(1)(bf) of the 1967 Act;
 - (d) in any other case—
 - (i) is, on appointment, appointed to the office of constable of the Agency; and
 - (ii) must on appointment make before a sheriff or a justice of the peace a declaration in such terms as the Scottish Ministers may determine covering the proper discharge of the duties of the office.
- (2) Without prejudice to any other enactment conferring powers on constables for particular purposes, where the Director General or Deputy Director General makes a declaration such as is mentioned in sub-paragraph (1)(d)(ii), the Director General or (as the case may be) the Deputy Director General has all the powers and privileges of a constable throughout Scotland and (without prejudice to section 1(2) of the 1967 Act) the adjacent United Kingdom waters.
- (3) In sub-paragraph (2)—
- “powers” includes powers under any enactment, whenever passed or made;
- “United Kingdom waters” means the sea and other waters within the seaward limits of the territorial sea;
- and in that sub-paragraph, so far as it relates to powers under any enactment, makes them exercisable throughout the United Kingdom waters whether or not the enactment applies to those waters apart from this provision.

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Remuneration and pensions of Director and Deputy Director

- 5 (1) Subject to paragraph 9(1), the Authority must pay to the Director General and Deputy Director General such remuneration, allowances and expenses as the Scottish Ministers determine.
- (2) The Authority must pay or make arrangements for the payment of such pensions, allowances or gratuities to, or in respect of, any person who has ceased to be the Director General or the Deputy Director General as the Scottish Ministers determine.
- (3) The reference in sub-paragraph (2) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.
- (4) The arrangements mentioned in sub-paragraph (2) 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.

Delegation of Director General's functions

- 6 (1) The Deputy Director General may carry out any of the functions of the Director General under this Act or any other enactment—
- (a) during any absence, incapacity or suspension from duty of the Director General; or
 - (b) during any vacancy in the office of Director General.
- (2) Anything authorised or required to be done by the Director General may be done by any other member of the Agency who is authorised for the purpose by the Director General (whether generally or specifically).
- (3) Sub-paragraph (2) does not apply to anything authorised or required to be done by the Director General under—
- (a) Part III of the Police Act 1997 (c. 50) (authorisation of action in respect of property); or
 - (b) the Regulation of Investigatory Powers (Scotland) Act 2000 (asp 11).

Police members

- 7 (1) The police members of the Agency are to be appointed by the Authority.
- (2) A person may be appointed under sub-paragraph (1) only if—
- (a) the person is a constable who is seconded to the Authority under paragraph 10(2) of schedule 1;
 - (b) the person is a person who is seconded to the Authority under paragraph 10(3) of schedule 1; or
 - (c) the person has any qualifications for appointment as a constable which are specified in regulations under section 23 and the appointment is to a police rank in the Agency.
- (3) A police member of the Agency appointed by virtue of sub-paragraph (2)(a)—
- (a) is engaged with the Agency on a period of relevant service within the meaning of section 38A(1)(be) of the 1967 Act;
 - (b) does not, by virtue of the appointment, cease to be a member of staff of the Authority.

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- (4) A police member of the Agency appointed by virtue of sub-paragraph (2)(b)—
- (a) does not, by virtue of the appointment, cease to be a member of staff of the Authority;
 - (b) is, on appointment, appointed to the office of constable of the Agency; and
 - (c) must on appointment make before a sheriff or a justice of the peace a declaration in such terms as the Scottish Ministers may determine concerning the proper discharge of the duties of that office.
- (5) A police member of the Agency appointed by virtue of sub-paragraph (2)(c)—
- (a) becomes, on appointment, a member of staff of the Authority;
 - (b) is, on appointment, appointed to the office of constable of the Agency; and
 - (c) must on appointment make before a sheriff or a justice of the peace a declaration in such terms as the Scottish Ministers may determine concerning the proper discharge of the duties of that office.
- (6) Without prejudice to any other enactment conferring powers on constables for particular purposes, where a police member of the Agency makes a declaration such as is mentioned in sub-paragraph (4)(c) or (5)(c), the member shall have all the powers and privileges of a constable throughout Scotland and (without prejudice to section 1(2) of the 1967 Act) the adjacent United Kingdom waters.
- (7) Subject to section 23 and paragraph 9(1) of this schedule, an appointment in accordance with this paragraph is made on such terms and conditions as the Authority may determine.
- (8) A determination under sub-paragraph (7) may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act.
- (9) Before making an appointment in accordance with this paragraph, or determining the terms and conditions on which such an appointment is to be made, the Authority must consult the Director General of the Agency.
- (10) In sub-paragraph (6)—
- “powers” includes powers under any enactment, whenever passed or made;
 - “United Kingdom waters” means the sea and other waters within the seaward limits of the territorial sea;
- and that sub-paragraph, so far as it relates to powers under any enactment, makes them exercisable throughout the United Kingdom waters whether or not the enactment applies to those waters apart from this provision.

Support staff members

- 8 (1) The Authority may appoint support staff members of the Agency.
- (2) A person may be appointed under sub-paragraph (1) only if the person is by virtue of paragraph 10(1) of schedule 1 an employee of the Authority.
- (3) A person appointed under sub-paragraph (1) does not, by virtue of that appointment, cease to be a member of staff of the Authority.

Supplementary

- 9 (1) The Scottish Ministers may by order apply such provisions of the 1967 Act and subordinate legislation made under it as they think fit (subject to such modifications as they consider appropriate) to the Director General, the Deputy Director General and police members of the Agency.
- (2) Before making an order under sub-paragraph (1) other than an order with respect to any of the matters mentioned in section 61(1) of the Police Act 1996 (c. 16), the Scottish Ministers must—
- (a) submit a draft to the Police Advisory Board for Scotland; and
 - (b) consider any representations made by the Board as to the draft.

SCHEDULE 3

(introduced by section 31)

TRANSFERS OF STAFF AND PROPERTY

PART 1

STAFF TRANSFERS TO THE AUTHORITY AND THE AGENCY

Interpretation

- 1 In this Part—
- “central service” has the meaning given by section 38(5) of the 1967 Act;
- “relevant service” means relevant service within the meaning of section 38A(1) (bd) or (be) of that Act; and
- “transfer day”, in relation to a person, means the day on which a staff transfer order comes into force in relation to the person.

Staff transfer orders

- 2 (1) The Scottish Ministers may by order (a “staff transfer order”) make provision for or in connection with—
- (a) the transfer of persons employed, by virtue of section 9 of the 1967 Act (employees other than constables), by police authorities or joint police boards from any such authority or board to the Authority;
 - (b) the transfer of constables from police forces to relevant service;
 - (c) the transfer of constables from central service to relevant service.
- (2) A staff transfer order may in particular—
- (a) prescribe rules by which the transfer of persons, or classes of person, specified in the order can be determined;
 - (b) provide that persons, or classes of person, so specified are to become members of the Agency.
- (3) Where a staff transfer order makes provision such as is mentioned in paragraph (a) of sub-paragraph (1), the order may include provision requiring the police authority

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or joint police board concerned to make a scheme in relation to the transfer of the staff to whom the order relates.

- (4) Where a staff transfer order makes provision such as is mentioned in paragraph (b) of sub-paragraph (1), the order may include provision requiring the maintaining authority for the police force concerned to make a scheme in relation to the transfer of the staff to whom the order relates.
- (5) For the purposes of sub-paragraph (4), the maintaining authority in relation to a police force is—
 - (a) where the force is for an area which is not combined by virtue of an amalgamation scheme under the 1967 Act, the police authority for that area;
 - (b) where the force is for an area consisting of police areas combined by virtue of such a scheme, the joint police board constituted under the scheme.
- (6) Where a staff transfer order makes provision such as is mentioned in paragraph (c) of sub-paragraph (1), the Scottish Ministers must make a scheme in relation to the transfer of the staff to whom the order relates.
- (7) A staff transfer order may include provision requiring a scheme made by virtue of sub-paragraph (4) to include provision as to the terms and conditions which are to have effect in relation to constables who are to be on relevant service.
- (8) Terms and conditions such as are mentioned in sub-paragraph (7) may be included in a scheme only with the approval of the Scottish Ministers.
- (9) A scheme made under sub-paragraph (6) may include provision—
 - (a) for central service to have effect from a time specified in the scheme as relevant service;
 - (b) as to the terms and conditions which are to have effect in relation to constables who are to be on relevant service.

Consultation

- 3 (1) Before making a staff transfer order, the Scottish Ministers must consult—
 - (a) the Authority; and
 - (b) if the order includes—
 - (i) provision transferring constables to relevant service falling within section 38A(1)(be) of the 1967 Act; or
 - (ii) provision such as is mentioned in paragraph 2(2)(b),
the Director General of the Agency.
- (2) Before making a scheme by virtue of paragraph 2(3), the police authority or joint police board concerned must consult the Authority.
- (3) Before making a scheme by virtue of paragraph 2(4), the police authority or joint police board concerned must consult—
 - (a) the Authority; and
 - (b) if the scheme includes provision for or in connection with the transfer of constables to relevant service within the meaning of section 38A(1)(be) of the 1967 Act, the Director General of the Agency.

Effect on existing contracts of employment

- 4 (1) This paragraph applies where—
- (a) a person is to be transferred by virtue of a staff transfer order under paragraph 2; and
 - (b) immediately before the transfer day, the person has a contract of employment with a police authority or joint police board (the “employer”).
- (2) On and after the transfer day the contract of employment has effect as if originally made between the person and the Authority.
- (3) On the transfer day the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment of the person are transferred to the Authority.
- (4) Anything done before the transfer day by or in relation to the employer in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to the Authority.
- (5) If, before the transfer day, the person gives notice to the Authority or the person’s employer that the person objects to becoming a member of staff of the Authority—
- (a) the contract of employment with the employer is, on the day immediately preceding the day that would, but for the objection, have been the transfer day, terminated; and
 - (b) the person is not to be treated (whether for the purpose of any enactment or otherwise) as having been dismissed by virtue of the giving of such notice.
- (6) Nothing in this schedule prejudices any right of the person to terminate the contract of employment if a substantial detrimental change in the person’s working conditions is made.
- (7) The person has the right to terminate the contract of employment by virtue of the employer’s identity changing by virtue of the making of the staff transfer order only if it is shown that, in all the circumstances, the change is—
- (a) significant; and
 - (b) detrimental
- to the person.

PART 2

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES TO THE AUTHORITY

Interpretation

- 5 In this Part, “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

Transfer of property, rights and liabilities

- 6 (1) The Scottish Ministers may make a transfer scheme.
- (2) A transfer scheme is a scheme making provision for or in connection with the transfer to the Authority of property, rights and liabilities of any of the following—

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- (a) a police authority;
 - (b) a joint police board;
 - (c) a local authority;
 - (d) the Scottish Ministers;
 - (e) any other person.
- (3) A transfer scheme may make provision by virtue of sub-paragraph (2) only in so far as the property, rights or liabilities relate to the functions of the Agency (as specified in section 2(2)) or the police support services.
- (4) A transfer scheme must specify a date (the “transfer date”) on which the transfer is to take effect; and different dates may be specified in relation to different property, rights or liabilities.
- (5) On the transfer date—
 - (a) any property or rights to which a transfer scheme applies transfer to and vest in the Authority; and
 - (b) any liabilities to which such a scheme applies become liabilities of the Authority.
- (6) A transfer scheme may make provision for the creation of rights, or the imposition of liabilities, in relation to the property, rights or liabilities transferred by virtue of the scheme.
- (7) A certificate issued by the Scottish Ministers that any property, right or liability has, or has not, been transferred by virtue of a transfer scheme is conclusive evidence of the transfer or the fact that there has not been a transfer.
- (8) A transfer scheme may in particular make provision about the continuation of legal proceedings.
- (9) A transfer scheme may make provision for the Authority to make any payment which—
 - (a) before a day specified in the scheme could have been made by any of the persons specified in paragraphs (a) to (e) of sub-paragraph (2); but
 - (b) is not a liability which can become a liability of the Authority by virtue of a transfer scheme.
- (10) A transfer scheme may make provision for the payment by the Authority of compensation in respect of property and rights transferred by virtue of the scheme.
- (11) Before making a transfer scheme, the Scottish Ministers must consult—
 - (a) the Authority;
 - (b) any police authority, joint police board, local authority or other person whose property, rights and liabilities (or any of them) are to be transferred by virtue of the scheme.

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SCHEDULE 4

(introduced by section 33(3))

THE POLICE COMPLAINTS COMMISSIONER FOR SCOTLAND

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 a police force;
 - (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;
 - (e) is or has been a member of staff of the Authority;

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- (f) is a lay member (within the meaning given by paragraph 1 of schedule 1);
 - (g) is 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.

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, 3 years; and
 - (b) in the case of a reappointment, 2 years.
- (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 Part 2 of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18));
 - (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.

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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—
- (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.

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- (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.

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

Provision of information

- 11 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.

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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 |
| 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

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- (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.

SCHEDULE 6

(introduced by section 101)

MODIFICATIONS OF ENACTMENTS

PART 1

ACTS

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

- 1 (1) The 1967 Act is modified as follows.
 - (2) In section 17(8) (section to be without prejudice to other enactments conferring power on constables), the words “to section 18 of this Act, and” are repealed.
 - (3) Section 26(2C) (requirement of discipline regulations to specify starting point of disciplinary proceedings for purpose of examination by inspectors of constabulary) is repealed.
 - (4) In section 38 (temporary service outside police force on police duties)—
 - (a) in subsection (3A)—
 - (i) for “section 38A(3)” there is substituted “subsection (3) of section 38A”;
 - (ii) the words “(ba) or” are repealed; and
 - (iii) for “the said section 38A(1)” there is substituted “subsection (1) of that section”; and
 - (b) after that subsection there is inserted—

“(3AA) Notwithstanding anything in subsection (3) of section 38A of this Act, a person engaged on temporary service such as is mentioned in paragraph (bd) or (be), or service such as is mentioned in paragraph (bf), of subsection (1) of that section—

 - (a) shall continue to be a constable; and
 - (b) shall be treated for the purposes of the relevant enactments as if he were a constable of his police force.
- (3AB) In subsection (3AA), “the relevant enactments” means sections 17(1), (4), (5) and (7A) and 43 of this Act.”

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- (5) In section 38A (constable engaged on service outside force)—
- (a) in subsection (1)—
 - (i) in paragraph (b), the words “on which a person is engaged with the consent of the appropriate authority” are repealed;
 - (ii) after paragraph (bc) there is inserted—
 - “(bd) temporary service with the Scottish Police Services Authority on which a person is engaged with the consent of the appropriate authority;
 - (be) temporary service with the Scottish Crime and Drug Enforcement Agency on which a person is engaged with the consent of the appropriate authority;
 - (bf) service as Director General or Deputy Director General of the Scottish Crime and Drug Enforcement Agency on which a person is engaged with the consent of the appropriate authority;
 - (bg) temporary service as an assistant inspector of constabulary under section 56 of the Police Act 1996 (c. 16) on which the person is engaged with the consent of the appropriate authority.”;
 - (iii) in paragraph (d), for “Royal Ulster Constabulary” there is substituted “Police Service of Northern Ireland”; and
 - (iv) in paragraph (f), for “2001” there is substituted “2002”;
 - (b) after subsection (5) there is inserted—
 - “(5A) If, when engaged on relevant service to which subsection (1)(bf) applies, a person is promoted by virtue of paragraph 1(7) or 2(7) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006, paragraphs (a) and (b) of subsection (5) of this section apply as if the person had been promoted in his police force.”;
 - (c) in subsection (6)(a), after “(bc),” there is inserted “(bd), (be), (bf), (bg)”;
 - (d) in subsection (7)(b), for “Royal Ulster Constabulary” there is substituted “Police Service of Northern Ireland”.
- (6) In section 40 (duty of police authorities and inspectors of constabulary to keep informed about the manner of dealing with police complaints), the words “and inspectors of constabulary” are repealed.
- (7) Section 40A (which makes provision for the examination by inspectors of constabulary of the handling of complaints against constables) is repealed.
- (8) In section 41(1) (assaults on constables etc.), paragraph (i) and, in paragraph (ii), the words “where he has, within the first-mentioned period, been convicted of an offence against this section,” are repealed.

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—

“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) section 23(2)(a) 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 section 60(3) to regulations under section 26 of the Police (Scotland) Act 1967 shall—

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- (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.”.
- (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

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(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.

(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.”.

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—
- “(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.”.

Status: This is the original version (as it was originally enacted).

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

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

- 7 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved public bodies) there is inserted after the entry relating to Scottish Natural Heritage the following entry—
 - “The Scottish Police Services Authority”.

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)—

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

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- (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 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

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accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”

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)

- 11 In schedule 1 to the Freedom of Information (Scotland) Act 2002 (public authorities subject to requirements to provide information)—
- (a) there is inserted after the entry numbered 52 the following entry—

“52A The Scottish Police Services Authority, but only in respect of information relating to the provision of the police support services within the meaning of section 3(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006.”; and
 - (b) there is inserted after the entry numbered 75 the following entry—

“75A The Police Complaints Commissioner for Scotland.”

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

- 12 In schedule 2 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (specified authorities), there is inserted after the entry relating to Scottish Natural Heritage the following entry—
- “Scottish Police Services Authority”.

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”.

Status: This is the original version (as it was originally enacted).

- (3) In section 23 (mutual assistance between SOCA and law enforcement agencies: voluntary arrangements)—
- (a) for subsection (5) there is substituted—
- “(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.”.

Status: This is the original version (as it was originally enacted).

- (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)—
- (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—
 - “20A (1) 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 Group of the Scottish Drug Enforcement Agency” there is substituted “The Scottish Crime and Drug Enforcement Agency”.