



# Police Act 1997

## 1997 CHAPTER 50

### PART I

#### THE NATIONAL CRIMINAL INTELLIGENCE SERVICE

##### Modifications etc. (not altering text)

**C1** Pt. I (ss. 1-46): Power to continue conferred (11.5.2001) by 2001 c. 16, ss. 109(2)(c)(i), 138(2)

#### *The Service Authority*

### **1 The Service Authority for the National Criminal Intelligence Service.**

- (1) There shall be a body corporate to be known as the Service Authority for the National Criminal Intelligence Service (in this Part referred to as “the NCIS Service Authority”).
- (2) Subject to the following provisions of this section, the NCIS Service Authority shall consist of [<sup>F1</sup>eleven] members.
- (3) The Secretary of State may by order provide that the number of members shall be a specified odd number greater than [<sup>F1</sup>eleven].
- (4) Before making an order under subsection (3), the Secretary of State shall consult—
  - (a) the NCIS Service Authority <sup>F2</sup>. . . ,
  - (b) persons whom the Secretary of State considers to represent the interests of the authorities who between them maintain the police forces in Great Britain and the [<sup>F3</sup>Police Service of Northern Ireland],
  - (c) persons whom the Secretary of State considers to represent the interests of chief officers of police of police forces in England and Wales, chief constables of police forces in Scotland and the Chief Constable of the [<sup>F3</sup>Police Service of Northern Ireland], <sup>F4</sup>. . .
  - (d) the Commissioners of Customs and Excise.

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[<sup>F5F6</sup> . . .  
[ the Director-General of the Security Service; and]  
<sup>F7</sup>(da)  
(e) the Scottish Ministers.]

- (5) A statutory instrument containing an order under subsection (3) shall be laid before Parliament after being made.
- (6) The NCIS Service Authority may co-opt such additional members as it thinks fit.
- (7) Parts I, II and IV of Schedule 1 and [<sup>F8</sup>Schedules 2 and 2A] shall have effect in relation to the NCIS Service Authority.

#### Textual Amendments

- F1** Word in s. 1(2)(3) substituted (1.4.2002) by 2001 c. 16, s. 108(1); S.I. 2002/344, **art. 3(e)** (with transitional provisions in **art. 4**)
- F2** Words in s. 1(4)(a) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)
- F3** Words in s. 1(4)(b)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, **art. 2, Sch**
- F4** Word in s. 1(4)(c) omitted (1.7.1999) by virtue of S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(2)(a)**; S.I. 1998/3178, **art. 3**
- F5** S. 1(4)(e) and preceding word inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(2)(b)**; S.I. 1998/3178, **art. 3**
- F6** Word "and" at the end of s. 1(4)(d) repealed (1.4.2002) by 2001 c. 16, ss. 128 (1), 137, Sch. 6 Pt. 1 para. 2(a)(i), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in **art. 4**)
- F7** S. 1(4)(da) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 2(a)(ii); S.I. 2002/344, **art. 3(k)** (with transitional provisions in **art. 4**)
- F8** Words in s. 1(7) substituted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 2(b); S.I. 2002/344, **art. 3(k)** (with transitional provisions in **art. 4**)

#### Commencement Information

- II** S. 1 wholly in force at 23.7.1997; s. 1 not in force at Royal Assent, see s. 135; s. 1 in force for certain purposes at 25.6.1997 by S.I. 1997/1377, **art. 3(2)(a)** (subject to modifications in **art. 3(3)(4)**); s. 1 wholly in force at 23.7.1997 by S.I. 1997/1377, **art. 4(2)(a)**

### *Functions*

## 2 General functions of the NCIS Service Authority and NCIS.

- (1) The NCIS Service Authority shall maintain a body to be known as the National Criminal Intelligence Service (in this Part referred to as “NCIS”).
- (2) The functions of NCIS shall be—
- (a) to gather, store and analyse information in order to provide criminal intelligence,
  - (b) to provide criminal intelligence to police forces in Great Britain, the [<sup>F9</sup>Police Service of Northern Ireland], the National Crime Squad and other law enforcement agencies, and

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- (c) to act in support of such police forces, the [<sup>F9</sup>Police Service of Northern Ireland], the National Crime Squad and other law enforcement agencies carrying out their criminal intelligence activities.
- (3) For the purposes of subsection (2), “law enforcement agency” includes—
- (a) any government department [<sup>F10</sup>and the Scottish Administration],
  - (b) the States of Jersey Police Force, the salaried police force of the Island of Guernsey and the Isle of Man Constabulary,
  - (c) any other person charged with the duty of investigating offences or charging offenders, and
  - (d) any other person engaged outside the United Kingdom in the carrying on of activities similar to any carried on by the NCIS Service Authority, NCIS, a police authority, a police force, the NCS Service Authority or the National Crime Squad.
- [<sup>F11</sup>(3A) NCIS may disclose information for the purposes of Part II of the <sup>M1</sup>Football Spectators Act 1989 to any person prescribed by regulations made by the Secretary of State.
- (3B) A statutory instrument containing regulations under subsection (3A) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]
- (4) In discharging its functions, the NCIS Service Authority shall have regard to—
- (a) any objectives determined by the Secretary of State under section 26,
  - (b) any objectives determined by the Authority under section 3,
  - (c) any performance targets established by the Authority, whether in compliance with a direction under section 27 or otherwise, and
  - (d) any service plan issued by the Authority under section 4.
- (5) In discharging any function to which a code of practice issued under section 28 relates, the NCIS Service Authority shall have regard to the code.
- (6) The NCIS Service Authority shall comply with any direction given to it by the Secretary of State under section 27 or 30 <sup>F12</sup>. . . [<sup>F13</sup>or by the Scottish Ministers under section 30].

#### Textual Amendments

- F9** Words in s. 2(2)(b)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F10** Words in s. 2(3)(a) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(3)(a)**; S.I. 1998/3178, **art. 3**
- F11** S. 2(3A)(3B) inserted (28.8.2000) by 2000 c. 25, s. 2
- F12** Words in s. 2(6) repealed (1.8.2001) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 3, **Sch. 7 Pt. 5 para. 1**; S.I. 2001/2223, **art. 3(h)(j)(k)(l)(ii)**
- F13** Words in s. 2(6) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(3)(b)**; S.I. 1998/3178, **art. 3**.

#### Commencement Information

- I2** S. 2 wholly in force at 1.4.1998; s. 2 not in force at Royal Assent see s. 135; s. 2(6) in force for certain purposes at: 1.9.1997 by S.I. 1997/1930, **art. 2(2)(a)**(with art. 2(3)); 8.10.1997 by S.I. 1997/1930, **art. 3(1)(2)(a)**; s. 2 otherwise in force at 1.4.1998 by S.I. 1998/354, **art. 2**

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### Marginal Citations

**M1** 1989 c. 37.

## 3 Objectives.

- (1) The NCIS Service Authority shall secure that NCIS is efficient and effective.
- (2) The NCIS Service Authority shall, before the beginning of each financial year, determine objectives for that year for NCIS.
- (3) Objectives determined under this section may relate to matters to which objectives determined under section 26 also relate, or to other matters, but in any event shall be so framed as to be consistent with the objectives determined under that section.
- (4) Before determining objectives under this section, the NCIS Service Authority shall consult—
  - (a) the Director General of NCIS,
  - (b) persons whom it considers to represent the interests of the authorities who between them maintain the police forces in Great Britain and the <sup>F14</sup>Police Service of Northern Ireland],
  - (c) the NCS Service Authority, <sup>F15</sup> . . .
  - (d) the Commissioners of Customs and Excise <sup>F16</sup>; and
  - (e) the Director-General of the Security Service.]

### Textual Amendments

- F14** Words in s. 3(4)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F15** Word in s. 3(4)(c) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 4(a), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)
- F16** S. 3(4)(e) and preceding word inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 4(b); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)

### Commencement Information

- I3** S. 3 wholly in force at 1.4.1998; s. 3 not in force at Royal Assent see s. 135; s. 3(2)-(4) in force at 1.9.1997 by S.I. 1997/1930, **art. 2** (with art. 2(3)); s. 3 otherwise in force at 1.4.1998 by S.I. 1998/354 art. 2

## 4 Service plans.

- (1) The NCIS Service Authority shall, before the beginning of each financial year, issue a plan setting out the proposed arrangements for the carrying out by NCIS of its functions during the year (“the service plan”).
- (2) The service plan shall include a statement of the Authority’s priorities for the year, of the financial resources expected to be available and of the proposed allocation of those resources, and shall give particulars of—
  - (a) any objectives determined by the Secretary of State under section 26,
  - (b) any objectives determined by the Authority under section 3, and

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- (c) any performance targets established by the Authority, whether in compliance with a direction under section 27 or otherwise.
- (3) A draft of the service plan shall be prepared by the Director General of NCIS and submitted by him to the Authority for it to consider.
- (4) Before issuing a service plan which differs from the draft submitted by the Director General under subsection (3), the Authority shall consult the Director General.
- (5) The Authority shall arrange for every service plan issued by it under this section to be published in such manner as appears to it to be appropriate, and shall send a copy of the plan to—
- (a) the Secretary of State,
  - (b) each police authority for an area in Great Britain, each joint police board (within the meaning of the <sup>M2</sup>Police (Scotland) Act 1967) and the [<sup>F17</sup>Northern Ireland Policing Board],
  - (c) the chief officer of police of each police force in England and Wales, the chief constable of each police force in Scotland and the Chief Constable of the [<sup>F18</sup>Police Service of Northern Ireland],
  - (d) the NCS Service Authority,
  - (e) the Director General of the National Crime Squad, <sup>F19</sup> . . .
  - (f) the Commissioners of Customs and Excise.
- [<sup>F20F21</sup> . . .
- [<sup>F22</sup>(fa) the Director-General of the Security Service; and]
- (g) the Scottish Ministers.]

#### Textual Amendments

- F17** Words in s. 4(5)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**
- F18** Words in s. 4(5)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F19** Word in s. 4(5)(e) omitted (1.7.1999) by virtue of S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(4)(a)**; S.I. 1998/3178, **art. 3**
- F20** S. 4(5)(f) and the preceding word inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(4)(b)**; S.I. 1998/3178, **art. 3**
- F21** Word in s. 4(5)(f) repealed (1.4.2002) by 2001 c. 16, s. 128(1), 137, **Sch. 6 Pt. 1 para. 5(a)**, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)
- F22** S. 4(5)(fa) inserted (1.4.2002) by 2001 c. 16, s. 128(1), **Sch. 6 Pt. 1 para. 5(b)**; S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)

#### Commencement Information

- I4** S. 4 wholly in force at 31.10.1997; s. 4 not in force at Royal Assent, see s. 135; s. 4 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

#### Marginal Citations

- M2** 1967 c. 77.

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## 5 Annual reports.

- (1) The NCIS Service Authority shall, as soon as possible after the end of each financial year, issue a report on the carrying out of its functions during that year.
- (2) A report issued under this section for any year shall include an assessment of the extent to which the service plan for that year issued under section 4 has been carried out.
- (3) The NCIS Service Authority shall arrange for every report issued by it under this section to be published in such manner as appears to it to be appropriate, and shall send a copy of the report to—
  - (a) the Secretary of State,
  - (b) each police authority for an area in Great Britain, each joint police board (within the meaning of the <sup>M3</sup>Police (Scotland) Act 1967) and the [<sup>F23</sup>Northern Ireland Policing Board],
  - (c) the chief officer of police of each police force in England and Wales, the chief constable of each police force in Scotland and the Chief Constable of the [<sup>F24</sup>Police Service of Northern Ireland],
  - (d) the NCS Service Authority,
  - (e) the Director General of the National Crime Squad, <sup>F25</sup> . . .
  - (f) the Commissioners of Customs and Excise.

[<sup>F26</sup><sup>F27</sup> . . .

  - (fa) [<sup>F28</sup> the Director-General of the Security Service; and]
  - (g) the Scottish Ministers.]

### Textual Amendments

- F23** Words in s. 5(3)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**
- F24** Words in s. 5(3)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F25** Word in s. 5(3)(e) omitted (1.7.1999) by virtue of S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(5)(a)**; S.I. 1998/3178, **art. 3**
- F26** S. 5(3)(g) and the preceding word inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(5)(b)**; 1998/3178, art. 3
- F27** Word in s. 5(3)(f) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 6(a), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)
- F28** S. 5(3)(fa) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 6(b); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)

### Marginal Citations

- M3** 1967 c. 77.

*Director General and other members*

## 6 Appointment of Director General.

- (1) NCIS shall have a Director General appointed by the [<sup>F29</sup>Secretary of State] on such terms and conditions as [<sup>F30</sup>he] considers appropriate.

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- [<sup>F31</sup>(1A) The NCIS Service Authority shall pay to the Director General such remuneration and allowances as the Secretary of State may determine.]
- (2) The Director General shall be chosen by [<sup>F32</sup>the Secretary of State] from a [<sup>F33</sup>shortlist] which has been prepared by [<sup>F34</sup>a panel of members of the NCIS Service Authority] and approved by the Secretary of State <sup>F35</sup> . . .
- [<sup>F36</sup>(2A) Where an appointment falls to be made under this section and a list has been approved by the Secretary of State for the purposes of subsection (2), the panel mentioned in that subsection may make, to the Secretary of State, such recommendations as it thinks fit.
- <sup>F36</sup>(2B) Before making an appointment under this section, the Secretary of State shall—
- (a) have regard to any recommendations made to him under subsection (2A), and
  - (b) consult the Scottish Ministers.]
- (3) <sup>F37</sup> . . . . .
- (4) The panel mentioned in subsection (2) shall be convened by the chairman of the NCIS Service Authority and shall consist only of members of that Authority appointed—
- (a) by the Secretary of State <sup>F38</sup> . . . , or
  - (b) by <sup>F39</sup> . . . members of police authorities for areas in England and Wales <sup>F39</sup> . . . , members of police authorities for areas in Scotland or members of the [<sup>F40</sup>Northern Ireland Policing Board].
- (5) The Director General shall, on appointment, be attested as a constable by making a declaration in the form set out in Schedule 4 to the Police Act 1996 before a justice of the peace <sup>F41</sup> . . . in England and Wales.
- [<sup>F42</sup>(5A) The Director General shall not be attested as a constable under subsection (5) if—
- (a) he was not a serving police officer immediately before his appointment as Director General took effect; or
  - (b) he had already been attested as a constable in England and Wales and still held that office immediately before his appointment took effect.]
- (6) Without prejudice to any other enactment conferring powers on constables for particular purposes, the Director General [<sup>F43</sup>, except in a case where he was not a serving police officer immediately before his appointment took effect,] shall have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters.
- (7) The Director General [<sup>F44</sup>, except in a case where he was not a serving police officer immediately before his appointment took effect,] shall hold the rank of chief constable.
- (8) In subsection (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 subsection, 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.
- [<sup>F45</sup>(9) In this section “serving police officer” means a person who—
- (a) is a member of a relevant police force;

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- (b) is engaged on relevant service, within the meaning of section 97 of the Police Act 1996 (c. 16); or
- (c) without being so engaged, is a police member of NCIS or a police member of the National Crime Squad.

(10) In subsection (9) “relevant police force” means—

- (a) a police force maintained under section 2 of the Police Act 1996;
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
- (e) the Police Service of Northern Ireland;
- (f) the Ministry of Defence Police;
- <sup>F46</sup>(g) the British Transport Police Force,
- (h) the States of Jersey Police Force;
- (i) the salaried police force of the Island of Guernsey; or
- (j) the Isle of Man Constabulary.]

#### Textual Amendments

- F29** Words in s. 6(1) substituted (1.4.2002) by 2001 c. 16, s. 116(2)(a); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F30** Word in s. 6(1) substituted (1.4.2002) by 2001 c. 16, s. 116(2)(b); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F31** S. 6(1A) inserted (1.4.2002) by 2001 c. 16, s. 116(3); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F32** Words in s. 6(2) substituted (1.4.2002) by 2001 c. 16, s. 116(4)(a); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F33** Word in s. 6(2) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 85(2)**; S.I. 2002/2306, **art. 2(f)(iii)**
- F34** Words in s. 6(2) substituted (1.4.2002) by 2001 c. 16, s. 116(4)(b); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F35** Words in s. 6(2) repealed (1.4.2002) by 2001 c. 16, ss. 116(4)(c), 137, Sch. 7 Pt. 5 para. 1; S.I. 2002/344, **art. 3(h)(j)(m)** (with transitional provisions in **art. 4**)
- F36** S. 6(2A)(2B) inserted (1.4.2002) by 2001 c. 16, s. 116(5); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F37** S. 6(3) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), **ss. 85(3)**, 107(2), **Sch. 8**; S.I. 2002/2306, **art. 2(f)(iii)(g)(i)(iii)(d)**
- F38** Words in s. 6(4)(a) repealed (1.4.2002) by 2001 c. 16, ss. 116(6), 137, Sch. 7 Pt. 5 para. 1; S.I. 2002/344, **art. 3(h)(j)(m)** (with transitional provisions in **art. 4**)
- F39** Words in s. 6(4)(b) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 7, Sch. 7 Pt. 5 para. 1; S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in **art. 4**)
- F40** Words in s. 6(4)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, **art. 2, Sch.**
- F41** Words in s. 6(5) repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3(c)**
- F42** S. 6(5A) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 85(4)**; S.I. 2002/2306, **art. 2(f)(iii)**
- F43** Words in s. 6(6) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 85(5)**; S.I. 2002/2306, **art. 2(f)(iii)**
- F44** Words in s. 6(7) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 85(5)**; S.I. 2002/2306, **art. 2(f)(iii)**



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**F45** S. 6(9)(10) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 85(6)**; S.I. 2002/2306, **art. 2(f)(iii)**

**F46** S. 6 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, **art. 3(jjj)**

**Modifications etc. (not altering text)**

**C2** S. 6 restricted (1.9.1997) by 1996 c. 16, **s. 62(1A)** (as inserted (1.9.1997) by 1997 c. 50, s. 134(1), **Sch. 9 para. 82(2)**); S.I. 1997/1930, **art. 3**

**7 Removal of Director General by the Authority.**

**F47** .....

**Textual Amendments**

**F47** S. 7 repealed (1.4.2002) by 2001 c. 16, ss. 137, **Sch. 7 Pt. 5 (1)**; S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

**8 Deputy Director General.**

(1) The Director General of NCIS shall designate a member of NCIS appointed under section 9, other than a member appointed by the Director General by virtue of subsection (8) of that section, to exercise all the powers and duties of the Director General—

- (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) The Director General shall consult the NCIS Service Authority before designating a member under subsection (1).

(3) No more than one person shall be authorised to act by virtue of a designation under subsection (1) at any one time; and a person so authorised shall not have power to act by virtue of that subsection for a continuous period exceeding three months except with the consent of the Secretary of State.

[<sup>F48</sup>(4) Before giving consent under subsection (3), the Secretary of State shall consult the Scottish Ministers.]

**Textual Amendments**

**F48** S. 8(4) inserted (1.7.1999) by S.I. 1999/1747, **arts. 1, 3, Sch. 18 Pt. II para. 2(8)**; S.I. 1998/3178, **art. 3**

**Commencement Information**

**I5** S. 8 wholly in force at 31.10.1997; s. 8 not in force at Royal Assent, see s. 135; s. 8 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with **arts. 3-7** (of which **arts. 4-7** were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

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*Status: Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.*

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## 9 Members of NCIS.

- (1) NCIS shall consist of—
    - (a) the Director General of NCIS appointed under section 6,
    - (b) persons appointed by the NCIS Service Authority under this paragraph as police members of NCIS, and
    - (c) other persons appointed by the NCIS Service Authority under this paragraph to be members of NCIS as employees of the Authority.
  - (2) A person shall be appointed as a police member of NCIS only if—
    - (a) he is appointed to the rank of assistant chief constable in NCIS and he met the requirements of subsection (3) immediately prior to his being appointed, or
    - (b) he is engaged with NCIS on a period of temporary service<sup>F49</sup> ...
  - (3) A person meets the requirements of this subsection if—
    - (a) he holds the rank of assistant chief constable or a higher rank in a police force in Great Britain or in the [<sup>F50</sup>Police Service of Northern Ireland],
    - (b) he holds the rank of commander or a higher rank in the metropolitan police force or in the City of London police force, or
    - (c) he is, in accordance with regulations under section 50 of the Police Act 1996, section 26 of the Police (Scotland) Act 1967 or [<sup>F51</sup>section 25 of the Police (Northern Ireland) Act 1998,] a constable eligible for appointment to the rank of assistant chief constable or commander in any of the police forces, or in [<sup>F52</sup>the Police Service of Northern Ireland], mentioned in paragraph (a) or (b).
  - (4) Subsections (5), (6) and (8) of section 6 apply to a police member to whom subsection (2)(a) above applies as they apply to the Director General of NCIS.
  - (5) A person appointed under subsection (1)(b) or (c) shall be appointed on such terms and conditions as the NCIS Service Authority considers appropriate.
  - (6) Before making an appointment under subsection (1)(b) or (c), or determining the terms and conditions on which such an appointment is to be made, the NCIS Service Authority shall consult the Director General of NCIS.
  - (7) A police member to whom subsection (2)(b) applies shall cease to be a member of NCIS at the end of his period of temporary service (unless re-appointed under this section).
  - (8) [<sup>F53</sup>The NCIS Service Authority shall exercise its powers under Schedule 2A] so as to secure that, subject to subsection (9) below, the Director General appoints persons under subsection (1)(b) or (c) to be members of NCIS.
  - (9) Subsection (8) shall not apply to—
    - (a) the appointment of any person to whom subsection (2)(a) applies as a police member, or
    - (b) the appointment of such other persons as may be agreed between the Director General and the Authority or, in the absence of agreement, as may be determined by the Secretary of State.
- [<sup>F54</sup>(9A) In this section “a period of temporary service” means a period of temporary service to which any of the following provisions applies—
- (a) section 97 of the Police Act 1996 (c. 16);
  - (b) section 38A of the Police (Scotland) Act 1967;

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- (c) section 27 of the Police (Northern Ireland) Act 1998 (c. 32);
- (d) section 2B of the Ministry of Defence Police Act 1987.]

(10) <sup>F55</sup> .....

#### Textual Amendments

- F49** Words in s. 9(2)(b) repealed (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), ss. 86(2)(b), 108(2), [Sch. 8](#); S.I. 2003/808, [art. 2\(g\)\(l\)\(iii\)](#)
- F50** Words in s. 9(3)(c) substituted (4.11.2001) by [2000 c. 32](#), s. 78(1), [Sch. 6 para. 20\(2\)\(b\)](#); S.R. 2001/396, [art. 2](#), [Sch.](#)
- F51** Words in s. 9(3)(c) substituted (1.4.1999) by [1998 c. 32](#), s. 74(1), [Sch. 4 para. 22\(4\)](#); S.R. 1999/176, [art. 3](#)
- F52** Words in s. 9(3)(c) substituted (4.11.2001) by [2000 c. 32](#), s. 78(1), [Sch. 6 para. 20\(4\)](#); S.R. 2001/396, [art. 2](#), [Sch.](#)
- F53** Words in s. 9(8) substituted (1.4.2002) by [2001 c. 16](#), s. 128(1), [Sch. 6 Pt. 1 para. 8](#); S.I. 2002/344, [art. 3\(k\)](#) (with transitional provisions in [art. 4](#))
- F54** S. 9(9A) inserted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), [ss. 86\(5\)](#), 108(2); S.I. 2003/808, [art. 2\(g\)](#)
- F55** S. 9(10) repealed (1.4.2002) by [2001 c. 16](#), s. 137, [Sch. 7 Pt. 5\(1\)](#); S.I. 2002/344, [art. 3\(j\)\(m\)](#) (with transitional provisions in [art. 4](#))

#### Modifications etc. (not altering text)

- C3** S. 9(1)(b) restricted (1.9.1997) by [1996 c. 16](#), [s. 62\(1A\)](#) (as inserted (1.9.1997) by [1997 c. 50](#), s. 134(1), [Sch. 9 para. 82\(2\)](#)); S.I. 1997/1930, [art. 3](#)
- C4** S. 9(1)(c) extended (1.4.1998) by S.I. 1998/354, [art. 3\(5\)](#)

#### Commencement Information

- I6** S. 9 wholly in force at 31.10.1997; s. 9 not in force at Royal Assent, see s. 135; s. 9 in force at 31.10.1997 by S.I. 1997/2390, [art. 2](#) (with [arts. 3-7](#) (of which [arts. 4-7](#) were revoked (1.4.1998) by S.I. 1998/354, [art. 7](#)))

### [<sup>F56</sup>9A Removal of certain members appointed under section 9

- (1) Without prejudice to section 21 or to any regulations under section 37 or under the Police Pensions Act 1976 (c. 35), the NCIS Service Authority, acting with the approval of the Secretary of State, may call upon a [<sup>F57</sup>police member of NCIS with the rank of assistant chief constable] appointed under section 9 to retire in the interests of efficiency or effectiveness.
- (2) <sup>F58</sup> .....
- (3) Before seeking the approval of the Secretary of State for the purposes of subsection (1), the Authority shall give the member concerned an opportunity to make representations and shall consider any representations that he makes.
- (4) Before giving an approval for the purposes of subsection (1), the Secretary of State shall consult the Scottish Ministers.
- (5) A member who is called upon to retire under subsection (1) shall retire on such date as the Authority may specify or on such earlier date as may be agreed between him and the Authority.]

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#### **Textual Amendments**

- F56** S. 9A inserted (1.4.2002) by 2001 c. 16, s. 117; S.I. 2002/344, **art. 3(h)** (with transitional provisions in art. 4)
- F57** Words in s. 9A(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 90(6)**; S.I. 2002/2306, **art. 2(f)(iv)**
- F58** S. 9A(2) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), **ss. 90(7)**, 107(2), **Sch. 8**; S.I. 2002/2306, **art. 2(f)(iv)**

### *Functions of Director General*

#### **10 General function of Director General.**

- (1) NCIS shall be under the direction and control of the Director General.
- (2) In discharging his functions, the Director General shall have regard to the service plan issued by the NCIS Service Authority under section 4.

#### **11 Reports by Director General to the Authority.**

- (1) The Director General of NCIS shall, as soon as possible after the end of each financial year, submit to the NCIS Service Authority a general report on the activities of NCIS during that year.
  - (2) The Director General shall arrange for a report submitted by him under subsection (1) to be published in such manner as appears to him to be appropriate.
  - (3) The NCIS Service Authority may require the Director General to submit to it a report on such matters connected with the activities of NCIS as may be specified in the requirement.
  - (4) A report submitted under subsection (3) shall be in such form as the Authority may specify.
  - (5) If it appears to the Director General that a report in compliance with a requirement under subsection (3) would contain information which in the public interest ought not to be disclosed, or is not needed for the discharge of the functions of the Authority, he may request the Authority to refer the requirement to the Secretary of State; and in any such case the requirement shall be of no effect unless it is confirmed by the Secretary of State.
- [<sup>F59</sup>(5A) Before confirming any requirement under subsection (5), the Secretary of State shall consult the Scottish Ministers.]
- (6) The Authority may arrange, or require the Director General to arrange, for a report submitted under subsection (3) to be published in such manner as appears to the Authority to be appropriate.

#### **Textual Amendments**

- F59** S. 11(5A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(9)**; S.I. 1998/3178, **art. 3**

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**12 Responsibility for co-ordination of police and Security Service activities.**

In section 2(2) of the <sup>M4</sup>Security Service Act 1989 (which imposes duties on the Director-General of the Security Service), in paragraph (c) (which provides for the Secretary of State to designate the person responsible for co-ordinating police and Security Service activities) for “a person designated by the Secretary of State” there shall be substituted “ the Director General of the National Criminal Intelligence Service ”.

**Marginal Citations**

**M4** 1989 c. 5.

*Service Authority’s officers and employees*

**13 Officers and employees.**

- (1) The NCIS Service Authority may appoint officers and employees to enable it to discharge its functions.
- (2) Persons appointed under this section shall be appointed on such terms and conditions as the NCIS Service Authority considers appropriate.

**14 Appointment of clerk.**

The NCIS Service Authority shall appoint a person to be the clerk to the Authority.

**15 Appointment of persons not employed by the NCIS Service Authority.**

Where the NCIS Service Authority is required or authorised by any Act—

- (a) to appoint a person to a specified office under the Authority, or
- (b) to designate a person as having specified duties or responsibilities,

then, notwithstanding any provision of that Act to the contrary, the Authority may appoint or designate either a person employed by the Authority under section 13, or a person not holding any office or employment under the Authority.

*Financial provisions*

**16 NCIS service fund.**

- (1) The NCIS Service Authority shall keep a fund to be known as the NCIS service fund.
- (2) Subject to any regulations under the <sup>M5</sup>Police Pensions Act 1976 and to section 21 below, all receipts of the Authority shall be paid into the NCIS service fund and all expenditure of the Authority shall be paid out of that fund.
- (3) <sup>F60</sup> .....

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#### Textual Amendments

**F60** S. 16(3) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

#### Marginal Citations

**M5** 1976 c. 35.

### [<sup>F61</sup>16A Budget statement

- (1) The NCIS Service Authority shall, before the beginning of each financial year, submit to the Secretary of State a budget statement for that year.
- (2) In this section references to a budget statement for a financial year are to a statement of the amount which the Authority estimates it requires by way of grant under section 17 for that year.
- (3) In preparing a budget statement for a financial year, the Authority shall take account of—
  - (a) the expenditure which the Director General of NCIS estimates will be incurred in connection with NCIS in the year,
  - (b) any income which it is estimated will be received in that year, whether by way of payments under section 18A or by way of charges imposed by the Authority under section 19, or otherwise,
  - (c) the financial reserves of the Authority and the reserves which it estimates it will be appropriate to raise in the year for meeting its estimated future expenditure,
  - (d) the current and proposed level of borrowing of the Authority,
  - (e) the views of all members of the Authority, and
  - (f) such other matters as may be prescribed.
- (4) A budget statement submitted under subsection (1) shall be in such form, and contain such information, as may be prescribed.
- (5) Where the NCIS Service Authority has submitted a budget statement for a financial year, it shall notify the Secretary of State, as soon as is practicable, of any change in circumstances which results in a material change (whether an increase or a reduction) in the amount required (or expected to be required) by it by way of grant under section 17 for that year.
- (6) In this section “prescribed” means prescribed by an order made by the Secretary of State.
- (7) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

**F61** S. 16A inserted (1.8.2001) by 2001 c. 16, s. 110; S.I. 2001/2223, art. 3(f)

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## [<sup>F62</sup>17 Grants from the Secretary of State

- (1) The Secretary of State shall for each financial year make a grant to the NCIS Service Authority.
- (2) If the Authority fails, in relation to a financial year,—
  - (a) to submit to the Secretary of State a budget statement in accordance with section 16A, or
  - (b) to comply with a requirement under section 17A(1),subsection (1) above shall not apply in respect of that year, but the Secretary of State may make a grant to the Authority for that year.
- (3) For every financial year the Secretary of State shall determine the amount of the grant to be made under this section; and a determination under this subsection may be varied by a subsequent determination under this subsection.
- (4) If the Secretary of State considers it appropriate, he may make any payment of grant under this section on conditions.
- (5) The conditions may (among other things)—
  - (a) regulate the purposes for which the payment or any part of it may be used;
  - (b) require repayment to the Secretary of State in specified circumstances.]

### Textual Amendments

**F62** Ss. 17, 17A substituted for s. 17 (1.8.2001) by 2001 c. 16, s. 111; S.I. 2001/2223, art. 3(f)

## [<sup>F63</sup>17A Provision supplemental to section 17

- (1) The Secretary of State may require the NCIS Service Authority to provide him, in connection with the exercise of his functions under section 17, with such information as he may specify, within such period as he may specify.
- (2) Where the Secretary of State makes a determination under section 17, he shall prepare a report—
  - (a) setting out the determination (including any conditions imposed by virtue of section 17(4)), and
  - (b) stating the considerations which he took into account in making it.
- (3) A copy of every report prepared under subsection (2) shall—
  - (a) be sent to the NCIS Service Authority, and
  - (b) be laid before the House of Commons.
- (4) A grant to the NCIS Service Authority under section 17 shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may determine; and any such time may fall within or after the financial year concerned.
- (5) Where in consequence of a further determination under section 17(3) the amount of the Authority's grant is less than the amount already paid to it for the year, a sum equal to the difference shall be paid by the Authority to the Secretary of State at such time as he may specify.]

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#### Textual Amendments

**F63** Ss. 17, 17A substituted for s. 17 (1.8.2001) by 2001 c. 16, s. 111; S.I. 2001/2223, art. 3(f)

<sup>F64</sup> **18** .....

#### Textual Amendments

**F64** S. 18 repealed (1.8.2001) by 2001 c. 16, s. 127, Sch. 7 Pt. 5(1); S.I. 2001/2223, art. 3(j)(i)(ii)

### [<sup>F65</sup> **18A Financing by the Scottish Ministers**

- (1) The Scottish Ministers may make payments to the NCIS Service Authority in respect of expenditure incurred (or to be incurred) by it in relation to the exercise by it, or the exercise by NCIS, of their respective functions in or as regards Scotland.
- (2) For the purposes of section 36(3) of the Police (Scotland) Act 1967, any expenditure under subsection (1) above shall be treated as expenditure incurred under section 36(1) of the said Act of 1967.]

#### Textual Amendments

**F65** S. 18A inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, Sch. 18 Pt. II para. 2(10); S.I. 1998/3178, art. 3

### **19 Charges.**

- (1) The NCIS Service Authority may make charges in respect of the provision of any services, or an agreement for the provision of any services, to any person by the Authority or by NCIS.
- (2) Any charges made under this section may include amounts calculated by reference to the expenditure incurred or expected to be incurred by the NCIS Service Authority, or by NCIS, otherwise than directly in connection with the provision of the services concerned.

#### Commencement Information

**I7** S. 19 wholly in force at 31.10.1997; s. 19 not in force at Royal Assent see s. 135; s. 19 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (but the said arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

### **20 Acceptance of gifts and loans.**

- (1) The NCIS Service Authority may, in connection with the discharge of any of its functions, accept gifts of money, and gifts or loans of other property, on such terms as appear to the Authority to be appropriate.



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- (2) The terms on which gifts or loans are accepted under subsection (1) may include terms providing for the commercial sponsorship of any activity of the Authority or of NCIS.

## 21 Pensions and gratuities.

- (1) The NCIS Service Authority may—
- pay, or make payments in respect of, pensions or gratuities to or in respect of any persons who are, or have been, its officers or employees;
  - provide and maintain schemes (whether contributory or not) for the payment of pensions or gratuities to or in respect of any such persons.
- (2) The NCIS Service Authority may—
- pay, or make payments in respect of, such pensions or gratuities as it may determine, with the consent of the Secretary of State, to or in respect of any persons who are or have been the Director General of NCIS or police members of NCIS;
  - provide and maintain such schemes (whether contributory or not) as it may determine, with the consent of the Secretary of State, for the payment of pensions or gratuities to or in respect of any such persons.
- (3) Before exercising its powers under subsection (2), the Authority shall have regard to any provision made under the <sup>M6</sup>Police Pensions Act 1976 or [<sup>F66</sup>section 25(2)(k) of the <sup>M7</sup>Police (Northern Ireland) Act 1998].
- (4) References in this section to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of any of the persons mentioned in subsection (1) or (2) who suffer loss of office or employment or loss or diminution of emoluments.

### Textual Amendments

**F66** Words in s. 21(3) substituted (1.4.1999) by 1998 c. 32, s. 74(1), **Sch. 4 para. 22(5)**; S.R. 1999/176, **art. 3**

### Commencement Information

**I8** S. 21 wholly in force at 31.10.1997; s. 21 not in force at Royal Assent see s. 135; s. 21 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (but the said arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

### Marginal Citations

**M6** 1976 c. 35.  
**M7** 1970 c. 9 (N.I.).

## [<sup>F67</sup>21A Accounts

- (1) The NCIS Service Authority shall—
- keep proper accounts and proper records in relation to the accounts,
  - prepare a statement of accounts in respect of each financial year, and
  - send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period following the end of the financial year to which it relates as the Secretary of State may specify.

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- (2) A statement of accounts under subsection (1) shall be in such form, and contain such information, as the Secretary of State may direct.
- (3) Before specifying a period for the purposes of subsection (1)(c), or giving a direction under subsection (2), the Secretary of State must consult the Scottish Ministers.
- (4) The Comptroller and Auditor General shall—
  - (a) examine, certify and report on the statement of accounts, and
  - (b) lay copies of the statement and of his report before each House of Parliament.]

#### Textual Amendments

**F67** S. 21A inserted (1.4.2002) by 2001 c. 16, s. 112; S.I. 2002/344, art. 3(f) (with transitional provisions in art. 4)

### *General provisions*

## 22 Collaboration agreements.

- (1) If it appears to the Director General of NCIS and to—
  - (a) the chief officers of police of one or more police forces in England and Wales, or
  - (b) the chief constables of one or more police forces in Scotland, or
  - (c) the Chief Constable of the [<sup>F68</sup>Police Service of Northern Ireland], or
  - (d) the Director General of the National Crime Squad,
 that any police functions can more efficiently or effectively be discharged by members of NCIS and members of their respective forces or, as the case may be, the Squad acting jointly, they may, with the approval of the appropriate authorities, enter into an agreement for that purpose.
- (2) For the purposes of this section, the “appropriate authorities” means the NCIS Service Authority and—
  - (a) in relation to an agreement entered by a chief officer of police of a police force in England and Wales, the police authority which maintains that force,
  - (b) in relation to an agreement entered by a chief constable of a police force in Scotland, the police authority which maintains that force or, as the case may be, the police authorities for the police areas comprised in a combined area,
  - (c) in relation to an agreement entered by the Chief Constable of the [<sup>F68</sup>Police Service of Northern Ireland], the [<sup>F69</sup>Northern Ireland Policing Board], and
  - (d) in relation to an agreement entered by the Director General of the National Crime Squad, the NCS Service Authority.
- (3) In subsection (1) “police functions” includes the functions of NCIS and, in the case of an agreement entered by the Director General of the National Crime Squad, the functions of that Squad.
- (4) If it appears to the NCIS Service Authority and to—
  - (a) one or more police authorities for areas in England and Wales, or
  - (b) one or more police authorities for areas (or combined areas) in Scotland, or
  - (c) the [<sup>F69</sup>Northern Ireland Policing Board], or

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- (d) the NCS Service Authority,
- that any premises, equipment or other material or facilities can with advantage be provided jointly for NCIS and the forces maintained by the authorities concerned or, as the case may be, the National Crime Squad, they may enter an agreement for that purpose.
- (5) Any expenditure incurred under an agreement made under this section shall be borne—
- (a) in the case of an agreement under subsection (1), by the appropriate authorities who approved it, and
- (b) in the case of an agreement under subsection (4), by the parties to it,
- in such proportions as they may agree or as may, in the absence of agreement, be determined by the Secretary of State.
- (6) An agreement under subsection (1) or (4) may be varied or determined by a subsequent agreement.
- (7) If it appears to the Secretary of State that any party should enter an agreement to which subsection (1), (4) or (6) applies, the Secretary of State may, after considering any representations made by the party concerned, direct the party to enter into such an agreement under those provisions as may be specified in the direction.
- (8) The provisions of this section shall not prejudice the power of the NCIS Service Authority, any police authority, the [<sup>F69</sup>Northern Ireland Policing Board] or the NCS Service Authority to act jointly, or co-operate in any other way, with any person where to do so is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- [<sup>F70</sup>(9) The Secretary of State shall obtain the consent of the Scottish Ministers before making any determination under subsection (5) or a direction under subsection (7) if the determination or direction would have any effect on, or apply to, a police force in Scotland or a police authority which maintains a police force in Scotland or, as the case may be, the police authorities for the police area comprised in a combined area in Scotland.]

#### Textual Amendments

- F68** Words in s. 22(1)(c)(2)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F69** Words in s. 22(2)(c)(4)(c)(8) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**
- F70** S. 22(9) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 131(2)**; S.I. 1998/3178, art. 3

#### Commencement Information

- I9** S. 22 wholly in force at 1.4.1998; s. 22 not in force at Royal Assent, see s. 135; s. 22(4)-(8) in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); s. 22 otherwise in force at 1.4.1998 by S.I. 1998/354, art. 2

## 23 Aid by and for NCIS.

- (1) The Director General of NCIS may, on the application of—

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- (a) the chief officer of police of a police force in England and Wales,
- (b) the chief constable of a police force in Scotland,
- (c) the Chief Constable of the [<sup>F71</sup>Police Service of Northern Ireland], or
- (d) the Director General of the National Crime Squad,

provide constables or other assistance for the purposes of enabling the police force or the [<sup>F71</sup>Police Service of Northern Ireland] or, as the case may, the National Crime Squad to meet any special demand on its resources.

(2) On the application of the Director General of NCIS—

- (a) the chief officer of police of a police force in England and Wales,
- (b) the chief constable of a police force in Scotland,
- (c) the Chief Constable of the [<sup>F71</sup>Police Service of Northern Ireland], or
- (d) the Director General of the National Crime Squad,

may provide constables or other assistance for the purposes of enabling NCIS to meet any special demand on its resources.

(3) If it appears to the Secretary of State—

- (a) that it is expedient in the interests of public safety or order that a police force, the [<sup>F71</sup>Police Service of Northern Ireland], the National Crime Squad or NCIS should be reinforced or should receive other assistance for the purpose of enabling it to meet any special demand on its resources, and
- (b) that satisfactory arrangements under subsection (1) or (2) cannot be made, or cannot be made in time,

he may direct the Director General of NCIS, the chief officer of police of any police force in England and Wales, the chief constable of any police force in Scotland, the chief constable of the [<sup>F71</sup>Police Service of Northern Ireland] or the Director General of the National Crime Squad to provide such constables or other assistance for that purpose as may be specified in the direction.

(4) While a constable is provided under this section for the assistance of a police force, the [<sup>F71</sup>Police Service of Northern Ireland] or the National Crime Squad he shall, notwithstanding section 10(1), be under the direction and control of the chief officer of that force or, as the case may be, the chief constable of that force or Constabulary or the Director General of that Squad.

(5) While a constable is provided under this section for the assistance of NCIS he shall, notwithstanding section 56(1) below, section 10(1) of the <sup>M8</sup>Police Act 1996, section 17(2) of the <sup>M9</sup>Police (Scotland) Act 1967 or [<sup>F72</sup>section 33(1) of the Police (Northern Ireland) Act 2000] be under the direction and control of the Director General of NCIS.

(6) For the purposes of this section “constable”, in relation to Northern Ireland, means a member of the [<sup>F71</sup>Police Service of Northern Ireland] or the [<sup>F73</sup>Police Service of Northern Ireland Reserve].

[<sup>F74</sup>(7) The Secretary of State shall obtain consent of the Scottish Ministers before giving any direction under subsection (3) to the chief constable of any police force in Scotland.]

#### Textual Amendments

**F71** Words in s. 23(1)(c)(2)(c)(3)(a)(4)(6) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**

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- F72** Words in s. 23(5) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(5)**; S.R. 2001/396, art. 2, **Sch.**
- F73** Words in s. 23(6) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(a)**; S.R. 2001/396, art. 2, **Sch.**
- F74** S. 23(7) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 131(3)**; S.I. 1998/3178, art. 3

#### Marginal Citations

- M8** 1996 c. 16.  
**M9** 1967 c. 77.

## 24 Provision of special services.

The Director General of NCIS may, at the request of any person, provide services at any premises or in any locality in the United Kingdom, if those services are consistent with the functions of, and do not prejudice the efficiency or effectiveness of, NCIS.

### *Central supervision and direction*

## [<sup>F75</sup>25 General duty of the Secretary of State and the Scottish Ministers

The Secretary of State and the Scottish Ministers shall exercise the powers respectively conferred on them under this Part in such manner and to such extent as appear to him and them to be best calculated to promote the efficiency and effectiveness of NCIS.]

#### Textual Amendments

- F75** S. 25 substituted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(11)**; S.I. 1998/3178, art. 3

## 26 Setting of objectives.

- (1) The Secretary of State may by order determine objectives for NCIS.
- (2) Before making an order under this section, the Secretary of State shall consult—
  - (a) the NCIS Service Authority,
  - (b) the Director General of NCIS,
  - (c) persons whom the Secretary of State considers to represent the interests of the authorities who between them maintain the police forces in Great Britain and the [<sup>F76</sup>Police Service of Northern Ireland],
  - (d) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales, the chief constables of police forces in Scotland and the Chief Constable of the [<sup>F76</sup>Police Service of Northern Ireland],
  - (e) the NCS Service Authority,
  - (f) the Director General of the National Crime Squad, <sup>F77</sup> . . .
  - (g) the Commissioners of Customs and Excise.

[<sup>F78F79</sup> . . .

[ the Director-General of the Security Service; and]

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<sup>F80</sup>(ga)

(h) the Scottish Ministers.]

- (3) A statutory instrument containing an order under this section shall be laid before Parliament after being made.

#### Textual Amendments

- F76** Words in s. 26(2)(c)(d) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F77** Word in s. 26(2)(f) omitted (1.7.1999) by virtue of S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(12)(a)**; S.I. 1998/3178, **art. 3**
- F78** S. 26(2)(h) and the preceding word inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(12)(b)**; S.I.1998/3178, **art. 3**
- F79** Word in s. 26(2)(g) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 9(a), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)
- F80** S. 26(2)(ga) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 9(b); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)

## 27 Setting of performance targets.

- (1) Where an objective has been determined under section 26, the Secretary of State [<sup>F81</sup>, after consultation with the Scottish Ministers,] may direct the NCIS Service Authority to establish levels of performance (“performance targets”) to be aimed at in seeking to achieve the objective.
- (2) A direction given under this section may impose conditions with which the performance targets must conform.
- (3) The Secretary of State shall arrange for any direction given under this section to be published in such manner as appears to him to be appropriate.

#### Textual Amendments

- F81** Words in s. 27(1) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(13)**; S.I. 1998/3178, **art. 3**

## 28 Codes of practice.

- (1) The Secretary of State may [<sup>F82</sup>, after consultation with the Scottish Ministers,] issue codes of practice relating to the discharge by the NCIS Service Authority of its functions.
- (2) The Secretary of State [<sup>F82</sup>, after consultation with the Scottish Ministers,] may from time to time revise the whole or part of any code of practice issued under this section.
- (3) The Secretary of State shall lay before Parliament a copy of any code of practice, and of any revision of a code of practice, issued by him under this section.
- [<sup>F83</sup>(4) The Secretary of State shall forthwith provide the Scottish Ministers with a copy of any code of practice, and of any revision of a code of practice, issued by him under this section and the Scottish Ministers shall lay any such copy before the Scottish Parliament.]

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#### Textual Amendments

- F82** Words in s. 28(1)(2) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(14)(a)(b)**; S.I. 1998/3178, **art. 3**
- F83** S. 28(4) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(14)(c)**; S.I. 1998/3178, **art. 3**

#### Commencement Information

- I10** S. 28 wholly in force at 31.10.1997; s. 28 not in force at Royal Assent, see s. 135; s. 28 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

### [<sup>F84</sup> 28A Codes of practice for Director General of NCIS

- (1) The Secretary of State may issue codes of practice relating to the discharge by the Director General of NCIS of any of his functions.
- (2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.
- (3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.
- (4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority (“the CPTDA”) shall consult with—
  - (a) the NCIS Service Authority;
  - (b) the Director General of NCIS;
  - (c) persons whom the CPTDA considers to represent the interests of police authorities;
  - (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
  - (e) such other persons as the CPTDA thinks fit.
- (5) Before issuing or revising a code of practice under this section the Secretary of State shall consult the Scottish Ministers.
- (6) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (7) The Secretary of State shall not be required by subsection (6) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion—
  - (a) would be against the interests of national security;
  - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders; or
  - (c) could jeopardise the safety of any person.
- (8) In discharging any function to which a code of practice under this section relates, the Director General of NCIS shall have regard to the code.]

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#### Textual Amendments

**F84** S. 28A inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 8, **Sch. 1 para. 2(1)**; S.I. 2002/2306, **art. 2(a)**

## 29 Removal of Director General etc.

- [<sup>F85</sup>(1) Without prejudice to section 21 or to any regulations under section 37 or under the Police Pensions Act 1976 (c. 35), the Secretary of State may—
- (a) call upon the Director General of NCIS to retire in the interests of efficiency or effectiveness, or
  - (b) require the NCIS Service Authority to exercise its power under section 9A to call upon a member of NCIS (other than a member to which subsection (2) of that section applies) to retire in the interests of efficiency or effectiveness.
- (2) Before exercising his powers under subsection (1)(a) in relation to the Director General, or under subsection (1)(b) in relation to any other member, the Secretary of State shall—
- (a) give the person concerned an opportunity to make representations,
  - (b) consider any representations that he makes, and
  - (c) consult the Scottish Ministers.
- (3) Where representations are made under subsection (2), the Secretary of State may, and in a case where he proposes to exercise his power under subsection (1)(a) or (b) shall, appoint one or more persons to hold an inquiry and report to him.]
- (4) The Secretary of State shall take account of any report made under subsection (3).
- (5) The person appointed under subsection (3) (or, in a case where more than one person is so appointed, at least one of the persons so appointed) shall not be an officer of police, of a Government department [<sup>F86</sup>of the Scottish Administration,], of NCIS or of the National Crime Squad.
- (6) The costs incurred by a relevant person in respect of an inquiry under this section, taxed in such manner as the Secretary of State may direct, shall be defrayed out of the NCIS service fund.
- [<sup>F87</sup>(7) A Director General who is called upon to retire under subsection (1)(a) shall retire on such date as the Secretary of State may specify or on such earlier date as may be agreed between the Director General and the Secretary of State.]

#### Textual Amendments

- F85** S. 29(1)-(3) substituted (1.4.2002) by 2001 c. 16, s. 118(1); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F86** Words in s. 29(5) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(15)(b)**; S.I. 1998/3178, **art. 3**
- F87** S. 29(7) inserted (1.4.2002) by 2001 c. 16, s. 118(2); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)



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### [<sup>F88</sup>30 Power to give directions to NCIS Service Authority

(1) Where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) or section 41 of the Police (Northern Ireland) Act 1998 (c. 32) states—

- (a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective, or
- (b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Secretary of State may, after consultation with the Scottish Ministers, direct the NCIS Service Authority to take such remedial measures as may be specified in the direction.

(2) Those remedial measures must not relate to any matter other than—

- (a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or
- (b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).

(3) Where a report made to the Scottish Ministers on an inspection under section 33 of the Police (Scotland) Act 1967 (c. 77) states—

- (a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective, or
- (b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Scottish Ministers may, after consultation with the Secretary of State, direct the NCIS Service Authority to take such remedial measures as may be specified in the direction.

(4) Those remedial measures must not relate to any matter other than—

- (a) a matter by reference to which the report contains a statement of opinion falling within subsection (3)(a) or (b); or
- (b) a matter that the Scottish Ministers consider relevant to any matter falling within paragraph (a).

(5) If the Secretary of State exercises his power to give a direction under this section—

- (a) he shall prepare a report on his exercise of that power; and
- (b) he shall lay that report before Parliament.

(6) If the Scottish Ministers exercise their power to give a direction under this section—

- (a) they shall prepare a report on their exercise of that power; and
- (b) they shall lay that report before the Scottish Parliament.

(7) A report under subsection (5) or (6)—

- (a) shall be prepared at such time as the Secretary of State considers or, as the case may be, the Scottish Ministers consider appropriate; and
- (b) may relate to more than one exercise of the power to give a direction under this section.]

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#### Textual Amendments

**F88** S. 30 substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 3\(1\)](#); [S.I. 2002/2306](#), [art. 2\(a\)](#)

### 31 Reports from NCIS Service Authority.

- (1) The Secretary of State may [<sup>F89</sup>, after consultation with the Scottish Ministers,] require the NCIS Service Authority to submit to him a report on such matters connected with the discharge of the Authority's functions, or otherwise with the activities of NCIS, as may be specified in the requirement.
- (2) A report submitted under subsection (1) shall be in such form as the Secretary of State may specify.
- (3) The Secretary of State may arrange, or require the Authority to arrange, for a report under this section to be published in such manner as appears to him to be appropriate.

#### Textual Amendments

**F89** Words in s. 31(1) inserted (1.7.1999) by [S.I. 1999/1747](#), arts. 1, 3, [Sch. 18 Pt. II para. 2\(17\)](#); [S.I. 1998/3178](#), [art. 3](#)

### [<sup>F90</sup>31A Power to give directions as to action plans

- (1) This section applies where an inspection report made to the Secretary of State states —
  - (a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective; or
  - (b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.
- (2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may, after consultation with the Scottish Ministers, direct the NCIS Service Authority to submit an action plan to him.
- (3) An action plan is a plan setting out the remedial measures which the NCIS Service Authority proposes to take in relation to the matters in respect of which the direction is given.
- (4) If the NCIS Service Authority is directed to submit an action plan, that authority shall direct the Director General of NCIS to prepare a draft of it and to submit it to the NCIS Service Authority for that authority to consider.
- (5) The NCIS Service Authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.
- (6) If the NCIS Service Authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the Director General of NCIS.

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- (7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the NCIS Service Authority and the Director General of NCIS of that opinion and of his reasons for it.
- (8) In forming an opinion for the purposes of subsection (7), the Secretary of State must consult with the Scottish Ministers.
- (9) If the NCIS Service Authority is notified under subsection (7) —
  - (a) it shall consider, after consultation with the Director General of NCIS about the matters notified, whether to revise the action plan in the light of those matters; and
  - (b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.
- (10) On giving a direction under this section to the NCIS Service Authority, the Secretary of State shall notify the Director General of NCIS that he has given that direction.
- (11) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.
- (12) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes—
  - (a) provision setting out the steps that the NCIS Service Authority proposes should be taken in respect of the matters to which the direction relates and the performance targets the authority proposes should be met;
  - (b) provision setting out that Authority’s proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan’s implementation is to be measured;
  - (c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;
  - (d) provision as to the times at which, and the manner in which, any progress report is to be made; and
  - (e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.
- (13) Nothing in this section shall authorise the Secretary of State or the NCIS Service Authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified.
- (14) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.
- (15) The NCIS Service Authority shall comply with any direction given to it under this section.
- (16) The Director General of NCIS shall comply with any direction given to him under this section.

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- (17) If the Secretary of State exercises his power to give a direction under this section—
- (a) he shall prepare a report on his exercise of that power;
  - (b) he shall lay a copy of that report before Parliament; and
  - (c) he shall send a copy of that report to the Scottish Ministers.
- (18) The Scottish Ministers shall lay any copy of a report sent to them under subsection (17) before the Scottish Parliament.
- (19) A report under subsection (17)—
- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
  - (b) may relate to more than one exercise of the power mentioned in that subsection.
- (20) In this section “an inspection report” means a report under section 54 of the Police Act 1996 (c. 16), section 33 of the Police (Scotland) Act 1967 (c. 77) or section 41 of the Police (Northern Ireland) Act 1998 (c. 32).
- (21) Nothing in this section or in section 30 prevents the Secretary of State in the case of the same inspection report from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under that section.]

#### Textual Amendments

**F90** S. 31A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 4\(1\)](#); S.I. 2002/2306, [art. 2\(a\)](#)

#### [<sup>F91</sup>31B Procedure for giving directions by the Secretary of State

- (1) The Secretary of State shall not give a direction under section 30 or 31A unless—
- (a) the NCIS Service Authority and the Director General of NCIS have each been given such information about the Secretary of State’s grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
  - (b) the NCIS Service Authority and the Director General of NCIS have each been given an opportunity of making representations about those grounds;
  - (c) the NCIS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
  - (d) the Secretary of State has considered any such representations and any such proposals.
- (2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by him under section 30 or 31A.
- (3) Before making any regulations under this section, the Secretary of State shall consult with—
- (a) the Scottish Ministers;

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- (b) the NCIS Service Authority;
  - (c) the Director General of NCIS;
  - (d) persons whom he considers to represent the interests of police authorities in England and Wales;
  - (e) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales; and
  - (f) such other persons as he thinks fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

#### Textual Amendments

**F91** Ss. 31B, 31C inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 5\(1\)](#); S.I. 2002/2306, [art. 2\(a\)](#)

### 31C Procedure for giving directions by the Scottish Ministers

- (1) The Scottish Ministers shall not give a direction under section 30 unless—
- (a) the NCIS Service Authority and the Director General of NCIS have each been given such information about the Scottish Ministers' grounds for proposing to give that direction as they consider appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
  - (b) the NCIS Service Authority and the Director General of NCIS have each been given an opportunity of making representations about those grounds;
  - (c) the NCIS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
  - (d) the Scottish Ministers have considered any such representations and any such proposals.
- (2) The Scottish Ministers may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by them under section 30.
- (3) Before making any regulations under this section, the Scottish Ministers shall consult with—
- (a) the Secretary of State;
  - (b) the NCIS Service Authority;
  - (c) the Director General of NCIS;
  - (d) persons whom they consider to represent the interests of police authorities in Scotland;
  - (e) persons whom they consider to represent the interests of chief constables of police forces in Scotland; and
  - (f) such other persons as they think fit.

*Status: Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.*

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- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Scottish Parliament.]

#### Textual Amendments

**F91** Ss. 31B, 31C inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 8, Sch. 1 para. 5(1); S.I. 2002/2306, art. 2(a)

### 32 Reports from Director General.

- (1) The Secretary of State may [<sup>F92</sup>, after consultation with the Scottish Ministers,] require the Director General of NCIS to submit to him a report on such matters connected with the activities of NCIS as may be specified in the requirement.
- (2) A report submitted under subsection (1) shall be in such form as the Secretary of State may specify.
- (3) The Secretary of State may arrange, or require the Director General to arrange, for a report under this section to be published in such manner as appears to the Secretary of State to be appropriate.
- (4) The Director General shall, as soon as possible after the end of each financial year, submit to the Secretary of State [<sup>F93</sup>and to the Scottish Ministers] the like report as is required by section 11 to be submitted to the NCIS Service Authority.

#### Textual Amendments

**F92** Words in s. 32(1) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, Sch. 18 Pt. II para. 2(18)(a); S.I. 1998/3178, art. 3

**F93** Words in s. 32(4) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, Sch. 18 Pt. II para. 2(18)(b); S.I. 1998/3178, art. 3

### 33 Criminal statistics.

- (1) The Director General of NCIS shall, at such times and in such form as the Secretary of State may direct, transmit to the Secretary of State such particulars with respect to offences, offenders, criminal proceedings and the state of crime as the Secretary of State may require.
- [<sup>F94</sup>(1A) Before making any direction or requirement under subsection (1), the Secretary of State shall consult the Scottish Ministers.
- <sup>F94</sup>(1B) The Director General of NCIS shall send to the Scottish Ministers a copy of any particulars which he transmits under subsection (1).]
- (2) The Secretary of State shall cause a consolidated and classified abstract of the information transmitted to him under this section to be prepared and laid before Parliament.

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[<sup>F95</sup>(3) The Scottish Ministers shall cause a consolidated and classified abstract of the information which has been received by them under this section to be prepared and laid before the Scottish Parliament.]

**Textual Amendments**

**F94** S. 33(1A)(1B) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(19)(a)**; S.I. 1998/3178, **art. 3**

**F95** S. 33(3) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(19)(b)**; S.I. 1998/3178, **art. 3**

<sup>F96</sup>**34** **Inquiries.**

**Textual Amendments**

**F96** S. 34 repealed (7.6.2005) by **Inquiries Act 2005 (c. 12)**, s. 51(1), **Sch. 2 para. 16, Sch. 3** (with ss. 44, 50); S.I. 2005/1432, **art. 2**

[<sup>F97</sup>**34A** **Regulations for NCIS**

- (1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government and administration of NCIS and conditions of service with NCIS.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
  - (a) the ranks to be held by police members of NCIS;
  - (b) the promotion of police members of NCIS;
  - (c) voluntary retirement of police members of NCIS;
  - (d) the efficiency and effectiveness of police members of NCIS;
  - (e) the suspension of police members of NCIS from membership of NCIS and from their office as constable;
  - (f) the maintenance of personal records of members of NCIS;
  - (g) the duties which are or are not to be performed by police members of NCIS;
  - (h) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996;
  - (i) the hours of duty, leave, pay and allowances of police members of NCIS; and
  - (j) the issue, use and return of—
    - (i) personal equipment and accoutrements; and
    - (ii) police clothing.
- (3) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.

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- (4) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.
- (5) Regulations under this section may make different provision for different cases and circumstances.
- (6) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Before making any regulations under this section, the Secretary of State shall consult the Scottish Ministers.]

#### Textual Amendments

**F97** S. 34A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), [s. 88\(1\)](#); S.I. 2002/2306, [art. 2\(f\)\(iv\)](#)

### 35 Regulations as to standard of equipment.

The Secretary of State may [<sup>F98</sup>, after consultation with the Scottish Ministers,] make regulations requiring equipment provided or used for the purposes of NCIS to satisfy such requirements as to design and performance as may be prescribed in the regulations.

#### Textual Amendments

**F98** Words in [s. 35](#) inserted (1.7.1999) by [S.I. 1999/1747](#), [arts. 1, 3](#), [Sch. 18 Pt. II para. 2\(21\)](#); S.I. 1998/3178, [art. 3](#)

### 36 Common services.

- (1) The Secretary of State may, by regulations, make provision for requiring NCIS and—
  - (a) all police forces in England and Wales, or
  - (b) all police forces in Scotland, or
  - (c) the [<sup>F99</sup>Police Service of Northern Ireland], or
  - (d) the National Crime Squad,
 to use specified facilities or services, or facilities or services of a specified description, (whether or not provided under section 57(1) of the <sup>M10</sup>Police Act 1996 or section 36 of the <sup>M11</sup>Police (Scotland) Act 1967) if he considers that it would be in the interests of efficiency or effectiveness for them to do so.
- (2) Before making regulations under this section the Secretary of State shall consult the NCIS Service Authority and the Director General of NCIS and—
  - (a) where the regulations relate to police forces in England and Wales, persons whom the Secretary of State considers to represent the interests of police authorities for areas in England and Wales and persons whom he considers to represent the interests of chief officers of police of police forces there,
  - (b) where the regulations relate to police forces in Scotland, persons whom the Secretary of State considers to represent the interests of police authorities for



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areas in Scotland and persons whom he considers to represent the interests of chief constables of police forces there,

- (c) where the regulations relate to the [<sup>F99</sup>Police Service of Northern Ireland], the [<sup>F100</sup>Northern Ireland Policing Board] and the Chief Constable of the [<sup>F99</sup>Police Service of Northern Ireland], and
- (d) where the regulations relate to the National Crime Squad, the NCS Service Authority and the Director General of the National Crime Squad.

[<sup>F101</sup>(3) Before making regulations under this section which would relate to police forces in Scotland, the Secretary of State shall obtain the consent of the Scottish Ministers.]

#### Textual Amendments

**F99** Words in s. 36(1)(c)(2)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**

**F100** Words in s. 36(2)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

**F101** S. 36(3) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(22)**; S.I. 1998/3178, art. 3

#### Marginal Citations

**M10** 1996 c. 16.

**M11** 1967 c. 77.

### *Discipline and complaints*

#### **37 Discipline regulations.**

- (1) The Secretary of State may make regulations relating to the conduct of members of NCIS and the maintenance of discipline in NCIS.
- (2) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—
  - (a) authorise or require provision to be made by, or confer discretionary powers on, the NCIS Service Authority, the Director General of NCIS or other persons, or
  - (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.

[<sup>F102</sup>(2A) Without prejudice to the generality of the other powers conferred by this section, regulations under this section may make provision—

- (a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;
- (b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations;
- (c) as to the representation of persons subject to disciplinary proceedings; and
- (d) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned

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or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.

(2B) In subsection (2A) “disciplinary proceedings” means any proceedings under any regulations made under subsection (1) which—

- (a) are conducted in England and Wales; and
- (b) are identified as disciplinary proceedings by those regulations.]

(3) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F102** S. 37(2A)(2B) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 88(2); S.I. 2002/2306, art. 2(f)(iv)

#### Commencement Information

**I11** S. 37 wholly in force at 31.10.1997; s. 37 not in force at Royal Assent, see s. 135; s. 37 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

## 38 Appeals.

(1) Where the Director General of NCIS, or a police member to whom section 9(2)(a) applies, is dismissed [<sup>F103</sup>, required to resign or reduced in rank] by a decision taken under or by virtue of regulations made under section 37, he may appeal to an appeals tribunal against the decision except where he has a right of appeal to some other person; and in that case he may appeal to an appeals tribunal from any decision of that other person as a result of which he is dismissed [<sup>F103</sup>, required to resign or reduced in rank] .

(2) The Secretary of State shall, by order, make provision in relation to appeals tribunals and appeals under subsection (1) corresponding (with or without modification) to that which is or may be made in relation to police appeals tribunals and appeals under section 85(1) of the <sup>M12</sup>Police Act 1996 by, or by virtue of, section 85(2) to (4) of and Schedule 6 to that Act.

(3) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F103** Words in s. 38(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 88(3); S.I. 2002/2306, art. 2(f)(iv)

#### Commencement Information

**I12** S. 38 wholly in force at 1.4.1998; s. 38 not in force at Royal Assent, see s. 135; s. 38 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); otherwise in force at 1.4.1998 by S.I. 1998/354, art. 2

#### Marginal Citations

**M12** 1996 c. 16.

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## 39 Complaints.

- [<sup>F104</sup>(1) The Secretary of State may by regulations make provision about—
- (a) the handling of complaints about the conduct of members of NCIS;
  - (b) the recording of matters from which it appears there may have been misconduct by members of NCIS; and
  - (c) the investigation of such complaints and matters.]
- (2) Regulations under subsection (1) [<sup>F105</sup>may], so far as the Secretary of State thinks it desirable, make provision—
- (a) for the procedures for the handling of complaints relating to anything done or omitted to be done by a person in Scotland to be procedures corresponding or similar to those established by or by virtue of sections 40 and 40A of the <sup>M13</sup>Police (Scotland) Act 1967;
  - (b) for the procedures for the handling of complaints relating to anything done or omitted to be done by a person in Northern Ireland to be procedures corresponding or similar to those established by or by virtue of the [<sup>F106</sup>Part VII of the Police (Northern Ireland) Act 1998, and for that purpose the regulations may confer additional functions on the Police Ombudsman for Northern Ireland.]
  - [<sup>F107</sup>(c) for applying, with such modifications as he may think fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 30) (complaints and misconduct).]
- [<sup>F108</sup>(2ZA) Regulations under subsection (1) may provide—
- (a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and
  - (b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified.]

[<sup>F109</sup>(2A) Before making regulations containing provision for the purposes mentioned in paragraph (a) of subsection (2), the Secretary of State shall obtain the consent of the Scottish Ministers.]

    - (3) [<sup>F110</sup>The Secretary of State may [<sup>F111</sup>, after consultation with the Scottish Ministers.] issue guidance to persons on whom functions are conferred by regulations under this section concerning the performance of their functions under those regulations, and they shall have regard to any such guidance in the performance of those functions.]
    - (4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

**F104** S. 39(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 25(1); S.I. 2002/2306, art. 2(b)(vii)

**F105** Word in s. 39(2) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 25(2)(a); S.I. 2002/2306, art. 2(b)(vii)

**F106** Words in s. 39(2)(b) substituted (21.2.2003) by 1998 c. 32, s. 74(1), 75(1), Sch. 4 para. 22(8); S.R. 2003/142, art. 3

**F107** S. 39(2)(c) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 25(2)(b); S.I. 2002/2306, art. 2(b)(vii)

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**F108** S. 39(2ZA) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 25(3); S.I. 2002/2306, art. 2(b)(vii)

**F109** S. 39(2A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, Sch. 18 Pt. II para. 2(23)(a); S.I. 1998/3178, art. 3

**F110** S. 39(3) repealed (E.W.) (1.4.2004) by Police Reform Act 2002 (c. 30), ss. 25(4), 108(2), Sch. 8; S.I. 2004/913, art. 2(a)(f)(vi)

**F111** Words in s. 39(3) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, Sch. 18 Pt. II para. 2(23)(b); S.I. 1998/3178, art. 3

#### Commencement Information

**I13** S. 39 wholly in force at 31.10.1997; s. 39 not in force at Royal Assent, see s. 135; s. 39 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

#### Marginal Citations

**M13** 1967 c. 77.

## 40 Information as to the manner of dealing with complaints etc.

The NCIS Service Authority in carrying out its duty under section 3(1), and inspectors of constabulary appointed under section 54 of the Police Act 1996, section 33 of the Police (Scotland) Act 1967 or [F112section 41 of the M14Police (Northern Ireland) Act 1998] in carrying out their duties with respect to the efficiency and effectiveness of NCIS, shall keep themselves informed as to the operation of procedures established under section 39.

#### Textual Amendments

**F112** Words in s. 40 substituted (1.4.1999) by 1998 c. 32, s. 74(1), Sch. 4 para. 22(7); S.R. 1999/176, art. 3

#### Marginal Citations

**M14** 1970 c. 9 (N.I.).

### *Miscellaneous*

## 41 Arrangements for consultation.

- (1) The NCIS Service Authority shall, after consulting the Director General of NCIS, make arrangements for obtaining the views of—
  - (a) the authorities who between them maintain the police forces in Great Britain and the [F113Police Service of Northern Ireland],
  - (b) the NCS Service Authority,
  - (c) the Commissioners of Customs and Excise, [F114and]
  - [F115](ca) the Director-General of the Security Service; and
  - (d) such other persons or bodies as the NCIS Service Authority considers appropriate,
 about the Authority and NCIS.
- (2) The Director General of NCIS shall, after consulting the Authority, make arrangements for obtaining the views of—

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- (a) the chief officers of police of police forces in England and Wales,
  - (b) the chief constables of police forces in Scotland,
  - (c) the Chief Constable of the [<sup>F113</sup>Police Service of Northern Ireland],
  - (d) the Director General of the National Crime Squad,
  - (e) the Commissioners of Customs and Excise, <sup>F116</sup> . . .
  - [<sup>F117</sup>(ea) the Director-General of the Security Service; and]
  - (f) such other persons or bodies as the Director General of NCIS considers appropriate,  
about NCIS.
- (3) Arrangements made under subsection (1) or (2) shall be reviewed from time to time.
- (4) If it appears to the Secretary of State that arrangements made for consultation by the NCIS Service Authority or the Director General under this section are not adequate for the purposes set out in subsection (1) or (2), he may require the Authority or Director General whose duty it is to make the arrangements to submit a report to him concerning the arrangements.
- (5) After considering a report submitted under subsection (4), the Secretary of State may require the Authority or Director General who submitted it to review the arrangements and submit a further report to him concerning them.
- [<sup>F118</sup>(5A) Before exercising the powers conferred on him by subsection (4) or (5), the Secretary of State shall consult the Scottish Ministers.]
- (6) The Authority or Director General shall be under the same duties to consult when reviewing arrangements as when making them.

#### Textual Amendments

- F113** Words in s. 41(1)(a)(2)(c) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F114** Word in s. 41(1)(c) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, 138(2), Sch. 6 Pt. 1 para. 10(a)(i), Sch. 7 Pt. 5 para. 1; S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)
- F115** S. 41(1)(ca) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 10(a)(ii); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)
- F116** Word in s. 41(2)(e) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 10(b)(i), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)
- F117** S. 41(2)(ea) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 10(b)(ii); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)
- F118** S. 41(5A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 18 Pt. II para. 2(24)**; S.I. 1998/3178, **art. 3**

## 42 Liability for wrongful acts of constables etc.

- (1) The Director General of NCIS shall be liable in respect of [<sup>F119</sup>any unlawful conduct of] constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of [<sup>F119</sup>any unlawful conduct of] his servants in the course of their employment, and accordingly shall [<sup>F120</sup>, in the case of a tort,] be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid out of the NCIS service fund—

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- (a) any damages or costs awarded against the Director General in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings, and
  - (b) any sum required in connection with the settlement of any claim made against the Director General by virtue of this section, if the settlement is approved by the NCIS Service Authority.
- (3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the Director General of NCIS for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the Director General; and references in this section to the Director General shall be construed accordingly.
- (4) The NCIS Service Authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the NCIS service fund—
- (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for [<sup>F121</sup>any unlawful conduct of] that person,
  - (b) any costs incurred and not recovered by such a person in such proceedings, and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (5) Subsection (4) applies to a person who is—
- (a) a member of NCIS, or
  - (b) a constable for the time being required to serve with NCIS by virtue of section 23.
- [<sup>F122</sup>(5A) This section shall have effect where an international joint investigation team has been formed under the leadership of a member of NCIS as if—
- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor a member of NCIS were unlawful conduct of a constable under the direction and control of the Director General of NCIS; and
  - (b) subsection (4) applied to every member of that team to whom it would not apply apart from this subsection.
- [ This section shall have effect where a person is carrying out surveillance under <sup>F123</sup>(5AA) section 76A of the Regulation of Investigatory Powers Act 2000 (foreign surveillance operations) as if—
- (a) any unlawful conduct by that person in the course of carrying out the surveillance were unlawful conduct of a constable in the performance of his functions under the direction and control of the Director General of NCIS; and
  - (b) subsection (4) applied to the person carrying out the surveillance.]
- (5B) In this section “international joint investigation team” means any investigation team formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
  - (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

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- (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.
- (5C) A statutory instrument containing an order under subsection (5B) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]
- (6) In relation to Scotland—
- (a) <sup>F124</sup> .....
  - (b) any reference in subsection (2) or (4) to costs shall be construed as a reference to expenses.

**Textual Amendments**

**F119** Words in s. 42(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 102\(1\)\(a\)\(2\)\(c\)](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)

**F120** Words in s. 42(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 102\(1\)\(b\)\(2\)\(c\)](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)

**F121** Words in s. 42(4)(a) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 102\(4\)\(5\)\(b\)](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)

**F122** S. 42(5A)-(5C) inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 103\(2\)](#); S.I. 2002/2306, [art. 2\(f\)\(xii\)](#)

**F123** S. 42(5AA) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), ss. 85\(2\), 94\(1\)](#); S.I. 2004/786, [art. 3\(1\)\(2\)](#)

**F124** S. 42(6)(a) repealed (1.10.2002) by [Police Reform Act 2002 \(c. 30\), ss. 102\(6\), 107\(2\), Sch. 8](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)

**43 Causing disaffection.**

Any person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of NCIS within section 9(1)(a) or (b), or induces or attempts to induce, or does any act calculated to induce, any such member to withhold his services, shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

**44 Orders governing NCIS Service Authority.**

<sup>F125</sup> .....

**Textual Amendments**

**F125** S. 44 repealed (1.4.2002) by [2001 c. 16, s. 137, Sch. 7 Pt. 5\(1\)](#); S.I. 2002/344, [art. 3\(j\)\(m\)](#) (with transitional provisions in [art. 4](#))

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 19 July 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)*

## General

### 45 Orders and regulations.

Any power of the Secretary of State to make orders or regulations under this Part [<sup>F126</sup>or of the Scottish Ministers to make regulations under this Part] shall be exercisable by statutory instrument.

#### Textual Amendments

**F126** Words in s. 45 inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 8, **Sch. 1 para. 5(2)**; S.I. 2002/2306, **art. 2(a)**

### 46 Interpretation of Part I.

In this Part—

[<sup>F127</sup>[<sup>F128</sup>“British Transport Police Force” means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);]]

“financial year” means the twelve months ending with 31st March;

“NCIS” has the meaning given in section 2;

“NCIS Service Authority” has the meaning given in section 1(1);

“NCIS service fund” means the fund established under section 16;

“NCS Service Authority” means the Service Authority for the National Crime Squad.

#### Textual Amendments

**F127** Definition in s. 46 inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107(1), **Sch. 7 para. 21(1)**; S.I. 2002/2306, **art. 2(g)(i)(ii)**

**F128** Definition in s. 46 ceases to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 42**; S.I. 2004/1572, **art. 3(jjj)**

## PART II

### THE NATIONAL CRIME SQUAD

#### Modifications etc. (not altering text)

**C5** **Pt. II** (ss. 47-90): Power to continue conferred (11.5.2001) by 2001 c. 16, **ss. 109(2)(c)(i)**, 138

## The Service Authority

### 47 The Service Authority for the National Crime Squad.

(1) There shall be a body corporate to be known as the Service Authority for the National Crime Squad (in this Part referred to as “the NCS Service Authority”).



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- (2) Subject to the following provisions of this section, the NCS Service Authority shall consist of [<sup>F129</sup>eleven] members.
- (3) The Secretary of State may by order provide that the number of its members shall be a specified odd number greater than [<sup>F129</sup>eleven].
- (4) Before making an order under subsection (3), the Secretary of State shall consult—
  - (a) the NCS Service Authority <sup>F130</sup> . . . ,
  - (b) persons whom he considers to represent the interests of police authorities for areas in England and Wales, <sup>F131</sup> . . .
  - (c) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales. [<sup>F132</sup> ; and
  - (d) the Commissioners of Customs and Excise.]
- (5) A statutory instrument containing an order under subsection (3) shall be laid before Parliament after being made.
- (6) The NCS Service Authority may co-opt such additional members as it thinks fit.
- (7) Parts I, III and IV of Schedule 1 and [<sup>F133</sup>Schedules 2 and 2A] shall have effect in relation to the NCS Service Authority.

#### Textual Amendments

- F129** Word in s. 47(2)(3) substituted (1.4.2002) by 2001 c. 16, s. 108(2); S.I. 2002/344, art. 3(e) (with transitional provisions in art. 4)
- F130** Words in s. 47(4)(a) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j) (m) (with transitional provisions in art. 4)
- F131** Word in s. 47(4)(b) omitted (1.4.2002) by virtue of 2001 c. 16, ss. 128(1), Sch. 6 Pt. 1 para. 11(a)(i); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)
- F132** S. 47(4)(d) and preceding word inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 11(a)(ii); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)
- F133** Words in s. 47(7) substituted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 11(b); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)

#### Commencement Information

- I14** S. 47 wholly in force at 23.7.1997; s. 47 not in force at Royal Assent, see s. 135; s. 47 in force for certain purposes at 25.6.1997 by S.I. 1997/1377, art. 3(2)(b) (subject to modifications in art. 3(3)(4)); s. 47 wholly in force at 23.7.1997 by S.I. 1997/1377, art. 4(2)(a)

### Functions

#### 48 General functions of the NCS Service Authority and the National Crime Squad.

- (1) The NCS Service Authority shall maintain a body to be known as the National Crime Squad.
- (2) The function of the National Crime Squad shall be to prevent and detect serious crime which is of relevance to more than one police area in England and Wales.
- (3) The National Crime Squad may also—

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- (a) at the request of a chief officer of police of a police force in England and Wales, act in support of the activities of his force in the prevention and detection of serious crime;
  - (b) at the request of the Director General of NCIS, act in support of the activities of NCIS;
  - (c) institute criminal proceedings;
  - (d) co-operate with other police forces in the United Kingdom in the prevention and detection of serious crime;
  - (e) act in support of other law enforcement agencies in the prevention and detection of serious crime.
- (4) For the purposes of subsection (3), “law enforcement agency” includes—
- (a) any government department,
  - (b) the States of Jersey Police Force, the salaried police force of the Island of Guernsey and the Isle of Man Constabulary,
  - (c) any other person charged with the duty of investigating offences or charging offenders, and
  - (d) any other person engaged outside the United Kingdom in the carrying on of activities similar to any carried on by the NCS Service Authority, the National Crime Squad, a police authority, a police force, the NCIS Service Authority or NCIS.
- (5) In discharging its functions, the NCS Service Authority shall have regard to—
- (a) any objectives determined by the Secretary of State under section 71,
  - (b) any objectives determined by the Authority under section 49,
  - (c) any performance targets established by the Authority, whether in compliance with a direction under section 72 or otherwise, and
  - (d) any service plan issued by the Authority under section 50.
- (6) In discharging any function to which a code of practice issued under section 73 relates, the NCS Service Authority shall have regard to the code.
- (7) The NCS Service Authority shall comply with any direction given to it by the Secretary of State under section 72 or 75 <sup>F134</sup> . . .

#### Textual Amendments

**F134** Words in s. 48(7) repealed (1.8.2001) by 2001 c. 16, s. 128(1), 137, Sch. 6 Pt. 1 para. 12, **Sch. 7 Pt. 5(1)**; S.I. 2001/2223, **art. 3(h)(j)(k)(l)(ii)**

#### Commencement Information

**I15** S. 48 wholly in force at 1.4.1998; s. 48 not in force at Royal Assent see s. 135; s. 48(7) in force for certain purposes at: 1.9.1997 by S.I. 1997/1930, **art. 2(1)(2)(d)**(with art. 2(3)); 8.10.1997 by S.I. 1997/1930, **art. 3(1)(2)(c)**; s. 48 otherwise in force at 1.4.1998 by S.I. 1998/354 art. 2

## 49 Objectives.

- (1) The NCS Service Authority shall secure that the National Crime Squad is efficient and effective.

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- (2) The NCS Service Authority shall, before the beginning of each financial year, determine objectives for that year for the National Crime Squad.
- (3) Objectives determined under this section may relate to matters to which objectives determined under section 71 also relate, or to other matters, but in any event shall be so framed as to be consistent with the objectives determined under that section.
- (4) Before determining objectives under this section, the NCS Service Authority shall consult—
  - (a) the Director General of the National Crime Squad,
  - (b) the NCIS Service Authority, <sup>F135</sup> . . .
  - <sup>F136</sup>(ba) the Commissioners of Customs and Excise; and]
  - (c) persons whom it considers to represent the interests of police authorities for areas in England and Wales.

#### Textual Amendments

**F135** Word in s. 49(4)(b) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 13(a), Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(k)(m) (with transitional provisions in art. 4)

**F136** S. 49(4)(ba) inserted (1.4.2002) by 2001 c. 16, ss. 128(1), Sch. 6 Pt. 1 para. 13(b); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)

#### Commencement Information

**I16** S. 49 wholly in force at 1.4.1998; s. 49 not in force at Royal Assent, see s. 135; s. 49(2)-(4) in force at 1.9.1997 by S.I. 1997/1930, art. 2 (with art. 2(3)); s. 49 otherwise in force at 1.4.1998 by S.I. 1998/354, art. 2

## 50 Service plans.

- (1) The NCS Service Authority shall, before the beginning of each financial year, issue a plan setting out the proposed arrangements for the carrying out by the National Crime Squad of its functions during the year (“the service plan”).
- (2) The service plan shall include a statement of the Authority’s priorities for the year, of the financial resources expected to be available and of the proposed allocation of those resources, and shall give particulars of—
  - (a) any objectives determined by the Secretary of State under section 71,
  - (b) any objectives determined by the Authority under section 49, and
  - (c) any performance targets established by the Authority, whether in compliance with a direction under section 72 or otherwise.
- (3) A draft of the service plan shall be prepared by the Director General of the National Crime Squad and submitted by him to the Authority for it to consider.
- (4) Before issuing a service plan which differs from the draft submitted by the Director General under subsection (3), the Authority shall consult the Director General.
- (5) The Authority shall arrange for every service plan issued by it under this section to be published in such manner as appears to it to be appropriate, and shall send a copy of the plan to—
  - (a) the Secretary of State,
  - (b) each police authority for an area in England and Wales,

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- (c) the chief officer of police of each police force in England and Wales,
- (d) the NCIS Service Authority,<sup>F137</sup> . . .
- (e) the Director General of NCIS<sup>F138</sup>; and
- (f) the Commissioners of Customs and Excise.]

#### Textual Amendments

**F137** Word in s. 50(5)(d) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 14(a), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)

**F138** S. 50(5)(f) and preceding word inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 14(b); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)

#### Commencement Information

**I17** S. 50 wholly in force at 31.10.1997; s. 50 not in force at Royal Assent, see s. 135; s. 50 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

## 51 Annual reports.

- (1) The NCS Service Authority shall, as soon as possible after the end of each financial year, issue a report on the carrying out of its functions during that year.
- (2) A report issued under this section for any year shall include an assessment of the extent to which the service plan for that year issued under section 50 has been carried out.
- (3) The NCS Service Authority shall arrange for every report issued by it under this section to be published in such manner as appears to it to be appropriate, and shall send a copy of the report to—
  - (a) the Secretary of State,
  - (b) each police authority for an area in England and Wales,
  - (c) the chief officer of police of each police force in England and Wales,
  - (d) the NCIS Service Authority,<sup>F139</sup> . . .
  - (e) the Director General of NCIS<sup>F140</sup>; and
  - (f) the Commissioners of Customs and Excise.]

#### Textual Amendments

**F139** Word in s. 51(3)(d) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 15(a), Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in art. 4)

**F140** S. 51(3)(f) and preceding word inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 15(b); S.I. 2002/344, **art. 3(k)** (with transitional provisions in art. 4)

### *Director General and other members*

## 52 Appointment of Director General.

- (1) The National Crime Squad shall have a Director General appointed by the [<sup>F141</sup>Secretary of State] on such terms and conditions as [<sup>F141</sup>he] considers appropriate.

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- [<sup>F142</sup>(1A) The NCS Service Authority shall pay to the Director General such remuneration and allowances as the Secretary of State may determine.]
- (2) The Director General shall be chosen by [<sup>F143</sup>the Secretary of State] from a list of persons eligible for appointment which has been prepared by [<sup>F143</sup>a panel of members of the NCS Service Authority] and approved by the Secretary of State.
- [<sup>F144</sup>(2A) Where an appointment falls to be made under this section and a list has been approved by the Secretary of State for the purposes of subsection (2), the panel mentioned in that subsection may make, to the Secretary of State, such recommendations as it thinks fit.
- (2B) Before making an appointment under this section, the Secretary of State shall have regard to any recommendations made to him under subsection (2A).]
- (3) A person is eligible for appointment as Director General for the purposes of subsection (2) if—
- (a) he holds the rank of chief constable in a police force in Great Britain or in the [<sup>F145</sup>Police Service of Northern Ireland],
  - (b) he is the Commissioner, an Assistant Commissioner or a Deputy Assistant Commissioner of Police of the Metropolis,
  - (c) he is the Commissioner of Police for the City of London, or
  - (d) he is, in accordance with regulations under section 50 of the <sup>M15</sup>Police Act 1996, section 26 of the <sup>M16</sup>Police (Scotland) Act 1967 or [<sup>F146</sup>section 25 of the <sup>M17</sup>Police (Northern Ireland) Act 1998,] a constable eligible for appointment to any of the ranks or posts mentioned in paragraphs (a) to (c).
- (4) The panel mentioned in subsection (2) shall be convened by the chairman of the NCS Authority and shall consist only of members of that Authority appointed—
- (a) by the Secretary of State <sup>F147</sup> . . . , or
  - (b) by <sup>F148</sup> . . . members of police authorities for areas in England and Wales <sup>F149</sup> . . . .
- (5) The Director General shall, on appointment, be attested as a constable by making a declaration in the form set out in Schedule 4 to the Police Act 1996 before a justice of the peace <sup>F150</sup> . . . in England and Wales.
- [<sup>F151</sup>(5A) The Director General shall not be attested as a constable under subsection (5) if he had already been attested as a constable in England and Wales, and still held that office, immediately before his appointment took effect.]
- (6) Without prejudice to any other enactment conferring powers on constables for particular purposes, the Director General shall have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters.
- (7) The Director General shall hold the rank of chief constable.
- (8) In subsection (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 subsection, 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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### Textual Amendments

- F141** Words in s. 52(1) substituted (1.4.2002) by 2001 c. 16, s. 119(2); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F142** S. 52(1A) inserted (1.4.2002) by 2001 c. 16, s. 119(3); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F143** Words in s. 52(2) substituted (1.4.2002) by 2001 c. 16, s. 119(4); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F144** S. 52(2A)(2B) inserted (1.4.2002) by 2001 c. 16, s. 119(5); S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F145** Words in s. 52(3)(a) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, **art. 2, Sch.**
- F146** Words in s. 52(3)(d) substituted (1.4.1999) by 1998 c. 32, s. 74(1), **Sch. 4 para. 22(9)**; S.R. 1999/176, **art. 3**
- F147** Words in s. 52(4)(a) repealed (1.4.2002) by 2001 c. 16, s. 119(6), 137, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F148** Words in s. 52(4)(b) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, 138(2), **Sch. 6 Pt. 1 para. 16, Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in **art. 4**)
- F149** Words in s. 52(4)(b) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, 138(2), **Sch. 6 Pt. 1 para. 16, Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(k)(m)** (with transitional provisions in **art. 4**)
- F150** Words in s. 52(5) repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with **Sch. 14 paras. 7(2), 36(9)**); S.I. 2000/1920, **art. 3(c)**
- F151** S. 52(5A) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107(1), **Sch. 7 para. 21(2)**; S.I. 2002/2306, **art. 2(g)(i)(ii)**

### Modifications etc. (not altering text)

- C6** S. 52 restricted (1.9.1997) by 1996 c. 16, s. 62(1A) (as inserted (1.9.1997) 1997 c. 50, s. 134(1), **Sch. 9 para. 82(2)**); S.I. 1997/1930, **art. 3**

### Marginal Citations

- M15** 1996 c. 16.  
**M16** 1967 c. 77.  
**M17** 1970 c. 9(N.I.).

## 53 Removal of Director General by the Authority.

**F152** .....

### Textual Amendments

- F152** S. 53 repealed (1.4.2002) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

## 54 Deputy Director General.

- (1) The Director General of the National Crime Squad shall designate a police member of the National Crime Squad to whom section 55(2)(a) applies to exercise all the powers and duties of the Director General—
- (a) during any absence, incapacity or suspension from duty of the Director General, or

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- (b) during any vacancy in the office of Director General.
- (2) The Director General shall consult the NCS Service Authority before designating a member under subsection (1).
- (3) No more than one person shall be authorised to act by virtue of a designation under subsection (1) at any one time; and a person so authorised shall not have power to act by virtue of that subsection for a continuous period exceeding three months except with the consent of the Secretary of State.

#### Commencement Information

**I18** S. 54 wholly in force at 31.10.1997; s. 54 not in force at Royal Assent, see s. 135; s. 54 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

## 55 Members of the National Crime Squad.

- (1) The National Crime Squad shall consist of—
  - (a) the Director General appointed under section 52,
  - (b) persons appointed by the NCS Service Authority under this paragraph as police members of the National Crime Squad, and
  - (c) other persons appointed by the NCS Service Authority under this paragraph to be members of the National Crime Squad as employees of the Authority.
- (2) A person shall be appointed as a police member of the National Crime Squad only if—
  - [<sup>F153</sup>(a) he met the requirements of subsection (3) immediately before his appointment took effect and his appointment is to a police rank in the National Crime Squad; or]
  - (b) he is engaged with the National Crime Squad on a period of temporary service  
<sup>F154</sup>  
....
- [<sup>F155</sup>(3) A person meets the requirements of this subsection if he is attested or sworn as a constable and—
  - (a) he is a member of a police force maintained under section 2 of the Police Act 1996;
  - (b) he is a member of the metropolitan police force or of the City of London police force;
  - (c) he is a regular constable within the meaning of the Police (Scotland) Act 1967;
  - (d) he is a member of the Police Service of Northern Ireland;
  - (e) he is a member of NCIS;
  - (f) he is a member of 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);
  - (g) he is a member of the <sup>F156</sup>British Transport Police Force;
  - (h) he is a member of the States of Jersey Police Force;
  - (i) he is a member of the salaried police force of the Island of Guernsey;
  - (j) he is a member of the Isle of Man Constabulary; or
  - (k) he is engaged with the National Crime Squad on a period of temporary service.]

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- (4) Subsections (5), (6) and (8) of section 52 apply to a police member to whom subsection (2)(a) above applies as they apply to the Director General of the National Crime Squad.
- (5) A person appointed under subsection (1)(b) or (c) shall be appointed on such terms and conditions as the NCS Service Authority considers appropriate.
- (6) Before making an appointment under subsection (1)(b) or (c), or determining the terms and conditions on which such an appointment is to be made, the NCS Service Authority shall consult the Director General of the National Crime Squad.
- (7) A police member to whom subsection (2)(b) applies shall cease to be a member of the National Crime Squad at the end of his period of temporary service (unless re-appointed under this section).
- (8) The NCS Service Authority shall exercise its powers under <sup>F157</sup>Schedule 2A] so as to secure that, subject to subsection (9) below, the Director General of the National Crime Squad appoints persons under subsection (1)(b) or (c) to be members of the National Crime Squad.
- (9) Subsection (8) shall not apply to—
- (a) the appointment of any person to whom subsection (2)(a) applies as a police member <sup>F158</sup>with the rank of assistant chief constable], or
  - (b) the appointment of such other persons as may be agreed between the Director General and the Authority or, in the absence of agreement, as may be determined by the Secretary of State.
- <sup>F159</sup>(9A) In this section “a period of temporary service” means a period of temporary service to which any of the following provisions applies—
- (a) section 97 of the Police Act 1996 (c. 16);
  - (b) section 2B of the Ministry of Defence Police Act 1987 (c. 4).]

<sup>F160</sup>(10) . . . . .

#### Textual Amendments

- F153** S. 55(2)(a) substituted (15.11.2003) by [Police Reform Act 2002 \(c. 30\), ss. 87\(2\)\(a\)](#), 108(2); S.I. 2003/2593, art. 2(b)
- F154** Words in s. 55(2)(b) repealed (1.4.2003) by [Police Reform Act 2002 \(c. 30\), ss. 87\(2\)\(b\)](#), 108(2), [Sch. 8](#); S.I. 2003/808, art. 2(h)(l)(iii)
- F155** S. 55(3) substituted (15.11.2003) by [Police Reform Act 2002 \(c. 30\), ss. 87\(3\)](#), 108(2); S.I. 2003/2593, art. 2(b)
- F156** S. 55 amended (1.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\), Sch. 5 para. 4](#); S.I. 2004/1572, art. 3(jjj)
- F157** Words in s. 55(8) substituted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 17; S.I. 2002/344, [art. 3\(k\)](#) (with transitional provisions in art. 4)
- F158** Words in s. 55(9)(a) inserted (15.11.2003) by [Police Reform Act 2002 \(c. 30\), ss. 87\(4\)](#), 108(2); S.I. 2003/2593, art. 2(b)
- F159** S. 55(9A) inserted (1.4.2003) by [Police Reform Act 2002 \(c. 30\), ss. 87\(5\)](#), 108(2); S.I. 2003/808, art. 2(h)
- F160** S. 55(10) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, [art. 3\(j\)\(m\)](#) (with transitional provisions in art. 4)



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**Modifications etc. (not altering text)**

- C7** S. 55(1)(b) restricted (1.9.1997) by 1996 c. 16, s. 62(1A) (as inserted (1.9.1997) by 1997 c. 50, s. 134(1), **Sch. 9 para. 82(2)**); S.I. 1997/1930, **art. 3**
- C8** S. 55(1)(b) extended (15.11.2003) by Police Reform Act 2002 (c. 30), **ss. 91(4)**, 108(2); S.I. 2003/2593, **art. 2(c)**
- C9** Words in s. 55(1)(c) extended (18.3.1998) by S.I. 1998/354, **art. 3(6)**

**Commencement Information**

- I19** S. 55 wholly in force; s. 55 not in force at Royal Assent, see s. 135; s. 55 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with **arts. 3-7** (of which **arts. 4-7** were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

**[<sup>F161</sup>55A Removal of certain members appointed under section 55**

- (1) Without prejudice to section 66 or to any regulations under section 81 or under the Police Pensions Act 1976 (c. 35), the NCS Service Authority, acting with the approval of the Secretary of State, may call upon a [<sup>F162</sup>police member of the National Crime Squad with the rank of assistant chief constable] appointed under section 55 to retire in the interests of efficiency or effectiveness.
- (2) <sup>F163</sup>.....
- (3) Before seeking the approval of the Secretary of State for the purposes of subsection (1), the Authority shall give the member concerned an opportunity to make representations and shall consider any representations that he makes.
- (4) A member who is called upon to retire under subsection (1) shall retire on such date as the Authority may specify or on such earlier date as may be agreed between him and the Authority.]

**Textual Amendments**

- F161** S. 55A inserted (E.W.) (1.4.2002) by 2001 c. 16, s. 120; S.I. 2002/344, **art. 3(h)** (with transitional provisions in **art. 4**)
- F162** Words in s. 55A(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 91(6); S.I. 2002/2306, **art. 2(f)(iv)**
- F163** S. 55A(2) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), **ss. 91(7)**, 107(2), **Sch. 8**; S.I. 2002/2306, **art. 2(f)(iv)(g)(i)(iii)(d)**

*Functions of Director General*

**56 General function of Director General.**

- (1) The National Crime Squad shall be under the direction and control of the Director General.
- (2) In discharging his functions, the Director General shall have regard to the service plan issued by the NCS Service Authority under section 50.

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## 57 Reports by Director General to the Authority.

- (1) The Director General of the National Crime Squad shall, as soon as possible after the end of each financial year, submit to the NCS Service Authority a general report on the activities of the Squad during that year.
- (2) The Director General shall arrange for a report submitted by him under subsection (1) to be published in such manner as appears to him to be appropriate.
- (3) The NCS Service Authority may require the Director General to submit to it a report on such matters connected with the activities of the National Crime Squad as may be specified in the requirement.
- (4) A report submitted under subsection (3) shall be in such form as the Authority may specify.
- (5) If it appears to the Director General that a report in compliance with subsection (3) would contain information which in the public interest ought not to be disclosed, or is not needed for the discharge of the functions of the Authority, he may request the Authority to refer the requirement to the Secretary of State; and in any such case the requirement shall be of no effect unless it is confirmed by the Secretary of State.
- (6) The Authority may arrange, or require the Director General to arrange, for a report submitted under subsection (3) to be published in such manner as appears to the Authority to be appropriate.

### Modifications etc. (not altering text)

**C10** S. 57 modified (1.4.1998) by 1984 c. 60, s. 55(14A) (as inserted (1.4.1998) by 1997 c. 50, s. 134(1), Sch 9, para. 47); S.I. 1998/354, art. 2

### *Service Authority's officers and employees*

## 58 Officers and employees.

- (1) The NCS Service Authority may appoint officers and employees to enable the Authority to discharge its functions.
- (2) Persons appointed under this section shall be appointed on such terms and conditions as the NCS Service Authority considers appropriate.

## 59 Appointment of clerk.

The NCS Service Authority shall appoint a person to be the clerk to the Authority.

## 60 Appointment of persons not employed by the NCS Service Authority.

Where the NCS Service Authority is required or authorised by any Act—

- (a) to appoint a person to a specified office under the Authority, or
- (b) to designate a person as having specified duties or responsibilities,

then, notwithstanding any provision of that Act to the contrary, the Authority may appoint or designate either a person employed by the Authority under section 58, or a person not holding any office or employment under the Authority.

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### Financial provisions

#### 61 NCS service fund.

- (1) The NCS Service Authority shall keep a fund to be known as the NCS service fund.
- (2) Subject to any regulations under the <sup>M18</sup>Police Pensions Act 1976 and to section 66 below, all receipts of the Authority shall be paid into the NCS service fund and all expenditure of the Authority shall be paid out of that fund.
- (3) <sup>F164</sup>.....

#### Textual Amendments

**F164** S. 61(3) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(k)(m) (with transitional provisions in art. 4)

#### Marginal Citations

**M18** 1976 c. 35.

#### [<sup>F165</sup>61A Budget statement

- (1) The NCS Service Authority shall, before the beginning of each financial year, submit to the Secretary of State a budget statement for that year.
- (2) In this section references to a budget statement for a financial year are to a statement of the amount which the Authority estimates it requires by way of grant under section 62 for that year.
- (3) In preparing a budget statement for a financial year, the Authority shall take account of—
  - (a) the expenditure which the Director General of the National Crime Squad estimates will be incurred in connection with the National Crime Squad in the year,
  - (b) any income which it is estimated will be received in that year, whether by way of charges imposed by the Authority under section 64, or otherwise,
  - (c) the financial reserves of the Authority and the reserves which it estimates it will be appropriate to raise in the year for meeting its estimated future expenditure,
  - (d) the current and proposed level of borrowing of the Authority,
  - (e) the views of all members of the Authority, and
  - (f) such other matters as may be prescribed.
- (4) A budget statement submitted under subsection (1) shall be in such form, and contain such information, as may be prescribed.
- (5) Where the NCS Service Authority has submitted a budget statement for a financial year, it shall notify the Secretary of State, as soon as is practicable, of any change in circumstances which results in a material change (whether an increase or a reduction) in the amount required (or expected to be required) by it by way of grant under section 62 for that year.

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- (6) In this section “prescribed” means prescribed by an order made by the Secretary of State.
- (7) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

**F165** S. 61A inserted (1.8.2001) by 2001 c. 16, s. 113; S.I. 2001/2223, art. 3(g)

### [<sup>F166</sup>62 Grants from the Secretary of State

- (1) The Secretary of State shall for each financial year make a grant to the NCS Service Authority.
- (2) If the Authority fails, in relation to a financial year,—
- (a) to submit to the Secretary of State a budget statement in accordance with section 61A, or
  - (b) to comply with a requirement under section 62A(1),
- subsection (1) above shall not apply in respect of that year, but the Secretary of State may make a grant to the Authority for that year.
- (3) For every financial year the Secretary of State shall determine the amount of the grant to be made under this section; and a determination under this subsection may be varied by a subsequent determination under this subsection.
- (4) If the Secretary of State considers it appropriate, he may make any payment of grant under this section on conditions.
- (5) The conditions may (among other things)—
- (a) regulate the purposes for which the payment or any part of it may be used;
  - (b) require repayment to the Secretary of State in specified circumstances.]

#### Textual Amendments

**F166** Ss. 62, 62A substituted (1.8.2001) for s. 62 by 2001 c. 16, s. 114; S.I. 2001/2323, art. 3(g)

### [<sup>F167</sup>62A Provision supplemental to section 62

- (1) The Secretary of State may require the NCS Service Authority to provide him, in connection with the exercise of his functions under section 62, with such information as he may specify, within such period as he may specify.
- (2) Where the Secretary of State makes a determination under section 62 he shall prepare a report—
- (a) setting out the determination (including any conditions imposed by virtue of section 62(4)), and
  - (b) stating the considerations which he took into account in making it.
- (3) A copy of every report prepared under subsection (2) shall—
- (a) be sent to the NCS Service Authority, and

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- (b) be laid before the House of Commons.
- (4) A grant to the NCS Service Authority under section 62 shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may determine; and any such time may fall within or after the financial year concerned.
- (5) Where in consequence of a further determination under section 62(3) the amount of the Authority's grant is less than the amount already paid to it for the year, a sum equal to the difference shall be paid by the Authority to the Secretary of State at such time as he may specify.]

**Textual Amendments**

**F167** Ss. 62, 62A substituted for s. 62 (1.8.2001) by 2001 c. 16, s. 114; S.I. 2001/2223, art. 3(g)

**<sup>F168</sup>63 Initial financing of NCS Service Authority.**

.....

**Textual Amendments**

**F168** S. 63 repealed (1.8.2001) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2001/2223, art. 3(j)(i)(ii)

**64 Charges.**

- (1) The NCS Service Authority may make charges in respect of the provision of any services, or an agreement for the provision of any services, to any person by the Authority or by the National Crime Squad.
- (2) Any charges made under this section may include amounts calculated by reference to the expenditure incurred or expected to be incurred by the NCS Service Authority, or by the National Crime Squad, otherwise than directly in connection with the provision of the services concerned.

**Commencement Information**

**I20** S. 64 wholly in force; s. 64 not in force at Royal Assent, see s. 135; s. 64 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

**65 Acceptance of gifts and loans.**

- (1) The NCS Service Authority may, in connection with the discharge of any of its functions, accept gifts of money, and gifts or loans of other property, on such terms as appear to the Authority to be appropriate.
- (2) The terms on which gifts or loans are accepted under subsection (1) may include terms providing for the commercial sponsorship of any activity of the Authority or of the National Crime Squad.

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## 66 Pensions and gratuities.

- (1) The NCS Service Authority may—
  - (a) pay, or make payments in respect of, pensions or gratuities to or in respect of any persons who are, or have been, its officers or employees;
  - (b) provide and maintain schemes (whether contributory or not) for the payment of pensions or gratuities to or in respect of any such persons.
- (2) The NCS Service Authority may—
  - (a) pay, or make payments in respect of, such pensions or gratuities as it may determine, with the consent of the Secretary of State, to or in respect of any persons who are or have been the Director General of the National Crime Squad or police members of the Squad;
  - (b) provide and maintain such schemes (whether contributory or not) as it may determine, with the consent of the Secretary of State, for the payment of pensions or gratuities to or in respect of any such persons.
- (3) Before exercising its powers under subsection (2), the Authority shall have regard to any provision made under the <sup>M19</sup>Police Pensions Act 1976 or [<sup>F169</sup>section 25(2)(k) of the Police Act (Northern Ireland) 1998].
- (4) References in this section to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of any of the persons mentioned in subsection (1) or (2) who suffer loss of office or employment or loss or diminution of emoluments.

### Textual Amendments

**F169** Words in s. 66(3) substituted (22.12.2000) by 2000 c. 32, s. 74, **Sch. 6 para. 20(6)**; S.R. 2000/412, art. 2, **Sch.**

### Commencement Information

**I21** S. 66 wholly in force; s. 66 not in force at Royal Assent, see s. 135; s. 66 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

### Marginal Citations

**M19** 1976 c. 35.

## [<sup>F170</sup>66A Accounts

- (1) The NCS Service Authority shall—
  - (a) keep proper accounts and proper records in relation to the accounts,
  - (b) prepare a statement of accounts in respect of each financial year, and
  - (c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period following the end of the financial year to which it relates as the Secretary of State may specify.
- (2) A statement of accounts under subsection (1) shall be in such form, and contain such information, as the Secretary of State may direct.
- (3) The Comptroller and Auditor General shall—
  - (a) examine, certify and report on the statement of accounts, and

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(b) lay copies of the statement and of his report before each House of Parliament.]

**Textual Amendments**

**F170** S. 66A inserted (E.W.) (1.4.2002) by 2001 c. 16, s. 115; S.I. 2002/344, art. 3(g) (with transitional provisions in art. 4)

**67 Revenue accounts and capital finance.**

F171 .....

**Textual Amendments**

**F171** S. 67 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

**68 Financial administration.**

F172 .....

**Textual Amendments**

**F172** S. 68 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Special services*

**69 Provision of special services.**

The Director General of the National Crime Squad may, at the request of any person, provide services at any premises or in any locality in England and Wales, if those services are consistent with the functions of, and do not prejudice the efficiency or effectiveness of, the Squad.

*Central supervision and direction*

**70 General duty of Secretary of State.**

The Secretary of State shall exercise his powers under this Part in such manner and to such extent as appears to him to be best calculated to promote the efficiency and effectiveness of the National Crime Squad.

**71 Setting of objectives.**

- (1) The Secretary of State may by order determine objectives for the National Crime Squad.
- (2) Before making an order under this section, the Secretary of State shall consult—

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- (a) the NCS Service Authority,
  - (b) the Director General of the National Crime Squad,
  - (c) persons whom the Secretary of State considers to represent the interests of police authorities for areas in England and Wales,
  - (d) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales,
  - (e) the NCIS Service Authority,<sup>F173</sup> . . .
  - (f) the Director General of NCIS<sup>F174</sup>; and
  - (g) the Commissioners of Customs and Excise.]
- (3) A statutory instrument containing an order under this section shall be laid before Parliament after being made.

#### Textual Amendments

**F173** Word in s. 71(2)(e) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 18(a), Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(k)(m) (with transitional provisions in art. 4)

**F174** S. 71(2)(g) and preceding word inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 18(b); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)

## 72 Setting of performance targets.

- (1) Where an objective has been determined under section 71, the Secretary of State may direct the NCS Service Authority to establish levels of performance (“performance targets”) to be aimed at in seeking to achieve the objective.
- (2) A direction given under this section may impose conditions with which the performance targets must conform.
- (3) The Secretary of State shall arrange for any direction given under this section to be published in such manner as appears to him to be appropriate.

## 73 Codes of practice.

- (1) The Secretary of State may issue codes of practice relating to the discharge by the NCS Service Authority of its functions.
- (2) The Secretary of State may from time to time revise the whole or part of any code of practice issued under this section.
- (3) The Secretary of State shall lay before Parliament a copy of any code of practice, and of any revision of a code of practice, issued by him under this section.

#### Commencement Information

**I22** S. 73 wholly in force at 31.10.1997; s. 73 not in force at Royal Assent, see s. 135; s. 73 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))



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### [<sup>F175</sup>73A Codes of practice for Director General of NCS

- (1) The Secretary of State may issue codes of practice relating to the discharge by the Director General of the National Crime Squad of any of his functions.
- (2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.
- (3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.
- (4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority (“the CPTDA”) shall consult with—
  - (a) the NCS Service Authority;
  - (b) the Director General of the National Crime Squad;
  - (c) persons whom the CPTDA considers to represent the interests of police authorities;
  - (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
  - (e) such other persons as the CPTDA thinks fit.
- (5) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (6) The Secretary of State shall not be required by subsection (5) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion—
  - (a) would be against the interests of national security;
  - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders; or
  - (c) could jeopardise the safety of any person.
- (7) In discharging any function to which a code of practice under this section relates, the Director General of the National Crime Squad shall have regard to the code.]

#### Textual Amendments

**F175** S. 73A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 2\(2\)](#); S.I. 2002/2306, [art. 2\(a\)](#)

### 74 Removal of Director General etc.

- [<sup>F176</sup>(1) Without prejudice to section 66 or to any regulations under section 81 or under the Police Pensions Act 1976 (c. 35), the Secretary of State may—
- (a) call upon the Director General of the National Crime Squad to retire in the interests of efficiency or effectiveness, or
  - (b) require the NCS Service Authority to exercise its power under section 55A to call upon a member of the National Crime Squad (other than a member

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to which subsection (2) of that section applies) to retire in the interests of efficiency or effectiveness.

- (2) Before exercising his powers under subsection (1)(a) in relation to the Director General, or under subsection (1)(b) in relation to any other member, the Secretary of State shall—
  - (a) give the person concerned an opportunity to make representations, and
  - (b) consider any representations that he makes.
- (3) Where representations are made under subsection (2), the Secretary of State may, and in a case where he proposes to exercise his power under subsection (1)(a) or (b) shall, appoint one or more persons to hold an inquiry and report to him.]
- (4) The Secretary of State shall take account of any report made under subsection (3).
- (5) The person appointed under subsection (3) (or, in a case where more than one person is so appointed, at least one of the persons so appointed) shall not be an officer of police, of a Government department, of the National Crime Squad or of NCIS.
- (6) The costs incurred by a relevant person in respect of an inquiry under this section, taxed in such manner as the Secretary of State may direct, shall be defrayed out of the NCS service fund.
- [<sup>F177</sup>(7) A Director General who is called upon to retire under subsection (1)(a) shall retire on such date as the Secretary of State may specify or on such earlier date as may be agreed between the Director General and the Secretary of State.]

#### Textual Amendments

**F176** S. 74(1)-(3) substituted (1.4.2002) by 2001 c. 16, s. 121(1); S.I. 2002/344, art. 3(h) (with transitional provisions in art. 4)

**F177** S. 74(7) inserted (1.4.2002) by 2001 c. 16, s. 121(2); S.I. 2002/344, art. 3(h) (with transitional provisions in art. 4)

#### [<sup>F178</sup>75 Power to give directions to NCS Service Authority

- (1) Where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) states—
  - (a) that, in the opinion of the person making the report, the whole or any part of the National Crime Squad is, whether generally or in particular respects, not efficient or not effective, or
  - (b) that, in that person's opinion, the whole or a part of the National Crime Squad will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,
 the Secretary of State may direct the NCS Service Authority to take such remedial measures as may be specified in the direction.
- (2) Those remedial measures must not relate to any matter other than—
  - (a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or
  - (b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).

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- (3) If the Secretary of State exercises his power to give a direction under this section—
  - (a) he shall prepare a report on his exercise of that power; and
  - (b) he shall lay that report before Parliament.
- (4) A report under subsection (3)—
  - (a) shall be prepared at such time as the Secretary of State considers appropriate; and
  - (b) may relate to more than one exercise of the power to give a direction under this section.]

#### Textual Amendments

**F178** S. 75 substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 3\(2\)](#); S.I. 2002/2306, [art. 2\(a\)](#)

## 76 Reports from NCS Service Authority.

- (1) The Secretary of State may require the NCS Service Authority to submit to him a report on such matters connected with the discharge of the Authority's functions, or otherwise with the activities of the National Crime Squad, as may be specified in the requirement.
- (2) A report submitted under subsection (1) shall be in such form as the Secretary of State may specify.
- (3) The Secretary of State may arrange, or require the Authority to arrange, for a report under this section to be published in such manner as appears to him to be appropriate.

### [<sup>F179</sup>76A Power to give directions as to action plans

- (1) This section applies where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) states—
  - (a) that, in the opinion of the person making the report, the whole or any part of the National Crime Squad is, whether generally or in particular respects, not efficient or not effective; or
  - (b) that, in that person's opinion, the whole or a part of the National Crime Squad will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.
- (2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may direct the NCS Service Authority to submit an action plan to him.
- (3) An action plan is a plan setting out the remedial measures which the NCS Service Authority proposes to take in relation to the matters in respect of which the direction is given.
- (4) If the NCS Service Authority is directed to submit an action plan, that authority shall direct the Director General of the National Crime Squad to prepare a draft of it and to submit it to the NCS Service Authority for that authority to consider.

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- (5) The NCS Service Authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.
- (6) If the NCS Service Authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the Director General of the National Crime Squad.
- (7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the NCS Service Authority and the Director General of the National Crime Squad of that opinion and of his reasons for it.
- (8) If the NCS Service Authority is notified under subsection (7)—
  - (a) it shall consider, after consultation with the Director General of the National Crime Squad about the matters notified, whether to revise the action plan in the light of those matters; and
  - (b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.
- (9) On giving a direction under this section to the NCS Service Authority, the Secretary of State shall notify the Director General of the National Crime Squad that he has given that direction.
- (10) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.
- (11) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes—
  - (a) provision setting out the steps that the NCS Service Authority proposes should be taken in respect of the matters to which the direction relates and the performance targets the authority proposes should be met;
  - (b) provision setting out that Authority's proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan's implementation is to be measured;
  - (c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;
  - (d) provision as to the times at which, and the manner in which, any progress report is to be made; and
  - (e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.
- (12) Nothing in this section shall authorise the Secretary of State or the NCS Service Authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified.
- (13) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.

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- (14) The NCS Service Authority shall comply with any direction given to it under this section.
- (15) The Director General of the National Crime Squad shall comply with any direction given to him under this section.
- (16) If the Secretary of State exercises his power to give a direction under this section—
  - (a) he shall prepare a report on his exercise of that power; and
  - (b) he shall lay that report before Parliament.
- (17) A report under subsection (16)—
  - (a) shall be prepared at such time as the Secretary of State considers appropriate; and
  - (b) may relate to more than one exercise of the power mentioned in that subsection.
- (18) Nothing in this section or in section 75 prevents the Secretary of State in the case of the same report under section 54 of the Police Act 1996 (c. 16) from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under section 75.]

#### Textual Amendments

**F179** S. 76A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 4\(2\)](#); S.I. 2002/2306, [art. 2\(a\)](#)

#### [<sup>F180</sup>76B Procedure for giving directions under sections 75 and 76A

- (1) The Secretary of State shall not give a direction under section 75 or 76A unless—
  - (a) the NCS Service Authority and the Director General of the National Crime Squad have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
  - (b) the NCS Service Authority and the Director General of the National Crime Squad have each been given an opportunity of making representations about those grounds;
  - (c) the NCS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
  - (d) the Secretary of State has considered any such representations and any such proposals.
- (2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by him under section 75 or 76A.
- (3) Before making any regulations under this section, the Secretary of State shall consult with—
  - (a) the NCS Service Authority;
  - (b) the Director General of the National Crime Squad;

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- (c) persons whom he considers to represent the interests of police authorities;
  - (d) persons whom he considers to represent the interests of chief officers of police; and
  - (e) such other persons as he thinks fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.]

#### Textual Amendments

**F180** S. 76B inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 8, Sch. 1 para. 5\(3\)](#); S.I. 2002/2306, [art. 2\(a\)](#)

#### 77 Reports from Director General.

- (1) The Secretary of State may require the Director General of the National Crime Squad to submit to him a report on such matters connected with the activities of the National Crime Squad as may be specified in the requirement.
- (2) A report submitted under subsection (1) shall be in such form as the Secretary of State may specify.
- (3) The Secretary of State may arrange, or require the Director General to arrange, for a report under this section to be published in such manner as appears to the Secretary of State to be appropriate.
- (4) The Director General shall, as soon as possible after the end of each financial year, submit to the Secretary of State the like report as is required by section 57 to be submitted to the NCS Service Authority.

#### 78 Criminal statistics.

- (1) The Director General of the National Crime Squad shall, at such times and in such form as the Secretary of State may direct, transmit to the Secretary of State such particulars with respect to offences, offenders, criminal proceedings and the state of crime as the Secretary of State may require.
- (2) The Secretary of State shall cause a consolidated and classified abstract of the information transmitted to him under this section to be included in the abstract laid before Parliament under section 45 of the <sup>M20</sup>Police Act 1996.

#### Marginal Citations

**M20** 1996 c. 16.

#### <sup>F181</sup>79 Inquiries.

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#### Textual Amendments

**F181** S. 79 repealed (7.6.2005) by [Inquiries Act 2005 \(c. 12\)](#), s. 51(1), Sch. 2 para. 16, [Sch. 3](#) (with ss. 44, 50); [S.I. 2005/1432](#), art. 2

#### [<sup>F182</sup>79A Regulations for NCS

- (1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government and administration of the National Crime Squad and conditions of service with that Squad.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—
  - (a) the ranks to be held by police members of the National Crime Squad;
  - (b) the promotion of police members of the Squad;
  - (c) voluntary retirement of police members of the Squad;
  - (d) the efficiency and effectiveness of police members of the Squad;
  - (e) the suspension of police members of the Squad from membership of it and from their office as constables;
  - (f) the maintenance of personal records of members of the Squad;
  - (g) the duties which are or are not to be performed by police members of the Squad;
  - (h) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 (c. 16);
  - (i) the hours of duty, leave, pay and allowances of police members of the Squad; and
  - (j) the issue, use and return of—
    - (i) personal equipment and accoutrements; and
    - (ii) police clothing.
- (3) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.
- (4) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.
- (5) Regulations under this section may make different provision for different cases and circumstances.
- (6) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F182** S. 79A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 89(1); [S.I. 2002/2306](#), art. 2(f)(iv)

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## 80 Regulations as to standard of equipment.

- [<sup>F183</sup>(1)] The Secretary of State may make regulations requiring equipment provided or used for the purposes of the National Crime Squad to satisfy such requirements as to design and performance as may be prescribed in the regulations.
- [<sup>F184</sup>(2)] The Secretary of State may by regulations make any or all of the following provisions—
- (a) provision requiring the National Crime Squad when using equipment for the purposes specified in the regulations to use only—
    - (i) the equipment which is specified in the regulations;
    - (ii) equipment which is of a description so specified; or
    - (iii) equipment which is of a type approved by the Secretary of State in accordance with the regulations;
  - (b) provision requiring the National Crime Squad to keep available for use the equipment falling within paragraph (a)(i) to (iii) which is specified or described in, or approved in accordance with, the regulations;
  - (c) provision prohibiting the National Crime Squad from using equipment of a type approved as mentioned in paragraph (a)(iii) except—
    - (i) where the conditions subject to which the approval was given are satisfied; and
    - (ii) in accordance with the other terms of that approval;
  - (d) provision requiring equipment used the National Crime Squad to comply with such conditions as may be specified in the regulations, or as may be approved by the Secretary of State in accordance with the regulations;
  - (e) provision prohibiting the National Crime Squad from using equipment specified in the regulations, or any equipment of a description so specified.
- (3) Before making regulations under this section, the Secretary of State shall consult with—
- (a) the Service Authority for the National Crime Squad;
  - (b) the Director General of that Squad;
  - (c) persons whom the Secretary of State considers to represent the interests of police authorities;
  - (d) persons whom the Secretary of State considers to represent the interests of chief officers of police; and
  - (e) such other persons as the Secretary of State thinks fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “equipment” includes—
- (a) vehicles; and
  - (b) headgear and protective and other clothing.]

### Textual Amendments

**F183** S. 80 renumbered (1.10.2002) as s. 80(1) by virtue of [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 6](#); [S.I. 2002/2306](#), [art. 2\(a\)](#)



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**F184** S. 80(2)-(6) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 8, Sch. 1 para. 6; S.I. 2002/2306, art. 2(a)

## **[<sup>F185</sup>80A Regulation of procedures and practices**

- (1) The Secretary of State may by regulations make provision requiring the National Crime Squad—
  - (a) to adopt particular procedures or practices; or
  - (b) to adopt procedures or practices of a particular description.
- (2) Before making any regulations under this section, the Secretary of State shall seek advice from—
  - (a) the chief inspector of constabulary; and
  - (b) the Central Police Training and Development Authority.
- (3) Before seeking advice under subsection (2) the Secretary of State shall consult about his proposal to do so with—
  - (a) persons whom he considers to represent the interests of police authorities; and
  - (b) persons whom he considers to represent the interests of chief officers of police.
- (4) A request for the purposes of subsection (2) may specify a period within which the requested advice is to be provided; and, if a period is so specified, the requested advice must be provided within it.
- (5) Before giving any advice in response to a request for the purposes of subsection (2), the Central Police Training and Development Authority (“the CPTDA”) shall consult with—
  - (a) the NCS Service Authority;
  - (b) the Director General of the National Crime Squad;
  - (c) persons whom the CPTDA considers to represent the interests of police authorities;
  - (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
  - (e) such other persons as the CPTDA thinks fit.
- (6) The Secretary of State shall not make any regulations under this section requiring the adoption of any procedure or practice unless—
  - (a) he has, as respects that procedure or practice, received advice from the Central Police Training and Development Authority and has considered that advice; and
  - (b) the advice of the chief inspector of constabulary states that that inspector is satisfied as to the matters mentioned in subsection (7); and
  - (c) the Secretary of State himself is satisfied as to those matters.
- (7) Those matters are—
  - (a) that the adoption of that procedure or practice is necessary in order to facilitate the carrying out by members of the National Crime Squad and of any one or more police forces of joint or co-ordinated operations;
  - (b) that the making of regulations is necessary for securing the adoption of that procedure or practice; and

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- (c) that securing the adoption of that procedure or practice is in the national interest.
- (8) Regulations under this section may make different provision for different cases and circumstances.
- (9) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### **Textual Amendments**

**F185** S. 80A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 8, [Sch. 1 para. 7](#); S.I. 2002/2306, [art. 2\(a\)](#)

### *Discipline and complaints*

#### **81 Discipline regulations.**

- (1) The Secretary of State may make regulations as to the conduct of members of the National Crime Squad and the maintenance of discipline in that Squad.
- (2) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—
  - (a) authorise or require provision to be made by, or confer discretionary powers on, the NCS Service Authority, the Director General of the National Crime Squad or other persons, or
  - (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.
- [<sup>F186</sup>(2A) Without prejudice to the generality of the other powers conferred by this section, regulations under this section may make provision—
  - (a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;
  - (b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations;
  - (c) as to the representation of persons subject to any disciplinary proceedings; and
  - (d) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.
- (2B) In subsection (2A) “disciplinary proceedings” means any proceedings under any regulations made under subsection (1) which are identified as disciplinary proceedings by those regulations.]
- (3) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### Textual Amendments

**F186** S. 81(2A)(2B) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 89(2); S.I. 2002/2306, art. 2(f)(iv)

#### Commencement Information

**I23** S. 81 wholly in force at 31.10.1997; s. 81 not in force at Royal Assent, see s. 135; s. 81 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

## 82 Appeals.

- (1) Where the Director General of the National Crime Squad, or a police member to whom section 55(2)(a) applies, is dismissed [<sup>F187</sup>, required to resign or reduced in rank] by a decision taken under or by virtue of regulations made under section 81, he may appeal to an appeals tribunal against the decision except where he has a right of appeal to some other person; and in that case he may appeal to an appeals tribunal from any decision of that other person as a result of which he is dismissed [<sup>F187</sup>, required to resign or reduced in rank] .
- (2) Section 85(2) to (5) of, and Schedule 6 to, the <sup>M21</sup>Police Act 1996 (police appeals tribunals) shall apply, subject to such modifications as the Secretary of State may by order prescribe, in relation to an appeals tribunal and an appeal under subsection (1) above as they apply in relation to a police appeals tribunal and an appeal under section 85(1) of that Act.
- (3) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F187** Words in s. 82(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 89(3); S.I. 2002/2306, art. 2(f)(iv)

#### Commencement Information

**I24** S. 82 wholly in force at 1.4.1998; s. 82 not in force at Royal Assent, see s. 135; s. 82 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); s. 82 otherwise in force at 1.4.1998 by S.I. 1998/354, art. 2

#### Marginal Citations

**M21** 1996 c. 16.

## 83 Complaints.

- [<sup>F188</sup>(1) The Secretary of State may by regulations make provision about—
- (a) the handling of complaints about the conduct of members of National Crime Squad;
  - (b) the recording of matters from which it appears there may have been misconduct by members of the National Crime Squad; and
  - (c) the investigation of such complaints and matters.

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- (2) Regulations under this section may make such provision as the Secretary of State thinks desirable for applying, with such modifications as he thinks fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 30) (complaints and misconduct).
- (2A) Regulations under this section may provide—
- (a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and
  - (b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified.]
- (4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F188** S. 83(1)-(2A) substituted (1.10.2002) for s. 83(1)-(3) by [Police Reform Act 2002 \(c. 30\), s. 25\(5\)](#); [S.I. 2002/2306, s. 2\(b\)\(vii\)](#)

#### Commencement Information

**I25** S. 83 wholly in force at 31.10.1997; s. 83 not in force at Royal Assent, see [s. 135](#); s. 83 in force at 31.10.1997 by [S.I. 1997/2390, art. 2](#) (with [arts. 3-7](#) (of which [arts. 4-7](#) were revoked ([1.4.1998](#)) by [S.I. 1998/354, art. 7](#)))

## 84 Information as to the manner of dealing with complaints etc.

The NCS Service Authority in carrying out its duty under section 49(1), and the inspectors of constabulary in carrying out their duties with respect to the efficiency and effectiveness of the National Crime Squad, shall keep themselves informed as to the operation of procedures established under section 83.

### *Miscellaneous*

## 85 Arrangements for consultation.

- (1) The NCS Service Authority shall, after consulting the Director General of the National Crime Squad, make arrangements for obtaining the views of—
- (a) police authorities for areas in England and Wales,
  - (b) the NCIS Service Authority, <sup>F189</sup> . . .
- [<sup>F190</sup>(ba) the Commissioners of Customs and Excise; and]
- (c) such other persons or bodies as the NCS Service Authority considers appropriate,
- about the Authority and the National Crime Squad.
- (2) The Director General of the National Crime Squad shall, after consulting the Authority, make arrangements for obtaining the views of—
- (a) the chief officers of police of police forces in England and Wales,
  - (b) the Director General of NCIS, <sup>F191</sup> . . .
- [<sup>F192</sup>(ba) the Commissioners of Customs and Excise; and]

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- (c) such other persons or bodies as the Director General of the National Crime Squad considers appropriate,  
about the National Crime Squad.
- (3) Arrangements made under subsection (1) or (2) shall be reviewed from time to time.
- (4) If it appears to the Secretary of State that arrangements made for consultation by the NCS Service Authority or the Director General under this section are not adequate for the purposes set out in subsection (1) or (2), he may require the Authority or Director General whose duty it is to make the arrangements to submit a report to him concerning the arrangements.
- (5) After considering a report submitted under subsection (4), the Secretary of State may require the Authority or Director General who submitted it to review the arrangements and submit a further report to him concerning them.
- (6) The Authority or Director General shall be under the same duties to consult when reviewing arrangements as when making them.

#### Textual Amendments

- F189** Word in s. 85(1)(b) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 19(a)(i), Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(k)(m) (with transitional provisions in art. 4)
- F190** S. 85(1)(ba) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 19(a)(ii); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)
- F191** Word in s. 85(2)(b) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 1 para. 19(b)(i), Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(k)(m) (with transitional provisions in art. 4)
- F192** S. 85(2)(ba) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. 1 para. 19(b)(ii); S.I. 2002/344, art. 3(k) (with transitional provisions in art. 4)

## 86 Liability for wrongful acts of constables etc.

- (1) The Director General of the National Crime Squad shall be liable in respect of [<sup>F193</sup>any unlawful conduct of] constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of [<sup>F193</sup>any unlawful conduct of] his servants in the course of their employment, and accordingly shall [<sup>F194</sup>, in the case of a tort,] be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid out of the NCS service fund—
- (a) any damages or costs awarded against the Director General in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings, and
- (b) any sum required in connection with the settlement of any claim made against the Director General by virtue of this section, if the settlement is approved by the NCS Service Authority.
- (3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the Director General of the National Crime Squad for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the Director General; and references in subsections (1) and (2) to the Director General shall be construed accordingly.

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- (4) The NCS Service Authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the NCS service fund—
- (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for [<sup>F195</sup>any unlawful conduct of] that person,
  - (b) any costs incurred and not recovered by such a person in such proceedings, and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (5) Subsection (4) applies to a person who is—
- (a) a member of the National Crime Squad, or
  - (b) a constable for the time being required to serve with the <sup>M22</sup>National Crime Squad by virtue of section 23 above or section 24 or 98 of the Police Act 1996.
- [<sup>F196</sup>(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a member of the National Crime Squad as if—
- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor a member of the National Crime Squad were unlawful conduct of a constable under the direction and control of the Director General of that Squad; and
  - (b) subsection (4) applied to every member of that team to whom it would not apply apart from this subsection.
- (7) In this section “international joint investigation team” means any investigation team formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
  - (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
  - (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.
- (8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F193** Words in s. 86(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 102\(1\)\(a\)\(2\)\(d\)](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)
- F194** Words in s. 86(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 102\(1\)\(b\)\(2\)\(d\)](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)
- F195** Words in s. 86(4)(a) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 102\(4\)\(5\)\(c\)](#); S.I. 2002/2306, [art. 2\(f\)\(xi\)](#)
- F196** S. 86(6)-(8) inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 103\(3\)](#); S.I. 2002/2306, [art. 2\(f\)\(xii\)](#)

#### Marginal Citations

- M22** 1996 c. 16.

*Status: Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 19 July 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)*

## 87 Causing disaffection.

Any person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of the National Crime Squad within section 55(1) (a) or (b), or induces or attempts to induce, or does any act calculated to induce, any such member to withhold his services, shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

## 88 Application to NCS Service Authority of local authority enactments.

Schedule 6 (which amends local authority enactments applying to police authorities so as to apply those enactments in a similar way to the NCS Service Authority) shall have effect.

### Commencement Information

**I26** S. 88 partly in force; s. 88 not in force at Royal Assent, see s. 135; s. 88 in force for certain purposes at: 23.7.1997 by S.I. 1997/1377, art. 4; 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); 1.4.1998 by S.I. 1998/354, art. 2

### General

## 89 Orders and regulations.

Any power of the Secretary of State to make orders or regulations under this Part shall be exercisable by statutory instrument.

## 90 Interpretation of Part II.

In this Part—

- <sup>[F197]</sup><sup>[F198]</sup>“British Transport Police Force” means the force of constables appointed under section 53 of the British Transport Commission Act 1949;]]
- “financial year” means the twelve months ending with 31st March;
- “NCIS” means the National Criminal Intelligence Service;
- “NCIS Service Authority” means the Service Authority for the National Criminal Intelligence Service;
- “NCS Service Authority” has the meaning given in section 47(1);
- “NCS service fund” means the fund established under section 61.

### Textual Amendments

**F197** Words in s. 90 inserted (23.12.2004) by Police Reform Act 2002 (c. 30), s. 108(2), Sch. 7 para. 21(3); S.I. 2004/3338, art. 3(b)

**F198** Definition in s. 90 ceases to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003 (c. 20), Sch. 5 para. 42; S.I. 2004/1572, art. 3(jj)

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## PART III

### AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

#### Modifications etc. (not altering text)

- C11** Pt. 3 (ss. 91-108) amended (S.) (29.9.2000) by 2000 asp 11, s. 24(2)(b) (with s. 30); S.S.I. 2000/341, art. 2
- C12** Pt. 3: power to apply (with modifications) conferred (1.10.2002) by Police Reform Act 2002 (c. 30), s. 19(2)(b); S.I. 2002/2306, art. 2(b)(v)
- C13** Pt. III modified (1.4.2004) by The Independent Police Complaints Commission (Investigatory Powers) Order 2004 (S.I. 2004/815), arts. 1(1), 2

#### *The Commissioners*

### 91 The Commissioners.

- (1) The Prime Minister [<sup>F199</sup>after consultation with the Scottish Ministers], shall appoint for the purposes of this Part—
  - (a) a Chief Commissioner, and
  - (b) such number of other Commissioners as the Prime Minister thinks fit.
- (2) The persons appointed under subsection (1) shall be persons who hold or have held high judicial office within the meaning of the <sup>M23</sup>Appellate Jurisdiction Act 1876.
- (3) Subject to subsections (4) to (7), each Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (4) Each Commissioner shall be appointed for a term of three years.
- (5) A person who ceases to be a Commissioner (otherwise than under subsection (7)) may be reappointed under this section.
- [<sup>F200</sup>(6) Subject to subsection (7), a Commissioner shall not be removed from office before the end of the term for which he is appointed unless—
  - (a) a resolution approving his removal has been passed by each House of Parliament; and
  - (b) a resolution approving his removal has been passed by the Scottish Parliament.]
- (7) A Commissioner may be removed from office by the Prime Minister if after his appointment—
  - (a) a bankruptcy order is made against him or his estate is sequestrated or he makes a composition or arrangement with, or grants a trust deed for, his creditors;
  - (b) a disqualification order under the <sup>M24</sup>Company Directors Disqualification Act 1986 or Part II of the <sup>M25</sup>Companies (Northern Ireland) Order 1989, or an order under section 429(2)(b) of the <sup>M26</sup>Insolvency Act 1986 (failure to pay under county court administration order), is made against him [<sup>F201</sup>or his disqualification undertaking is accepted under section 7 or 8 of the Company Directors Disqualification Act 1986][<sup>F202</sup>or under the Company Directors Disqualification (Northern Ireland) Order 2002]; or



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- (c) he is convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and has passed on him a sentence of imprisonment (whether suspended or not).
- (8) The Secretary of State shall pay to each Commissioner [<sup>F203</sup>, other than a commissioner carrying out functions as mentioned in subsection (8A),] such allowances as the Secretary of State considers appropriate.
- [<sup>F204</sup>(8A) The Scottish Ministers shall pay to any Commissioner who carries out his functions under this Part wholly or mainly in Scotland such allowances as the Scottish Ministers consider appropriate.]
- (9) The Secretary of State shall, after consultation with the Chief Commissioner [<sup>F205</sup>and subject to the approval of the Treasury as to numbers], provide the Commissioners [<sup>F206</sup>and any Assistant Surveillance Commissioners holding office under section 63 of the Regulation of Investigatory Powers Act 2000][<sup>F207</sup>, other than any Commissioner carrying out functions as mentioned in subsection (9A),] with such staff as the Secretary of State considers necessary for the discharge of their functions.
- [<sup>F208</sup>(9A) The Scottish Ministers shall, after consultation with the Chief Commissioner, provide any Commissioner who carries out his functions under this Part wholly or mainly in Scotland with such staff as the Scottish Ministers consider necessary for the discharge of his functions.]
- (10) The decisions of the Chief Commissioner or, subject to sections 104 and 106, any other Commissioner (including decisions as to his jurisdiction) shall not be subject to appeal or liable to be questioned in any court.

#### Textual Amendments

- F199** Words in s. 91(1) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(a)**; S.I. 1998/3178, **art. 3**
- F200** S. 91(6) substituted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(b)**; S.I. 1998/3178, **art. 3**
- F201** Words in s. 91(7)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 22(2)**; S.I. 2001/766, **art. 2(1)(a)** (subject to the transitional provisions and savings in art. 3)
- F202** Words in s. 91(7)(b) inserted (E.W.S.) (with application in accordance with art. 1(2) of the amending S.I.) by **The Insolvency Act 2000 (Company Directors Disqualification Undertakings) Order 2004 (S.I. 2004/1941)**, art. 1(2), **Sch. para. 10**
- F203** Words in s. 91(8) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(c)**; S.I. 1998/3178, **art. 3**
- F204** S. 91(8A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(d)**; S.I. 1998/3178, **art. 3**
- F205** Words in s. 91(9) inserted (25.9.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 8(1)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F206** Words in s. 91(9) inserted (25.9.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 8(1)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F207** Words in s. 91(9) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(f)**; S.I. 1998/3178, **art. 3**
- F208** S. 91(9A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(g)**; S.I. 1998/3178, **art. 3**.

#### Modifications etc. (not altering text)

- C14** S. 91(3)-(8) applied (25.9.2000) by 2000 c. 23, s. 63(5) (with s. 82(3)); S.I. 2000/2543, **art. 2**

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#### Commencement Information

**I27** S. 91 wholly in force at 22.2.1999; s. 91 not in force at Royal Assent see s.135; s. 91 (1)-(9) in force at 1.9.1997 by [S.I. 1997/1930](#), [art. 2](#)(with art. 2(3)); S. 91(10) in force at 22.2.1999 by [S.I. 1999/151](#), [art. 2](#)

#### Marginal Citations

**M23** 1876 c. 59.  
**M24** 1986 c. 46.  
**M25** [S.I. 1989/2404 \(N.I.18\)](#).  
**M26** 1986 c. 45.

### *Authorisations*

#### **92 Effect of authorisation under Part III.**

No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by an authorisation having effect under this Part.

#### **93 Authorisations to interfere with property etc.**

- (1) Where subsection (2) applies, an authorising officer may authorise—
- (a) the taking of such action, in respect of such property in the relevant area, as he may specify,
  - <sup>F209</sup>[(ab) the taking of such action falling within subsection (1A), in respect of property outside the relevant area, as he may specify, or]
  - (b) the taking of such action in the relevant area as he may specify, in respect of wireless telegraphy.

<sup>F210</sup>(1A) The action falling within this subsection is action for maintaining or retrieving any equipment, apparatus or device the placing or use of which in the relevant area has been authorised under this Part or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000.

- (1B) Subsection (1) applies where the authorising officer is a customs officer <sup>F211</sup>[or an officer of the Office of Fair Trading] with the omission of—
- (a) the words “in the relevant area”, in each place where they occur; and
  - (b) paragraph (ab).]

- (2) This subsection applies where the authorising officer believes—
- (a) that it is necessary for the action specified to be taken <sup>F212</sup>for the purpose of preventing or detecting] serious crime, and
  - <sup>F213</sup>(b) that the taking of the action is proportionate to what the action seeks to achieve.]

<sup>F214</sup>(2A) Subsection (2) applies where the authorising officer is the Chief Constable or the Deputy Chief Constable of the <sup>F215</sup>[Police Service of Northern Ireland] as if the reference in subsection (2)(a) to preventing or detecting serious crime included a reference to the interests of national security.

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[ Where the authorising officer is the chairman of the Office of Fair Trading, the only <sup>F216</sup>(2AA) purpose falling within subsection (2)(a) is the purpose of preventing or detecting an offence under section 188 of the Enterprise Act 2002.]

(2B) The matters to be taken into account in considering whether the requirements of subsection (2) are satisfied in the case of any authorisation shall include whether what it is thought necessary to achieve by the authorised action could reasonably be achieved by other means.]

(3) An authorising officer shall not give an authorisation under this section except on an application made—

(a) if the authorising officer is within subsection (5)(a) to [<sup>F217</sup>(ea) or (ee)], by a member of his police force,

[<sup>F218</sup>(aa) if the authorising officer is within subsection (5)(eb) to (ed), by a member, as the case may be, of the Royal Navy Regulating Branch, the Royal Military Police or the Royal Air Force Police;]

(b) if the authorising officer is within subsection (5)(f), by a member of the National Criminal Intelligence Service,

(c) if the authorising officer is within subsection (5)(g), by a member of the National Crime Squad, or

(d) if the authorising officer is within subsection (5)(h), by a customs officer [<sup>F219</sup>, or

(e) if the authorising officer is within subsection (5)(i), by an officer of the Office of Fair Trading.]

(4) For the purposes of subsection (2), conduct which constitutes one or more offences shall be regarded as serious crime if, and only if,—

(a) it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or

(b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more,

and, where the authorising officer is within subsection (5)(h), it relates to an assigned matter within the meaning of section 1(1) of the <sup>M27</sup>Customs and Excise Management Act 1979.

(5) In this section “authorising officer” means—

(a) the chief constable of a police force maintained under section 2 of the <sup>M28</sup>Police Act 1996 (maintenance of police forces for areas in England and Wales except London);

(b) the Commissioner, or an Assistant Commissioner, of Police of the Metropolis;

(c) the Commissioner of Police for the City of London;

(d) the chief constable of a police force maintained under or by virtue of section 1 of the <sup>M29</sup>Police (Scotland) Act 1967 (maintenance of police forces for areas in Scotland);

(e) the Chief Constable or a Deputy Chief Constable of the [<sup>F215</sup>Police Service of Northern Ireland];

[<sup>F220</sup>(ea) the Chief Constable of the Ministry of Defence Police;

(eb) the Provost Marshal of the Royal Navy Regulating Branch;

(ec) the Provost Marshal of the Royal Military Police;

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- (ed) the Provost Marshal of the Royal Air Force Police;
  - (ee) the Chief Constable of the <sup>F221</sup>British Transport Police;]
  - (f) the Director General of the National Criminal Intelligence Service;
  - (g) the Director General of the National Crime Squad [<sup>F222</sup>or any person holding the rank of assistant chief constable in that Squad who is designated for the purposes of this paragraph by that Director General]; or
  - (h) [<sup>F223</sup>any] customs officer designated by the Commissioners of Customs and Excise for the purposes of this paragraph [<sup>F224</sup>; or
  - (i) the chairman of the Office of Fair Trading.]
- (6) In this section “relevant area”—
- (a) in relation to a person within paragraph (a), (b) or (c) of subsection (5), means the area in England and Wales for which his police force is maintained;
  - (b) in relation to a person within paragraph (d) of that subsection means the area in Scotland for which his police force is maintained;
  - (c) in relation to a person within paragraph (e) of that subsection, means Northern Ireland;
  - <sup>F225</sup>(ca) in relation to a person within paragraph (ea), means any place where, under section 2 of the <sup>M30</sup>Ministry of Defence Police Act 1987, the members of the Ministry of Defence Police have the powers and privileges of a constable;
  - (cb) in relation to a person within paragraph (ee), means the United Kingdom;]
  - (d) in relation to the Director General of the National Criminal Intelligence Service, means the United Kingdom;
  - (e) in relation to the Director General of the National Crime Squad, means England and Wales; <sup>F226</sup> . . .
  - <sup>F226</sup>(f) . . . . .
- and in each case includes the adjacent United Kingdom waters.
- <sup>F227</sup>(6A) For the purposes of any authorisation by a person within paragraph (eb), (ec) or (ed) of subsection (5) property is in the relevant area or action in respect of wireless telegraphy is taken in the relevant area if, as the case may be—
- (a) the property is owned, occupied, in the possession of or being used by a person subject to service discipline; or
  - (b) the action is taken in relation to the use of wireless telegraphy by such a person.
- (6B) For the purposes of this section a person is subject to service discipline—
- (a) in relation to the Royal Navy Regulating Branch, if he is subject to the <sup>M31</sup>Naval Discipline Act 1957 or is a civilian to whom Parts I and II of that Act for the time being apply by virtue of section 118 of that Act ;
  - (b) in relation to the Royal Military Police, if he is subject to military law or is a civilian to whom Part II of the <sup>M32</sup>Army Act 1955 for the time being applies by virtue of section 209 of that Act; and
  - (c) in relation to the Royal Air Force Police, if he is subject to air-force law or is a civilian to whom Part II of the <sup>M33</sup>Air Force Act 1955 for the time being applies by virtue of section 209 of that Act.]
- (7) The powers conferred by, or by virtue of, this section are additional to any other powers which a person has as a constable either at common law or under or by virtue of any other enactment and are not to be taken to affect any of those other powers.

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### Textual Amendments

- F209** S. 93(1)(ab) substituted for word “or” (25.9.2000) by 2000 c. 23, s. 75(2) (with s. 82(3)); S.I. 2000/2543, art. 2
- F210** S. 93(1A)(1B) inserted (25.9.2000) by 2000 c. 23, s. 75(3) (with s. 82(3)); S.I. 2000/2543, art. 2
- F211** Words in s. 93(1B) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(a), 279; S.I. 2003/1397, art. 2(1), Sch.
- F212** Words in s. 93(2)(a) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F213** S. 93(2)(b) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F214** S. 93(2A)(2B) inserted (25.9.2000) by 2000 c. 23, s. 75(5) (with s. 82(3)); S.I. 2000/2543, art. 2
- F215** Words in s. 93(2A)(5)(e) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 20(2)(b); S.R. 2001/396, art. 2, Sch.
- F216** S. 93(2AA) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(b), 279; S.I. 2003/1397, art. 2(1), Sch.
- F217** Words in s. 93(3)(a) substituted (25.9.2000) by 2000 c. 23, s. 82(1), Sch. 4 para. 8(2)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F218** S. 93(3)(aa) inserted (25.9.2000) by 2000 c. 23, s. 82, Sch. 4 para. 8(2)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F219** S. 93(3)(e) and word inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(c), 279; S.I. 2003/1397, art. 2(1), Sch.
- F220** S. 93(5)(ea)-(ee) inserted (25.9.2000) by 2000 c. 23, s. 75(6)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F221** S. 93 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), Sch. 5 para. 4; S.I. 2004/1572, art. 3(jjj)
- F222** Words in s. 93(5)(g) inserted (25.9.2000) by 2000 c. 23, s. 75(6)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F223** Word in s. 93(5)(h) substituted (25.9.2000) by 2000 c. 23, s. 75(6)(c) (with s. 82(3)); S.I. 2000/2543, art. 2
- F224** S. 93(5)(i) and word inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(d), 279; S.I. 2003/1397, art. 2(1), Sch.
- F225** S. 93(6)(ca)(cb) inserted (25.9.2000) by 2000 c. 23, s. 75(7) (with s. 82(3)); S.I. 2000/2543, art. 2
- F226** S. 93(6)(f) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), Sch. 5 (with s. 82(3)); S.I. 2000/2543, art. 2
- F227** S. 93(6A)(6B) inserted (25.9.2000) by 2000 c. 23, s. 75(8) (with s. 82(3)); S.I. 2000/2543, art. 2

### Modifications etc. (not altering text)

- C15** S. 93 amended (S.) (29.9.2000) by 2000 asp 11, s. 23(5) (with s. 30); S.S.I. 2000/341, art. 2

### Marginal Citations

- M27** 1979 c. 2.  
**M28** 1996 c. 16.  
**M29** 1967 c. 77.  
**M30** 1987 c. 4.  
**M31** 1957 c. 53.  
**M32** 1955 c. 18.  
**M33** 1955 c. 19.

## 94 Authorisations given in absence of authorising officer.

- (1) Subsection (2) applies where it is not reasonably practicable for an authorising officer to consider an application for an authorisation under section 93 and—

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- (a) if the authorising officer is within paragraph (b) or (e) of section 93(5), it is also not reasonably practicable for the application to be considered by any of the other persons within the paragraph concerned; <sup>F228</sup> . . .
  - (b) if the authorising officer is within paragraph (a), (c), (d) [<sup>F229</sup>or (f)] of section 93(5), it is also not reasonably practicable for the application to be considered by his designated deputy [<sup>F230</sup>or
  - (c) if the authorising officer is within paragraph (g) of section 93(5), it is also not reasonably practicable for the application to be considered either—
    - (i) by any other person designated for the purposes of that paragraph; or
    - (ii) by the designated deputy of the Director General of the National Crime Squad.]
- (2) Where this subsection applies, the powers conferred on the authorising officer by section 93 may, in an urgent case, be exercised—
- (a) where the authorising officer is within paragraph (a) or (d) of subsection (5) of that section, by a person holding the rank of assistant chief constable in his force;
  - (b) where the authorising officer is within paragraph (b) of that subsection, by a person holding the rank of commander in the metropolitan police force;
  - (c) where the authorising officer is within paragraph (c) of that subsection, by a person holding the rank of commander in the City of London police force;
  - (d) where the authorising officer is within paragraph (e) of that subsection, by a person holding the rank of assistant chief constable in the [<sup>F231</sup>Police Service of Northern Ireland];
  - [<sup>F232</sup>(da) where the authorising officer is within paragraph (ea) of that subsection, by a person holding the rank of deputy or assistant chief constable in the Ministry of Defence Police;
  - (db) where the authorising officer is within paragraph (eb) of that subsection, by a person holding the position of assistant Provost Marshal in the Royal Navy Regulating Branch;
  - (dc) where the authorising officer is within paragraph (ec) or (ed) of that subsection, by a person holding the position of deputy Provost Marshal in the Royal Military Police or, as the case may be, in the Royal Air Force Police;
  - (dd) where the authorising officer is within paragraph (ee) of that subsection, by a person holding the rank of deputy or assistant chief constable in the <sup>F233</sup>British Transport Police;]
  - (e) where the authorising officer is within paragraph (f) <sup>F234</sup> . . . of that subsection by a person designated for the purposes of this section by the Director General of the National Criminal Intelligence Service <sup>F234</sup> . . .;
  - [<sup>F235</sup>(ea) where the authorising officer is within paragraph (g) of that subsection, by a person designated for the purposes of this paragraph by the Director General of the National Crime Squad as a person entitled to act in an urgent case;]
  - (f) where the authorising officer is within paragraph (h) of that subsection, by a customs officer designated by the Commissioners of Customs and Excise for the purposes of this section.
  - [<sup>F236</sup>(g) where the authorising officer is within paragraph (i) of that subsection, by an officer of the Office of Fair Trading designated by it for the purposes of this section.]

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- (3) A police member of the National Criminal Intelligence Service or the National Crime Squad appointed under section 9(1)(b) or 55(1)(b) may not be designated under subsection (2)(e) [<sup>F237</sup>or (2)(ea)] unless—
- <sup>F238</sup>he holds the rank of assistant chief constable in that Service or Squad].
- (4) In subsection (1), “designated deputy”—
- (a) in the case of an authorising officer within paragraph (a) or (d) of section 93(5), means the person holding the rank of assistant chief constable designated to act <sup>F239</sup>. . . under section 12(4) of the <sup>M34</sup>Police Act 1996 or, as the case may be, section 5(4) of the <sup>M35</sup>Police (Scotland) Act 1967;
  - (b) in the case of an authorising officer within paragraph (c) of section 93(5), means the person authorised to act <sup>F239</sup>. . . under section 25 of the <sup>M36</sup>City of London Police Act 1839; <sup>F240</sup>. . .
  - (c) in the case of an authorising officer within paragraph (f) or (g) of section 93(5), means the person designated to act <sup>F239</sup>. . . under section 8 or 54 <sup>F241</sup>. . .
  - (d) . . . . .

#### Textual Amendments

- F228** Word at the end of s. 94(1)(a) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F229** Words in s. 94(1) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(3)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F230** S. 94(1)(c) and the word “or” immediately preceding it inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(3)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F231** Words in s. 94(2)(d) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, **art. 2, Sch.**
- F232** S. 94(2)(da)-(dd) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(4)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F233** S. 94 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, **art. 3(jjj)**
- F234** Words in s. 94(2)(e) repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), **Sch. 4 para. 8(4)(b)**, **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F235** S. 94(2)(ea) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(4)(c)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F236** S. 94(2)(g) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 200(3)**, 279; S.I. 2003/1397, **art. 2(1), Sch.**
- F237** Words in s. 94(3) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(5)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F238** Words in s. 94(3) substituted (for s. 94(3)(a)(b)) (30.9.1998) by 1998 c. 37, **s. 113(2)**; S.I. 1998/2327, **art. 2**
- F239** Words in s. 94(4) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F240** Word in s. 94(4) repealed (30.9.1998) by 1998 c. 37, s. 113(3), s. 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2**
- F241** S. 94(4)(d) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

#### Modifications etc. (not altering text)

- C16** S. 94 applied (*prosp.*) by 2000 c. 23, **ss. 49, 83(2)**, **Sch. 2 para. 2(7)** (with s. 82(3))

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#### Marginal Citations

**M34** 1996 c. 16.

**M35** 1967 c. 77.

**M36** 1839 c. xciv.

### 95 Authorisations: form and duration etc.

- (1) An authorisation shall be in writing, except that in an urgent case an authorisation (other than one given by virtue of section 94) may be given orally.
- (2) An authorisation shall, unless renewed under subsection (3), cease to have effect—
  - (a) if given orally or by virtue of section 94, at the end of the period of 72 hours beginning with the time when it took effect;
  - (b) in any other case, at the end of the period of three months beginning with the day on which it took effect.
- (3) If at any time before an authorisation would cease to have effect the authorising officer who gave the authorisation, or in whose absence it was given, considers it necessary for the authorisation to continue to have effect for the purpose for which it was issued, he may, in writing, renew it for a period of three months beginning with the day on which it would cease to have effect.
- (4) A person shall cancel an authorisation given by him if satisfied that [<sup>F242</sup>the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied.]
- (5) An authorising officer shall cancel an authorisation given in his absence if satisfied that [<sup>F242</sup>the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied.].
- (6) If the authorising officer who gave the authorisation is within paragraph (b) [<sup>F243</sup>, (e) or (g)] of section 93(5), the power conferred on that person by subsections (3) and (4) above shall also be exercisable by each of the other persons within the paragraph concerned.
- (7) Nothing in this section shall prevent a designated deputy from exercising the powers conferred on an authorising officer within paragraph (a), (c), (d), (f) or (g) of section 93(5) by subsections (3), (4) and (5) above.

#### Textual Amendments

**F242** Words in s. 95(4)(5) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(6)(a)** (with s. 82(3)); **S.I. 2000/2543, art. 2**

**F243** Words in s. 95(6) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(6)(b)** (with s. 82(3)); **S.I. 2000/2543, art. 2**

### 96 Notification of authorisations etc.

- (1) Where a person gives, renews or cancels an authorisation, he shall, as soon as is reasonably practicable and in accordance with arrangements made by the Chief Commissioner, give notice in writing that he has done so to a Commissioner appointed under section 91(1)(b).



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- (2) Subject to subsection (3), a notice under this section shall specify such matters as the Secretary of State may by order prescribe.
- (3) A notice under this section of the giving or renewal of an authorisation shall specify—
  - (a) whether section 97 applies to the authorisation or renewal, and
  - (b) where that section does not apply by virtue of subsection (3) of that section, the grounds on which the case is believed to be one of urgency.
- (4) Where a notice is given to a Commissioner under this section, he shall, as soon as is reasonably practicable, scrutinise the notice.
- (5) An order under subsection (2) shall be made by statutory instrument.
- (6) A statutory instrument which contains an order under subsection (2) shall not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

#### Commencement Information

**I28** S. 96 wholly in force at 22.2.1999; s. 96 not in force at Royal Assent see s. 135; s. 96 in force for certain purposes at 1.9.1997 by [S.I. 1997/1930](#), [art. 2](#)(with art. 2(3)); s. 96 in force at 22.2.1999 insofar as not already in force by [S.I. 1999/151](#), [art. 2](#)

#### *Authorisations requiring approval*

### **97 Authorisations requiring approval.**

- (1) An authorisation to which this section applies shall not take effect until—
  - (a) it has been approved in accordance with this section by a Commissioner appointed under section 91(1)(b), and
  - (b) the person who gave the authorisation has been notified under subsection (4).
- (2) Subject to subsection (3), this section applies to an authorisation if, at the time it is given, the person who gives it believes—
  - (a) that any of the property specified in the authorisation—
    - (i) is used wholly or mainly as a dwelling or as a bedroom in a hotel, or
    - (ii) constitutes office premises, or
  - (b) that the action authorised by it is likely to result in any person acquiring knowledge of—
    - (i) matters subject to legal privilege,
    - (ii) confidential personal information, or
    - (iii) confidential journalistic material.
- (3) This section does not apply to an authorisation where the person who gives it believes that the case is one of urgency.
- (4) Where a Commissioner receives a notice under section 96 which specifies that this section applies to the authorisation, he shall as soon as is reasonably practicable—
  - (a) decide whether to approve the authorisation or refuse approval, and
  - (b) give written notice of his decision to the person who gave the authorisation.

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- (5) A Commissioner shall approve an authorisation if, and only if, he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2).
- (6) Where a Commissioner refuses to approve an authorisation, he shall, as soon as is reasonably practicable, make a report of his findings to the authorising officer who gave it or in whose absence it was given <sup>F244</sup> . . .
- [<sup>F245</sup>(6A) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed, in the case of an authorisation given by or in the absence of a person within paragraph (b), (e) or (g) of section 93(5), as a reference to the Commissioner of Police, Chief Constable or, as the case may be, Director General mentioned in the paragraph concerned.]
- (7) This section shall apply in relation to a renewal of an authorisation as it applies in relation to an authorisation (the references in subsection (2)(a) and (b) to the authorisation being construed as references to the authorisation renewed).
- (8) In this section—  
     “office premises” has the meaning given in section 1(2) of the <sup>M37</sup>Offices, Shops and Railway Premises Act 1963;  
     “hotel” means premises used for the reception of guests who desire to sleep in the premises.

#### Textual Amendments

**F244** Words in s. 97(6) repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), Sch. 4 para. 8(7), Sch. 5 (with s. 82(3)); S.I. 2000/2543, art. 2

**F245** S. 97(6A) inserted (25.9.2000) by 2000 c. 23, s. 82(1), Sch. 4 para. 82(3); S.I. 2000/2543, art. 2

#### Marginal Citations

**M37** 1963 c. 41.

## 98 Matters subject to legal privilege.

- (1) Subject to subsection (5) below, in section 97 “matters subject to legal privilege” means matters to which subsection (2), (3) or (4) below applies.
- (2) This subsection applies to communications between a professional legal adviser and—  
 (a) his client, or  
 (b) any person representing his client,  
 which are made in connection with the giving of legal advice to the client.
- (3) This subsection applies to communications—  
 (a) between a professional legal adviser and his client or any person representing his client, or  
 (b) between a professional legal adviser or his client or any such representative and any other person,  
 which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (4) This subsection applies to items enclosed with or referred to in communications of the kind mentioned in subsection (2) or (3) and made—

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- (a) in connection with the giving of legal advice, or
  - (b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (5) For the purposes of section 97—
- (a) communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and
  - (b) communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

## **99 Confidential personal information.**

- (1) In section 97 “confidential personal information” means—
- (a) personal information which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office, and which he holds in confidence, and
  - (b) communications as a result of which personal information—
    - (i) is acquired or created as mentioned in paragraph (a), and
    - (ii) is held in confidence.
- (2) For the purposes of this section “personal information” means information concerning an individual (whether living or dead) who can be identified from it and relating—
- (a) to his physical or mental health, or
  - (b) to spiritual counselling or assistance given or to be given to him.
- (3) A person holds information in confidence for the purposes of this section if he holds it subject—
- (a) to an express or implied undertaking to hold it in confidence, or
  - (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment (including an enactment contained in an Act passed after this Act).

## **100 Confidential journalistic material.**

- (1) In section 97 “confidential journalistic material” means—
- (a) material acquired or created for the purposes of journalism which—
    - (i) is in the possession of persons who acquired or created it for those purposes,
    - (ii) is held subject to an undertaking, restriction or obligation of the kind mentioned in section 99(3), and
    - (iii) has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism, and
  - (b) communications as a result of which information is acquired for the purposes of journalism and held as mentioned in paragraph (a)(ii).
- (2) For the purposes of subsection (1), a person who receives material, or acquires information, from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

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### *Code of Practice*

F246 **101** .....

#### **Textual Amendments**

**F246** S. 101 repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

### *Complaints etc.*

F247 **102** .....

#### **Textual Amendments**

**F247** S. 102 repealed (25.9.2000) by 2000 c. 23, ss. 70(2)(c), 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2** (and by art. 6(1) of that S.I. the repeal is expressed to be brought into force on 2.10.2000 subject to the provisions of art. 6(2)-(5))

### **103 Quashing of authorisations etc.**

- (1) Where, at any time, a Commissioner appointed under section 91(1)(b) is satisfied that, at the time an authorisation was given or renewed, there were no reasonable grounds for believing the matters specified in section 93(2), he may quash the authorisation or, as the case may be, renewal.
- (2) Where, in the case of an authorisation or renewal to which section 97 does not apply, a Commissioner appointed under section 91(1)(b) is at any time satisfied that, at the time the authorisation was given or, as the case may be, renewed,—
  - (a) there were reasonable grounds for believing any of the matters specified in subsection (2) of section 97, and
  - (b) there were no reasonable grounds for believing the case to be one of urgency for the purposes of subsection (3) of that section,
 he may quash the authorisation or, as the case may be, renewal.
- (3) Where a Commissioner quashes an authorisation or renewal under subsection (1) or (2), he may order the destruction of any records relating to information obtained by virtue of the authorisation (or, in the case of a renewal, relating wholly or partly to information so obtained after the renewal) other than records required for pending criminal or civil proceedings.
- (4) If a Commissioner appointed under section 91(1)(b) is satisfied that, at any time after an authorisation was given or, in the case of an authorisation renewed under section 95, after it was renewed, there were no reasonable grounds for believing the matters specified in section 93(2), he may cancel the authorisation.
- (5) Where—
  - (a) an authorisation has ceased to have effect (otherwise than by virtue of subsection (1) or (2)), and

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- (b) a Commissioner appointed under section 91(1)(b) is satisfied that, at any time during the period of the authorisation, there were no reasonable grounds for believing the matters specified in section 93(2),
- he may order the destruction of any records relating, wholly or partly, to information which was obtained by virtue of the authorisation after that time (other than records required for pending criminal or civil proceedings).
- (6) Where a Commissioner exercises his powers under subsection (1), (2) or (4), he shall, if he is satisfied that there are reasonable grounds for doing so, order that the authorisation shall be effective, for such period as he shall specify, so far as it authorises the taking of action to retrieve anything left on property in accordance with the authorisation.
- (7) Where a Commissioner exercises a power conferred by this section, he shall, as soon as is reasonably practicable, make a report of his findings—
- (a) to the authorising officer who gave the authorisation or in whose absence it was given, and
- (b) to the Chief Commissioner;
- [<sup>F248</sup>and subsection (6A) of section 97 shall apply for the purposes of this subsection as it applies for the purposes of subsection (6) of that section.]
- (8) Where—
- (a) a decision is made under subsection (1) or (2) and an order for the destruction of records is made under subsection (3), or
- (b) a decision to order the destruction of records is made under subsection (5),
- the order shall not become operative until the period for appealing against the decision has expired and, where an appeal is made, a decision dismissing it has been made by the Chief Commissioner.
- (9) A Commissioner may exercise any of the powers conferred by this section notwithstanding any approval given under section 97.

#### Textual Amendments

**F248** Words in s. 103(7) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(8)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

### *Appeals*

#### **104 Appeals by authorising officers.**

- (1) An authorising officer who gives an authorisation, or in whose absence it is given, may, within the prescribed period, appeal to the Chief Commissioner against—
- (a) any refusal to approve the authorisation or any renewal of it under section 97;
- (b) any decision to quash the authorisation, or any renewal of it, under subsection (1) of section 103;
- (c) any decision to quash the authorisation, or any renewal of it, under subsection (2) of that section;
- (d) any decision to cancel the authorisation under subsection (4) of that section;

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- (e) any decision to order the destruction of records under subsection (5) of that section;
  - (f) any refusal to make an order under subsection (6) of that section;
  - <sup>F249</sup>(g) .....
- (2) In subsection (1), “the prescribed period” means the period of seven days beginning with the day on which the refusal, decision or, as the case may be, determination appealed against is reported to the authorising officer.
- (3) In determining an appeal within subsection (1)(a), the Chief Commissioner shall, if he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2), allow the appeal and direct the Commissioner to approve the authorisation or renewal under that section.
- (4) In determining—
- (a) an appeal within subsection (1)(b), <sup>F250</sup> . . .
  - (b) .....
- the Chief Commissioner shall allow the appeal unless he is satisfied that, at the time the authorisation was given or, as the case may be, renewed there were no reasonable grounds for believing the matters specified in section 93(2).
- (5) In determining—
- (a) an appeal within subsection (1)(c), <sup>F250</sup> . . .
  - (b) .....
- the Chief Commissioner shall allow the appeal unless he is satisfied as mentioned in section 103(2).
- (6) In determining—
- (a) an appeal within subsection (1)(d) or (e), <sup>F250</sup> . . .
  - (b) .....
- the Chief Commissioner shall allow the appeal unless he is satisfied that at the time to which the decision relates there were no reasonable grounds for believing the matters specified in section 93(2).
- (7) In determining an appeal within subsection (1)(f), the Chief Commissioner shall allow the appeal and order that the authorisation shall be effective to the extent mentioned in section 103(6), for such period as he shall specify, if he is satisfied that there are reasonable grounds for making such an order.
- (8) Where an appeal is allowed under this section, the Chief Commissioner shall—
- (a) in the case of an appeal within subsection (1)(b) or (c), also quash any order made by the Commissioner to destroy records relating to information obtained by virtue of the authorisation concerned, <sup>F251</sup> . . .
  - (b) .....

#### Textual Amendments

**F249** S. 104(1)(g) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F250** S. 104(4)(b)(5)(b)(6)(b) and the word “or” immediately preceding them repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F251** S. 104(8)(b) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

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## 105 Appeals by authorising officers: supplementary.

- (1) Where the Chief Commissioner determines an appeal under section 104—
  - (a) he shall give notice of his determination—
    - (i) to the authorising officer concerned, [<sup>F252</sup>and]
    - (ii) to the Commissioner against whose refusal, decision or determination the appeal was made, <sup>F253</sup> . . .
    - (iii) . . . . .
  - (b) if he dismisses the appeal, he shall make a report of his findings—
    - (i) to the authorising officer concerned,
    - (ii) to the Commissioner against whose refusal, decision or determination the appeal was made, and
    - (iii) under section 107(2), to the Prime Minister [and the Scottish Ministers].
- (2) Subject to subsection (1)(b), the Chief Commissioner shall not give any reasons for a determination under section 104.
- (3) Nothing in section 104 shall prevent a designated deputy from exercising the powers conferred by subsection (1) of that section on an authorising officer within paragraph (a), (c), (d), (f) or (g) of section 93(5).

### Textual Amendments

- F252** Word in s. 105(1)(a)(i) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(9)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F253** S. 105(1)(a)(iii) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), **Sch. 4 para. 8(9)**, **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

### Modifications etc. (not altering text)

- C17** Words in s. 105(1)(b)(iii) inserted (1.7.1999) by S.I. 1999/1747, **arts. 1, 3**, **Sch. 6 Pt. II para. 2(3)**; S.I. 1998/3178, **art. 3**

<sup>F254</sup>**106** . . . . .

### Textual Amendments

- F254** S. 106 repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

## General

## 107 Supplementary provisions relating to Commissioners.

- (1) The Chief Commissioner shall keep under review the performance of functions under this Part.
- (2) The Chief Commissioner shall make an annual report on [<sup>F255</sup>the matters with which he is concerned] to the Prime Minister [<sup>F256</sup>and to the Scottish Ministers] and may at

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any time report to him [<sup>F256</sup>or them (as the case may require)] on [<sup>F255</sup>anything relating to any of those matters].

- (3) The Prime Minister shall lay before each House of Parliament a copy of each annual report made by the Chief Commissioner under subsection (2) together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.
- [<sup>F257</sup>(3A) The Scottish Ministers shall lay before the Scottish Parliament a copy of each annual report made by the Chief Commissioner under subsection (2), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.]
- (4) The Prime Minister may exclude a matter from the copy of a report as laid before each House of Parliament, if it appears to him, after consultation with the Chief Commissioner [<sup>F258</sup>and the Scottish Ministers], that the publication of that matter in the report would be prejudicial to [<sup>F259</sup>any of the purposes for which authorisations may be given or granted under this Part of this Act or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000 or] to the discharge of—
- (a) the functions of any police authority,
  - (b) the functions of the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad, or
  - (c) the duties of the Commissioners of Customs and Excise.
- (5) Any person having functions under this Part, and any person taking action in relation to which an authorisation was given, shall comply with any request of a Commissioner for documents or information required by him for the purpose of enabling him to discharge his functions.
- [<sup>F260</sup>(5A) It shall be the duty of—
- (a) every person by whom, or on whose application, there has been given or granted any authorisation the function of giving or granting which is subject to review by the Chief Commissioner,
  - (b) every person who has engaged in conduct with the authority of such an authorisation,
  - (c) every person who holds or has held any office, rank or position with the same public authority as a person falling within paragraph (a),
  - (d) every person who holds or has held any office, rank or position with any public authority for whose benefit (within the meaning of Part II of the Regulation of Investigatory Powers Act 2000) activities which are or may be subject to any such review have been or may be carried out, and
  - (e) every person to whom a notice under section 49 of the Regulation of Investigatory Powers Act 2000 (notices imposing a disclosure requirement in respect of information protected by a key) has been given in relation to any information obtained by conduct to which such an authorisation relates,
- to disclose or provide to the Chief Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions.
- (5B) It shall be the duty of every Commissioner to give the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000 all such assistance



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(including his opinion as to any issue falling to be determined by that tribunal) as that tribunal may require—

- (a) in connection with the investigation of any matter by that tribunal; or
- (b) otherwise for the purposes of that tribunal’s consideration or determination of any matter.

(5C) In this section “public authority” means any public authority within the meaning of section 6 of the <sup>M38</sup>Human Rights Act 1998 (acts of public authorities) other than a court or tribunal.]

<sup>F261</sup>(6) . . . . .

**Textual Amendments**

- F255** Words in s. 107(2) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(a)(i)(ii)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F256** Words in s. 107(2) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(a)(i)(ii)**; S.I. 1998/3178, **art. 3**
- F257** S. 107(3A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(b)**; S.I. 1998/3178, **art. 3**
- F258** Words in s. 107(4) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(c)**; S.I. 1998/3178, **art. 3**
- F259** Words in s. 107(4) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F260** S. 107(5A)-(5C) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(c)(11)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F261** S. 107(6) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**Modifications etc. (not altering text)**

- C18** S. 107(3)(4) applied (25.9.2000) by 2000 c. 23, s. 39(3) (with s. 82(3)); S.I. 2000/2543, **art. 2**

**Marginal Citations**

- M38** 1998 c. 42.

**108 Interpretation of Part III.**

(1) In this Part—

[<sup>F262</sup>“Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;]

“authorisation” means an authorisation under section 93;

“authorising officer” has the meaning given by section 93(5);

“criminal proceedings” includes—

- (a) proceedings in the United Kingdom or elsewhere before a court-martial constituted under the <sup>M39</sup>Army Act 1955, the <sup>M40</sup>Air Force Act 1955 or the <sup>M41</sup>Naval Discipline Act 1957 <sup>F263</sup>. . . . ,

- (b) proceedings before the Courts-Martial Appeal Court, and

- (c) proceedings before a Standing Civilian Court;

“customs officer” means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the <sup>M42</sup>Customs and Excise Management Act 1979;

“designated deputy” has the meaning given in section 94(4);

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“United Kingdom waters” has the meaning given in section 30(5) of the <sup>M43</sup>Police Act 1996; and

“wireless telegraphy” has the same meaning as in the <sup>M44</sup>Wireless Telegraphy Act 1949 and, in relation to wireless telegraphy, “interfere” has the same meaning as in that Act.

- (2) Where, under this Part, notice of any matter is required to be given in writing, the notice may be transmitted by electronic means.
- (3) For the purposes of this Part, an authorisation (or renewal) given—
  - (a) by the designated deputy of an authorising officer, or
  - (b) by a person on whom an authorising officer’s powers are conferred by section 94,

shall be treated as an authorisation (or renewal) given in the absence of the authorising officer concerned; and references to the authorising officer in whose absence an authorisation (or renewal) was given shall be construed accordingly.

#### Textual Amendments

**F262** In s. 108(1) definition of "Assistant Commissioner of Police of the Metropolis" inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(12)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F263** In s. 108(1) words in para. (a) of definition of "criminal proceedings" repealed (28.2.2002) by 2001 c. 19, s. 38, **Sch. 7 Pt. 1**; S.I. 2002/345, **art. 2** (subject to **art. 3**)

#### Marginal Citations

**M39** 1955 c. 18.

**M40** 1955 c. 19.

**M41** 1957 c. 53.

**M42** 1979 c. 2.

**M43** 1996 c. 16.

**M44** 1949 c. 54.

## PART IV

### POLICE INFORMATION TECHNOLOGY ORGANISATION

#### 109 Police Information Technology Organisation.

- (1) There shall be a body corporate to be known as the Police Information Technology Organisation (“the Organisation”).
- (2) Schedule 8 (which makes provision about the Organisation) shall have effect.
- (3) The Organisation may carry out activities (including the commissioning of research) relating to information technology equipment and systems for the use of—
  - (a) police authorities and police forces, and
  - (b) such other bodies as the Secretary of State may determine by order made by statutory instrument.

[<sup>F264</sup>(3A) The Secretary of State shall obtain the consent of the Scottish Ministers before making any order by virtue subsection (3)(b) which determines any body whose functions

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are carried out wholly or mainly in Scotland for the purposes mentioned in that subsection.]

- (4) The Organisation may also procure or assist in procuring other equipment, systems and services for any body falling within subsection (3)(a) or (b).
- (5) Any statutory instrument made by virtue of subsection (3)(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this Part “information technology” includes any computer or other technology by means of which information or other matter may be recorded or communicated without being reduced to documentary form.

#### Textual Amendments

**F264** S. 109(3A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 20 Pt. II para. 2(2)**; S.I. 1998/3178, **art. 3**

#### Commencement Information

**I29** S. 109 wholly in force at 1.4.1998; s. 109 not in force at Royal Assent, see s. 135; s. 109(1) in force at 1.9.1997 by S.I. 1997/1930, **art. 2** (with **art. 2(3)**); s. 109(2) in force for certain purposes at 1.9.1997 by S.I. 1997/1930, **art. 2** (with **art. 2(3)**); s. 109(3) in force at 1.9.1997 for certain purposes by S.I. 1997/1377, **art. 2**; s. 109 otherwise in force at 1.4.1998 by S.I. 1998/354, **art. 2**

### 110 Relationship between the Organisation and the Secretary of State.

- (1) In exercising its functions the Organisation shall comply with any general or specific directions given in writing by the Secretary of State.
- (2) Before giving directions under subsection (1), the Secretary of State shall consult the Organisation.
- [<sup>F265</sup>(2A) The Secretary of State shall obtain the consent of the Scottish Ministers before giving any direction under subsection (1) which relates wholly or mainly to the exercise of the Organisation’s activities in or as regards Scotland.]
- (3) The Organisation shall provide the Secretary of State [<sup>F266</sup> or the Scottish Ministers] with such information about its activities as he [<sup>F266</sup> or they] may request.

#### Textual Amendments

**F265** S. 110(2A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 20 Pt. II para. 2(3)(a)**; S.I. 1998/3178, **art. 3**

**F266** Words in s. 110(3) substituted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 20 Pt. II para. 2(3)(b)**; S.I. 1998/3178, **art. 3**

### 111 Interpretation of Part IV.

- (1) In this Part, except where the context otherwise requires, “police authority” means—
  - (a) a police authority for an area in Great Britain or a joint police board (within the meaning of the <sup>M45</sup>Police (Scotland) Act 1967),
  - (b) the [<sup>F267</sup>Northern Ireland Policing Board],

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- (c) the Service Authority for the National Criminal Intelligence Service, and
  - (d) the Service Authority for the National Crime Squad.
- (2) In this Part, except where the context otherwise requires, “chief officer of police” means—
- (a) a chief officer of police of a police force in England and Wales,
  - (b) a chief constable of a police force in Scotland,
  - (c) the Chief Constable of the [<sup>F268</sup>Police Service of Northern Ireland],
  - (d) the Director General of the National Criminal Intelligence Service, and
  - (e) the Director General of the National Crime Squad.
- (3) In this Part “police force” means—
- (a) a police force in Great Britain,
  - (b) the [<sup>F268</sup>Police Service of Northern Ireland] and the [<sup>F268</sup>Police Service of Northern Ireland Reserve],
  - (c) the National Criminal Intelligence Service, and
  - (d) the National Crime Squad.

#### Textual Amendments

**F267** Words in s. 111(1)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

**F268** Words in s. 111(2)(c)(3)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(a)(b)**; S.R. 2001/396, art. 2, **Sch.**

#### Modifications etc. (not altering text)

**C19** S. 111 excluded (1.9.1997) by S.I. 1997/1930, **art. 2**

#### Commencement Information

**I30** S. 111 wholly in force at 1.4.1998; s. 111 not in force at Royal Assent; s. 111, (1)(a)(b),(2)(a)(b)(c) and (3)(a)(b) in force at 1.9.1997 by S.I. 1997/1930, **art. 2**; s. 111 otherwise in force at 1.4.1998 by S.I. 1998/354, **art. 2**

#### Marginal Citations

**M45** 1967 c. 77.

## PART V

### CERTIFICATES OF CRIMINAL RECORDS, &C.

#### Modifications etc. (not altering text)

**C20** Pt. 5 (ss. 112-127) explained (prosp) by 1998 c. 29, **s. 56(4)**

**C21** Pt. 5 power to apply (with modifications) conferred (E.W.) (7.7.2005) by **Serious Organised Crime and Police Act 2005 (c. 15), ss. 163(4), 178(2)**

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## 112 Criminal conviction certificates.

- (1) The Secretary of State shall issue a criminal conviction certificate to any individual who—
  - (a) makes an application in the prescribed [<sup>F269</sup>manner and] form, and
  - (b) [<sup>F270</sup>pays in the prescribed manner any prescribed fee]
- (2) A criminal conviction certificate is a certificate which—
  - (a) gives the prescribed details of every conviction of the applicant which is recorded in central records, or
  - (b) states that there is no such conviction.
- (3) In this section—

“central records” means such records of convictions held for the use of police forces generally as may be prescribed;

“conviction” means a conviction within the meaning of the <sup>M46</sup>Rehabilitation of Offenders Act 1974, other than a spent conviction.
- (4) Where an applicant has received a criminal conviction certificate, the Secretary of State may refuse to issue another certificate to that applicant during such period as may be prescribed.

### Textual Amendments

**F269** Words in s. 112(1)(a) inserted (E.W.) (29.1.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 35 para. 2; S.I. 2004/81, art. 4\(1\)\(2\)\(o\)\(i\)](#); and inserted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\), arts. 1\(1\), 2\(1\)\(a\)](#)

**F270** S. 112(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\), arts. 1\(1\), 2\(1\)\(b\)](#)

### Commencement Information

**I31** S. 112 not in force at Royal Assent, see [s. 135\(1\)](#)

### Marginal Citations

**M46** 1974 c. 53.

## 113 Criminal record certificates.

- (1) The Secretary of State shall issue a criminal record certificate to any individual who—
  - (a) makes an application under this section in the prescribed [<sup>F271</sup>manner and] form countersigned by a registered person, and
  - (b) pays [<sup>F272</sup>in the prescribed manner] any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.
- (3) A criminal record certificate is a certificate which—
  - (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or
  - (b) states that there is no such matter.

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<sup>F273</sup><sup>F274</sup>(3A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant's <sup>F275</sup><sup>F276</sup>suitability to be employed, supplied to work, found work or given work in] a position (whether paid or unpaid) within subsection (3B), <sup>F277</sup><sup>F278</sup>or <sup>F279</sup>the suitability of the applicant, or of a person living in the same household as the applicant, to be a foster parent or] to adopt a child,] the criminal record certificate shall also state—

- (a) whether the applicant is included <sup>F280</sup><sup>F281</sup>in—
  - (i) the list kept under section 1 of the <sup>M47</sup>Protection of Children Act 1999; [ the list kept under section 1(1) of the Protection of Children <sup>F282</sup>(ia) (Scotland) Act 2003 (asp 5);]
  - <sup>F283</sup><sup>F284</sup>(ii) .....
  - <sup>F283</sup><sup>F284</sup>(iii) .....]

- <sup>F285</sup><sup>F286</sup>(b) if he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14), such details of his inclusion as may be prescribed;]
- <sup>F287</sup><sup>F288</sup>(c) whether he is subject to a direction under section 142 of the Education Act 2002; and
- (d) if he is subject to a direction under that section, such details of the circumstances in which it was given as may be prescribed, including the grounds on which it was given.]

(3B) A position is within this subsection if it is—

- (a) a child care position within the meaning of the Protection of Children Act 1999; [ a child care position within the meaning of the Protection of Children <sup>F289</sup>(aa) (Scotland) Act 2003 (asp 5);]
- <sup>F290</sup><sup>F291</sup>(b) a position which involves work to which section 142 of the Education Act 2002 applies;]
- <sup>F292</sup><sup>F293</sup>(c) .....
- (d) a position of such other description as may be prescribed; <sup>F294</sup><sup>F295</sup>...]

<sup>F296</sup>(3C) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) within subsection (3D), the criminal record certificate shall also state—

- (a) whether the applicant is included in the list kept under section 81 of the Care Standards Act 2000; and
- (b) if he is included in that list, such details of his inclusion as may be prescribed.

(3D) A position is within this subsection if it is—

- (a) a care position within the meaning of Part VII of the Care Standards Act 2000; or
- (b) a position of such other description as may be prescribed.]

<sup>F297</sup><sup>F298</sup>(3E) The references in subsections (3A) and (3C) to <sup>F299</sup>considering the applicant's] suitability to be employed, supplied to work, found work or given work in a position falling within subsection (3B) or (3D) include references to <sup>F300</sup>—

- (a) considering the applicant's] suitability to be registered—

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- [<sup>F301</sup>(a)] under Part II of the Care Standards Act 2000 (establishments and [<sup>F301</sup>(i)] agencies);
- [<sup>F301</sup>(b)] under Part IV of that Act (social care workers); [<sup>F302</sup>or]  
[<sup>F301</sup>(ii)]  
[ under Part 3 of the Regulation of Care (Scotland) Act 2001 (asp 8)  
<sup>F303</sup>(iii) (social workers); or]
- [<sup>F301</sup>(c)] [<sup>F304</sup>for child minding or providing day care under section 71 of  
<sup>F301</sup>(iv)] the Children Act 1989] or Article 118 of the <sup>M48</sup>Children (Northern Ireland) Order 1995 (child minding and day care) [<sup>F305</sup>; and
- (b) considering the applicant’s application to have a care service, consisting of the provision of child minding or the day care of children, registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (asp 8) (care services)].]
- <sup>F306</sup>[<sup>F307</sup>(3F) The references in subsections (3A) and (3C) to considering the applicant’s suitability to be employed, supplied to work, found work or given work in a position falling within subsection (3B) or (3D) include references to considering, for the purposes of Part 10A of the Children Act 1989 (child minding and day care in England and Wales), his suitability—
- (a) to look after or be in regular contact with children under the age of eight, or
- (b) in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, to look after children within the meaning of that section.]
- (4) The Secretary of State shall send a copy of a criminal record certificate to the registered person who countersigned the application.
- (5) In this section—
- “central records” means such records of convictions and cautions held for the use of police forces generally as may be prescribed;
- “exempted question” means a question in relation to which section 4(2)(a) or (b) of the <sup>M49</sup>Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4);
- “relevant matter” means—
- (i) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and
- (ii) a caution.

### Textual Amendments

- F271** Words in s. 113(1)(a) inserted (E.W.) (29.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 3\(2\)\(b\)](#); S.I. 2004/81, art. 4(1)(2)(o)(i)
- F272** Words in s. 113(1)(b) inserted (E.W.) (29.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 3\(2\)\(c\)](#); S.I. 2004/81, art. 4(1)(2)(o)(i)
- F273** S. 113(3A)(3B) insertion by 1999 c. 14, s. 8 extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), [ss. 12\(1\)\(a\)](#), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F274** S. 113(3A)(3B) inserted (E.W.N.I.) (12.3.2002 for E.W.) by 1999 c. 14, [ss. 8\(1\)](#), 14(2); S.I. 2002/1436, [art. 2](#)
- F275** S. 113(3A) substitution of words by 2000 c. 14, Sch. 4 para. 25(1) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), [ss. 12\(1\)\(b\)](#), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)

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- F276** Words in s. 113(3A) substituted (2.7.2001 for E, 1.4.2002 for W.) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 25(1); S.I. 2001/2041, art. 2(1)(d)(i) (with transitional provisions and savings in art. 3, Sch.); S.I. 2002/920, art. 3(3)(d) (subject to art. 3(2)(4)-(10), Schs. 1-3)
- F277** S. 113(3A) insertion of words by 2000 c. 14, s. 104(2)(a) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(b), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F278** Words in s. 113(3A) inserted (18.3.2002 for E.W.) by 2000 c. 14, ss. 104(2)(a), 122; S.I. 2002/629, art. 2(2)(b)(ii)
- F279** Words in s. 113(3A) substituted (1.6.2003 for E.W.) by Adoption and Children Act 2002 (c. 38), ss. 135(2), 148(1) (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(b)
- F280** S. 113(3A) substitution of words by 2000 c. 14, s. 102(1) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(b), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F281** S. 113(3A)(a)(i)-(iii)(b) and word substituted (18.3.2002 for E.W.) for s. 113(3A)(b) and words by 2000 c. 14, ss. 102(1), 122; S.I. 2002/629, art. 2(2)(a)
- F282** S. 113(3A)(a)(ia) inserted (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(2)(a), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F283** S. 113(3A)(a)(ii)(iii) repealed (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 72(2)(a), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F284** S. 113(3A)(a)(ii)(iii) repeal by 2002 c. 32, Sch. 21 para. 72(2)(a) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(c), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F285** S. 113(3A)(b) substitution by 2002 c. 32, Sch. 21 para. 72(2)(b) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(c), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F286** S. 113(3A)(b) substituted (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 72(2)(b) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F287** S. 113(3A)(c)(d) insertion by 2002 c. 32, Sch. 21 para. 72(2)(c) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(c), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F288** S. 113(3A)(c)(d) inserted (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 72(2)(c) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F289** S. 113(3B)(aa) inserted (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(2)(b), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F290** S. 113(3B)(b) substitution by 2002 c. 32, Sch. 21 para. 72(3)(a) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(c), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F291** S. 113(3B)(b) substituted (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 72(3)(a) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F292** S. 113(3B)(c) repealed (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 72(3)(b), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F293** S. 113(3B)(c) repeal by 2002 c. 32, Sch. 21 para. 72(3)(b) extended to Scotland (S.) (10.1.2005) by Protection of Children (Scotland) Act 2003 (asp 5), ss. 12(1)(c), 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F294** Words in s. 113(3B) repealed (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 72(3)(c), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3



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- F295** S. 113(3B) repeal of words by 2002 c. 32, Sch. 21 para. 72(3)(c) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(c)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F296** S. 113(3C)(3D) inserted (26.7.2004) by [Care Standards Act 2000 \(c. 14\)](#), **ss. 90(1)**, 122; S.I. 2004/1757, art. 2(b)
- F297** S. 113(3E) insertion by 2000 c. 14, s. 104(2)(b) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F298** S. 113(3E) inserted (E.W.) (18.3.2002 for specified purposes, 1.4.2002 for specified purposes, 1.4.2003 in so far as not already in force) by 2000 c. 14, **ss. 104(2)(b)**, 122; S.I. 2002/629, **art. 2(2)(b)(iii)(3)(b)**; S.I. 2003/933, art. 2(2)(i); S.I. 2003/501, art. 2(2)(c)
- F299** Words in s. 113(3E) inserted (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(c)(i)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F300** S. 113(3E)(a) inserted (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(c)(ii)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F301** S. 113(3E)(a)(i)(ii)(iv): s. 113(3E)(a)(b)(c) renumbered as s. 113(3E)(a)(i)(ii)(iv) (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(c)(iii)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F302** Word in s. 113(3E)(a)(ii) repealed (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(c)(iv)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F303** S. 113(3E)(a)(iii) inserted (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(c)(v)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F304** Words in s. 113(3E)(c) substituted (E.) (20.1.2003) for the words "for child minding or providing day care under Part XA of the Children Act 1989" by [The Education Act 2002 \(Modification of Provisions\) \(No. 2\) \(England\) Regulations 2002 \(S.I. 2002/2953\)](#), **reg. 3**
- F305** S. 113(3E)(b) and word inserted (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(c)(vi)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F306** S. 113(3F) insertion by 2002 c. 32, Sch. 13 para. 7(3) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(c)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F307** S. 113(3F) inserted (1.10.2002 except in relation to W., 19.12.2002 otherwise) by [Education Act 2002 \(c. 32\)](#), s. 152, **Sch. 13 para. 7(3)** (with **ss. 210(8)**, 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. 1

#### Modifications etc. (not altering text)

- C22** S. 113(3A)(a): power to modify conferred (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(3)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- C23** S. 113(3E)(c) modified (W.) (19.12.2002) by [The Education Act 2002 \(Transitional Provisions\) \(Wales\) Regulations 2002 \(S.I. 2002/3184\)](#), **reg. 8**

#### Commencement Information

- I32** S. 113 partly in force; s. 113 not in force at Royal Assent, see s. 135(1); s. 113 in force for E.W. at 1.3.2002 and in force for S. at 25.4.2002 by S.I. 2002/413, **art. 2** and S.S.I. 2002/124, **art. 4**

#### Marginal Citations

- M47** 1999 c. 14.  
**M48** S.I. 1995/755 (N.I. 2).  
**M49** 1974 c. 53.

## 114 Criminal record certificates: Crown employment.

- (1) The Secretary of State shall issue a criminal record certificate to any individual who—

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- (a) makes an application under this section in the prescribed [<sup>F308</sup>manner and] form, and
  - (b) [<sup>F309</sup>pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for an appointment by or under the Crown.
- (3) Section 113(3) to (5) shall apply in relation to this section with any necessary modifications.

#### Textual Amendments

**F308** Words in s. 114(1)(a) inserted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), **2(3)(a)**

**F309** S. 114(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), **2(3)(b)**

#### Commencement Information

**I33** S. 114 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), art. 2  
 S. 114 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), art. 4

## 115 Enhanced criminal record certificates. **E+W+N.I.**

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
- (a) makes an application under this section in the prescribed [<sup>F310</sup>manner and] form countersigned by a registered person, and
  - (b) pays [<sup>F311</sup>in the prescribed manner] any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question asked [<sup>F312</sup>for such purposes as may be prescribed under this subsection].
- (3) A position is within this subsection if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.
- (4) A position is within this subsection if—
- (a) it is of a kind specified in regulations made by the Secretary of State, and
  - (b) it involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.
- (5) The matters referred to in subsection (2)(b) are—
- (a) a certificate for the purposes of sections 19 or 27(1) or (5) of the <sup>M50</sup>Gaming Act 1968 (gaming);
  - (b) a certificate of consent, or a licence, for any purpose of Schedule 2 to that Act (licences);
  - (c) registration or certification in accordance with Schedule 1A, 2 or 2A to the <sup>M51</sup>Lotteries and Amusements Act 1976 (societies, schemes and lottery managers);

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- (d) a licence under section 5 or 6 of the <sup>M52</sup>National Lottery etc. Act 1993 (running or promoting lotteries);
  - [<sup>F313</sup>(da) a personal licence under the Licensing Act 2003;]
  - (e) registration under section 71 of the <sup>M53</sup>Children Act 1989 [<sup>F314</sup> registration for child minding or providing day care under Part XA of that Act [<sup>F315</sup>, or the holding of a certificate under section 79W of that Act,] or registration under] Article 118 of the <sup>M54</sup>Children (Northern Ireland) Order 1995 (child minding and day care);
  - [<sup>F316</sup>(ea) registration under Part II of the Care Standards Act 2000 (establishments and agencies);
  - (eb) registration under Part IV of that Act (social care workers);]
  - (f) the placing of children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the <sup>M55</sup>Children (Northern Ireland) Order 1995 or the exercise of any duty under or by virtue of section 67 of that Act or Article 108 of that Order (welfare of privately fostered children);
  - (g) the approval of any person as a foster carer by virtue of section 5(2), (3) and (4) of the <sup>M56</sup>Social Work (Scotland) Act 1968, the exercise by a local authority of their functions under the <sup>M57</sup>Foster Children (Scotland) Act 1984 or the placing of children with foster parents by virtue of section 70 of the <sup>M58</sup>Children (Scotland) Act 1995 (disposal of referral by children’s hearing).
  - [<sup>F317</sup>(h) a decision made by an adoption agency within the meaning of [<sup>F318</sup>section 2 of the Adoption and Children Act 2002] as to a person’s suitability to adopt a child.]
- (6) An enhanced criminal record certificate is a certificate which—
- (a) gives—
    - (i) the prescribed details of every relevant matter relating to the applicant which is recorded in central records, and
    - (ii) any information provided in accordance with subsection (7), or
  - (b) states that there is no such matter or information.
- [<sup>F319</sup>(6A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant’s suitability for a position (whether paid or unpaid) falling within subsection (3B) of section 113, [<sup>F320</sup>or [<sup>F321</sup>the suitability of the applicant, or of a person living in the same household as the applicant, to be a foster parent or] to adopt a child.], the enhanced criminal record certificate shall also state—
- (a) whether the applicant is included [<sup>F322</sup> in—
    - (i) the list kept under section 1 of the <sup>M59</sup>Protection of Children Act 1999;
    - <sup>F323</sup>(ii) .....
    - <sup>F323</sup>(iii) .....
- [<sup>F324</sup>(b) if he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14), such details of his inclusion as may be prescribed;]
- [<sup>F325</sup>(c) whether he is subject to a direction under section 142 of the Education Act 2002; and
  - (d) if he is subject to a direction under that section, such details of the circumstances in which it was given as may be prescribed, including the grounds on which it was given.]]
- [<sup>F326</sup>(6B) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant’s

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suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) falling within subsection (3D) of section 113, the enhanced criminal record certificate shall also state—

- (a) whether the applicant is included in the list kept under section 81 of the Care Standards Act 2000; and
- (b) if he is included in that list, such details of his inclusion as may be prescribed.]

[<sup>F327</sup>(6BA) The references in subsections (6A) and (6B) to considering the applicant’s suitability to be employed, supplied to work, found work or given work in a position falling within section 113(3B) or (3D) include references to considering, for the purposes of Part 10A of the Children Act 1989 (child minding and day care in England and Wales) his suitability—

- (a) to look after or be in regular contact with children under the age of eight, or
- (b) in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, to look after children within the meaning of that section.]

[<sup>F328</sup>(6C) This subsection applies to an individual included or seeking inclusion in any list prepared for the purposes of Part 2 of the National Health Service Act 1977 (c. 49) of—

- (a) medical practitioners undertaking to provide general medical services,
- (b) persons undertaking to provide general dental services,
- (c) persons undertaking to provide general ophthalmic services, or
- (d) persons undertaking to provide pharmaceutical services.

(6D) This subsection applies to an individual who is—

- (a) a director of a body corporate included or seeking inclusion in a list referred to in subsection (6C)(b) or (c),
- (b) a member of a limited liability partnership included or seeking inclusion in a list referred to in subsection (6C)(c),
- (c) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership) included or seeking inclusion in a list referred to in subsection (6C)(d).

(6E) This subsection applies to an individual included or seeking inclusion in any list prepared by a [F17Primary Care Trust or] Health Authority under—

- (a) section 28DA of the National Health Service Act 1977 or section 8ZA of the National Health Service (Primary Care) Act 1997 (lists of persons who may perform personal medical services or personal dental services), or
- (b) section 43D of the 1977 Act (supplementary lists),

and to an individual included or seeking inclusion in any list corresponding to a list referred to in paragraph (a) prepared by a [<sup>F329</sup>Primary Care Trust or] Health Authority by virtue of regulations made under section 41 of the Health and Social Care Act 2001 (which provides for the application of enactments in relation to local pharmaceutical services).]

(7) Before issuing an enhanced criminal record certificate the Secretary of State shall request the chief officer of every relevant police force to provide any information which, in the chief officer’s opinion—

- (a) might be relevant for the purpose described in the statement under subsection (2), and
- (b) ought to be included in the certificate.

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- (8) The Secretary of State shall also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—
- (a) might be relevant for the purpose described in the statement under subsection (2),
  - (b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and
  - (c) can, without harming those interests, be disclosed to the registered person.
- (9) The Secretary of State shall send to the registered person who countersigned an application under this section—
- (a) a copy of the enhanced criminal record certificate, and
  - (b) any information provided in accordance with subsection (8).
- (10) In this section—
- “central records”, “exempted question” and “relevant matter” have the same meaning as in section 113; and
  - “relevant police force”, in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

#### Extent Information

- E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F310** Words in s. 115(1)(a) inserted (E.W.) (29.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 4\(2\)\(b\)](#); S.I. 2004/81, art. 4(1)(2)(o)(i)
- F311** Words in s. 115(1)(b) inserted (E.W.) (29.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 4\(2\)\(c\)](#); S.I. 2004/81, art. 4(1)(2)(o)(i)
- F312** Words in s. 115(2) substituted (E.W.) for s. 115(2)(a)-(c) (29.1.2004 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 4\(3\)](#); S.I. 2004/81, art. 4(1)(2)(o)(ii)
- F313** S. 115(5)(da) inserted (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), [Sch. 6 para. 116](#) (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)
- F314** Words in s. 115(5)(e) substituted (2.7.2001 for E., 1.4.2002 for W.) by [2000 c. 14](#), ss. 116, 122, [Sch. 4 para. 25\(2\)\(a\)](#); S.I. 2001/2041, [art. 2\(2\)\(d\)\(i\)](#) (with transitional provisions and savings in [art. 3](#), [Sch.](#)); S.I. 2002/920, arts. 1(4), 3(3) (subject to [art. 3\(4\)-\(10\)](#)) and to transitional provisions in [Schs. 1-3](#))
- F315** Words in s. 115(5)(e) inserted (E.W.) (1.10.2002 except in relation to W., 19.12.2002 otherwise) by [Education Act 2002 \(c. 32\)](#), s. 152, [Sch. 13 para. 8\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2002/3185, art. 4, [Sch. Pt. 1](#)
- F316** S. 115(5)(ea)(eb) inserted (E.W.) (1.4.2002 for specified purposes for E.W., 1.4.2003 in so far as not already in force for E.W.) by [2000 c. 14](#), ss. [104\(3\)\(a\)\(i\)](#), 122; S.I. 2002/629, [art. 2\(3\)\(c\)](#); S.I. 2003/501, [art. 2\(2\)\(c\)](#); S.I. 2003/933, [art. 2\(2\)\(i\)](#)
- F317** S. 115(5)(h) inserted (18.3.2002 for E.W.) by [2000 c. 14](#), ss. 104(3)(a)(ii), 122; S.I. 2002/629, [art. 2\(2\)\(b\)\(iv\)](#)
- F318** Words in s. 115(5)(h) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 3 para. 93](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F319** S. 115(6A) inserted (E.W.N.I.) (12.3.2002 for E.W.) by [1999 c. 14](#), ss. 8(2), 14(2); S.I. 2002/1436, [art. 2](#)
- F320** Words in s. 115(6A) inserted (18.3.2002 for E.W.) by [2000 c. 14](#), ss. 104(3)(b), 122; S.I. 2002/629, [art. 2\(2\)\(b\)\(v\)](#)

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- F321** Words in s. 115(6A) substituted (1.6.2003 for E.W.) by Adoption and Children Act 2002 (c. 38), **ss. 135(3), 148(1)** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(5)(b)
- F322** S. 115(6A)(a)(i)-(iii)(b) and word substituted (18.3.2002 for E.W.) for s. 115(6A)(b) and words by 2000 c. 14, ss. 102(2), 122; S.I. 2002/629, **art. 2(2)(a)**
- F323** S. 115(6A)(a)(ii)(iii) repealed (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 73(a), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F324** S. 115(6A)(b) substituted (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 73(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F325** S. 115(6A)(c)(d) inserted (31.3.2003 for W., 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 73(c)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3
- F326** S. 115(6B) inserted (26.7.2004) by Care Standards Act 2000 (c. 14), **ss. 90(2), 122**; S.I. 2004/1757, art. 2(b)
- F327** S. 115(6BA) inserted (E.W.) (1.10.2002 except in relation to W., 19.12.2002 otherwise) by virtue of Education Act 2002 (c. 32), s. 152, **Sch. 13 para. 8(3)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**
- F328** S. 115(6C)-(6E) inserted (E.W.) (1.4.2002 for E., 1.7.2002 for W.) by 2001 c. 15, **s. 19(3)** (with ss. 64(9), 65(4)); S.I. 2002/1095, art. 2(3), **Sch.** (with art. 3); S.I. 2002/1475, art. 2(1), **Sch. Pt. 1**
- F329** Words in s. 115(6E) inserted (E.W.) (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 2(5), **Sch. 2 Pt. 2 para. 64**; S.I. 2002/2478, **art. 3(1)(d)**

#### Modifications etc. (not altering text)

- C24** S. 115 modified (temp.) (E.) (1.4.2004) by The General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/865), arts. 1(1), **116** (with art. 1(3))

#### Commencement Information

- I34** S. 115 partly in force; s. 115 not in force at Royal Assent, see s. 135(1); s. 115 in force for E.W. at 1.3.2002 by S.I. 2002/413, **art. 2**; s. 115(4) in force for S. at 11.3.2002 by S.S.I. 2002/124, **art. 3** and s. 115 otherwise in force for S. at 25.4.2002 by S.S.I. 2002/124, **art. 4**

#### Marginal Citations

- M50** 1968 c. 65.  
**M51** 1976 c. 32.  
**M52** 1993 c. 39.  
**M53** 1989 c. 41.  
**M54** S.I. 1995/755 (N.I. 2).  
**M55** S.I. 1995/755 (N.I. 2).  
**M56** 1968 c. 49.  
**M57** 1984 c. 56.  
**M58** 1995 c. 36.  
**M59** 1999 c. 14.

## 115 Enhanced criminal record certificates. **S**

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
- (a) makes an application under this section in the prescribed form countersigned by a registered person, and
  - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.

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**Status:** Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Police Act 1997 is up to date with all changes known to be in force on or before 19 July 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)

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- (2) An application under this section must be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question asked—
- (a) in the course of considering the applicant’s suitability for a position (whether paid or unpaid) within subsection (3) or (4),<sup>F363</sup> ...
  - (b) for a purpose relating to any of the matters listed in subsection (5) [<sup>F364</sup> or
  - (c) in relation to an individual to whom any of subsections (6C) to (6G) applies.]
- (3) A position is within this subsection if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.
- (4) A position is within this subsection if—
- (a) it is of a kind specified in regulations made by the Secretary of State, and
  - (b) it involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.
- (5) The matters referred to in subsection (2)(b) are—
- (a) a certificate for the purposes of sections 19 or 27(1) or (5) of the<sup>M50</sup>Gaming Act 1968 (gaming);
  - (b) a certificate of consent, or a licence, for any purpose of Schedule 2 to that Act (licences);
  - (c) registration or certification in accordance with Schedule 1A, 2 or 2A to the<sup>M51</sup>Lotteries and Amusements Act 1976 (societies, schemes and lottery managers);
  - (d) a licence under section 5 or 6 of the<sup>M52</sup>National Lottery etc. Act 1993 (running or promoting lotteries);
  - [<sup>F313</sup>(da) a personal licence under the Licensing Act 2003;]
  - (e)<sup>F365</sup> ... [<sup>F366</sup>registration for child minding or providing day care under Part XA of that Act or registration under] registration under Article 118 of the<sup>M54</sup>Children (Northern Ireland) Order 1995 (child minding and day care);
  - [<sup>F367</sup>(ea) registration under Part II of the Care Standards Act 2000 (establishments and agencies);
  - (eb) registration under Part IV of that Act (social care workers);]
  - [<sup>F368</sup>(ee) registration under the Regulation of Care (Scotland) Act 2001 (asp 8) of a care service (as defined in section 2(1) of that Act);
  - (ef) registration under Part 3 of that Act of a social worker or other social service worker (“social worker” and “social service worker” having the same meanings as in that Act).]
  - (f) the placing of children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the<sup>M55</sup>Children (Northern Ireland) Order 1995 or the exercise of any duty under or by virtue of section 67 of that Act or Article 108 of that Order (welfare of privately fostered children);
  - (g) the approval of any person as a foster carer by virtue of section 5(2), (3) and (4) of the<sup>M56</sup>Social Work (Scotland) Act 1968, the exercise by a local authority of their functions under the<sup>M57</sup>Foster Children (Scotland) Act 1984 or the placing of children with foster parents by virtue of section 70 of the<sup>M58</sup>Children (Scotland) Act 1995 (disposal of referral by children’s hearing).
  - [<sup>F369</sup>(h) a decision made by an adoption agency within the meaning of [<sup>F318</sup>section 2 of the Adoption and Children Act 2002] as to a person’s suitability to adopt a child.]

*Status: Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.*

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- [<sup>F370</sup>(i) an assessment, investigation or review by an adoption agency or local authority as to the suitability of a person, whether or not the person in respect of whom the certificate is sought, to adopt a child (this paragraph being construed in accordance with sections 1(3A) and (4) and 65(1) of the Adoption (Scotland) Act 1978 (c. 28) and as if it were one of the provisions of that Act listed in the definition of “adoption agency” in the said section 65(1))]
- (6) An enhanced criminal record certificate is a certificate which—
- (a) gives—
    - (i) the prescribed details of every relevant matter relating to the applicant which is recorded in central records, and
    - (ii) any information provided in accordance with subsection (7), or
  - (b) states that there is no such matter or information.
- [<sup>F371</sup>(6A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant’s [<sup>F372</sup>suitability to be employed, supplied to work, found work or given work in] a position (whether paid or unpaid) falling within subsection (3B) of section 113, [<sup>F373</sup>or his suitability to adopt a child,] the enhanced criminal record certificate shall also state—
- (a) whether the applicant is included [<sup>F374</sup>in—
    - (i) the list kept under section 1 of the <sup>M72</sup>Protection of Children Act 1999; [<sup>F375</sup>(ia) the list kept under section 1(1) of the Protection of Children (Scotland) Act 2003 (asp 5);]
    - <sup>F376</sup>(ii) .....
    - <sup>F376</sup>(iii) .....
  - [<sup>F377</sup>(b) if he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14), such details of his inclusion as may be prescribed;]
  - [<sup>F378</sup>(c) whether he is subject to a direction under section 142 of the Education Act 2002; and
  - (d) if he is subject to a direction under that section, such details of the circumstances in which it was given as may be prescribed, including the grounds on which it was given.]]
- [<sup>F326</sup>(6B) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant’s suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) falling within subsection (3D) of section 113, the enhanced criminal record certificate shall also state—
- (a) whether the applicant is included in the list kept under section 81 of the Care Standards Act 2000; and
  - (b) if he is included in that list, such details of his inclusion as may be prescribed.]
- [<sup>F379</sup>(6C) This subsection applies to an individual included or seeking inclusion in any list prepared for the purposes of Part II of the National Health Service (Scotland) Act 1978 (c. 29) of—
- <sup>F380</sup>(a) .....
  - (b) dental practitioners undertaking to provide general dental services;
  - (c) medical practitioners and ophthalmic opticians undertaking to provide general ophthalmic services; or
  - (d) persons undertaking to provide pharmaceutical services.



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- (6D) This subsection applies to an individual who is—
- (a) a director of a body corporate included or seeking inclusion in a list referred to in subsection (6C)(c) or (d); or
  - (b) a partner of a partnership included or seeking inclusion in a list so referred to.
- (6E) This subsection applies to an individual included or seeking inclusion in any list prepared by virtue [<sup>F381</sup>of section 17P of the National Health Service (Scotland) Act 1978 (persons performing primary medical services)] and to an individual included or seeking inclusion in such other list prepared for the purposes of Part I or Part II of that Act as may be prescribed.
- (6F) This subsection applies to an individual appointed or seeking appointment—
- (a) as one of Her Majesty’s inspectors (as defined by section 135(1) of the Education (Scotland) Act 1980 (c. 44)); or
  - (b) by the Scottish Ministers, for the purposes of section 66 of that Act of 1980 (inspection of educational establishments) or of section 9 of the Standards in Scotland’s Schools etc. Act 2000 (asp 6) (inspection of education authority).
- (6G) This subsection applies to an individual appointed or seeking appointment—
- (a) under section 39(2) of the Children (Scotland) Act 1995 (c. 36) (formation of children’s panel etc.) as a member of—
    - (i) a children’s panel;
    - (ii) the Children’s Panel Advisory Committee other than as chairman of that committee; or
    - (iii) a joint advisory committee other than as chairman of such a committee;
  - (b) by virtue of paragraph 7(b) of Schedule 1 to that Act of 1995 (appointment to sub-committee of Children’s Panel Advisory Committee of person who is not a member of that Committee);
  - (c) as the Principal Reporter or under section 128(4) of the Local Government etc. (Scotland) Act 1994 (c. 39) as an officer to assist that officer;
  - (d) as a prosecutor, as defined by section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46), or as an officer to assist a prosecutor or to assist in the work of the Crown Office; or
  - (e) in a panel established by virtue of section 101(1) of the Children (Scotland) Act 1995 (panels for curators ad litem, reporting officers and safeguarders).
- (6H) Subsection (2) applies in relation to an exempted question asked in relation to an individual appointed or seeking appointment as mentioned in subsection (6G)(a) as it applies in relation to such a question asked in relation to an individual mentioned in paragraph (c) of subsection (2) except that, for the purposes of this subsection, the reference in that subsection to the registered person shall be construed as a reference to the Scottish Ministers or to a person nominated by them.]
- (7) Before issuing an enhanced criminal record certificate the Secretary of State shall request the chief officer of every relevant police force to provide any information which, in the chief officer’s opinion—
- (a) might be relevant for the purpose described in the statement under subsection (2), and
  - (b) ought to be included in the certificate.

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- (8) The Secretary of State shall also request the chief officer of every relevant police force to provide any information which, in the chief officer’s opinion—
- (a) might be relevant for the purpose described in the statement under subsection (2),
  - (b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and
  - (c) can, without harming those interests, be disclosed to the registered person.
- (9) The Secretary of State shall send to the registered person who countersigned an application under this section—
- (a) a copy of the enhanced criminal record certificate, and
  - (b) any information provided in accordance with subsection (8).
- (10) In this section—
- “central records”, “exempted question” and “relevant matter” have the same meaning as in section 113; and
- “relevant police force”, in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

#### Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Textual Amendments

- F313** S. 115(5)(da) inserted (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), **Sch. 6 para. 116** (with [ss. 2\(3\)](#), [15\(2\)](#), [195](#)); S.I. 2005/3056, art. 2(2)
- F318** Words in s. 115(5)(h) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 93** (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F326** S. 115(6B) inserted (26.7.2004) by [Care Standards Act 2000 \(c. 14\)](#), **ss. 90(2)**, 122; S.I. 2004/1757, art. 2(b)
- F363** Word in s. 115(2)(a) omitted (S.) (27.6.2003) by virtue of [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(3)(a)(i)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F364** S. 115(2)(c) and word added (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(3)(a)(ii)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F365** Words in s. 115(5)(e) repealed (S.) (1.4.2002) by [2001 asp 8](#), s. 79, **Sch. 3 para. 21(a)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to [arts. 3-13](#))
- F366** S. 115(5)(e) substitution of words by [2000 c. 14](#), Sch. 4 para. 25(2)(a) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by [S.S.I. 2004/556](#), art. 2)
- F367** S. 115(5)(ea)(eb) insertion by [2000 c. 14](#), s. 104(3)(a)(i) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by [S.S.I. 2004/556](#), art. 2)
- F368** S. 115(5)(ee)(ef) inserted (S.) (1.4.2002) by [2001 asp 8](#), s. 79, **Sch. 3 para. 21(b)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to [arts. 3-13](#))
- F369** S. 115(5)(h) insertion by [2000 c. 14](#), s. 104(3)(a)(ii) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by [S.S.I. 2004/556](#), art. 2)
- F370** S. 115(5)(i) added (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(3)(b)**, 89(2); S.S.I. 2003/288, art. 2, sch.

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- F371** S. 115(6A) insertion by 1999 c. 14, s. 8 extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(a)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F372** S. 115(6A) substitution of words by 2000 c. 14, Sch. 4 para. 25(2)(b) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F373** S. 115(6A) insertion of words by 2000 c. 14, s. 104(3)(b) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F374** S. 115(6A) substitution of s. 115(6A)(a)(i)-(iii)(b) and word for s. 115(6A)(b) and words by 2000 c. 14, s. 102(2) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(b)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F375** S. 115(6A)(a)(ia) inserted (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(2)(d)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F376** S. 115(6A)(a)(ii)(iii) repeal by 2002 c. 32, Sch. 21 para. 73(a) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(c)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F377** S. 115(6A)(b) substitution by 2002 c. 32, Sch. 21 para. 73(b) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(c)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F378** S. 115(6A)(c)(d) insertion by 2002 c. 32, Sch. 21 para. 73(c) extended to Scotland (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(1)(c)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)
- F379** S. 115(6C)-(6H) inserted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(3)(c)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F380** S. 115(6C)(a) omitted (S.) (1.4.2004) by virtue of [The Primary Medical Services \(Scotland\) Act 2004 \(Modification of Enactments\) Order 2004 \(S.S.I. 2004/167\)](#), art. 1, **sch. para. 4(a)**
- F381** Words in s. 115(6E) substituted (S.) (1.4.2004) by [The Primary Medical Services \(Scotland\) Act 2004 \(Modification of Enactments\) Order 2004 \(S.S.I. 2004/167\)](#), art. 1, **sch. para. 4(b)**

#### Modifications etc. (not altering text)

- C26** S. 115(6A)(a): power to modify conferred (S.) (10.1.2005) by [Protection of Children \(Scotland\) Act 2003 \(asp 5\)](#), **ss. 12(3)**, 22(2); S.S.I. 2004/522, art. 2(1) (as substituted by S.S.I. 2004/556, art. 2)

#### Commencement Information

- I34** S. 115 partly in force; s. 115 not in force at Royal Assent, see s. 135(1); s. 115 in force for E.W. at 1.3.2002 by [S.I. 2002/413](#), **art. 2**; s. 115(4) in force for S. at 11.3.2002 by [S.S.I. 2002/124](#), **art. 3** and s. 115 otherwise in force for S. at 25.4.2002 by [S.S.I. 2002/124](#), **art. 4**

#### Marginal Citations

- M50** 1968 c. 65.  
**M51** 1976 c. 32.  
**M52** 1993 c. 39.  
**M54** S.I. 1995/755 (N.I. 2).  
**M55** S.I. 1995/755 (N.I. 2).  
**M56** 1968 c. 49.  
**M57** 1984 c. 56.  
**M58** 1995 c. 36.  
**M72** 1999 c. 14.

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## 116 Enhanced criminal record certificates: judicial appointments and Crown employment.

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
  - (a) makes an application under this section in the prescribed [<sup>F330</sup>manner and] form, and
  - (b) [<sup>F331</sup>pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown, or a person nominated by a Minister of the Crown, that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for—
  - (a) a judicial appointment, or
  - (b) an appointment by or under the Crown to a position [<sup>F332</sup>to which subsection (3) or (4) of section 115 applies.][<sup>F332</sup>of such description as may be prescribed]
- (3) Section 115(6) to (10) shall apply in relation to this section with any necessary modifications.

### Textual Amendments

- F330** Words in s. 116(1)(a) inserted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), 2(4)(a)
- F331** S. 116(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), 2(4)(b)
- F332** Words in s. 116(2)(b) substituted (E.W.N.I.) (29.1.2004 for specified purposes for E.W., 6.4.2006 for E.W. in so far as not already in force, 1.4.2008 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 5](#); [S.I. 2004/81](#), art. 4(1)(2)(o)(ii); [S.I. 2006/751](#), art. 2(c)(i); [S.I. 2008/694](#), art. 2

### Commencement Information

- I35** S. 116 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)  
S. 116 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)

## 117 Disputes about accuracy of certificates.

- (1) Where an applicant for a certificate under any of sections 112 to 116 believes that the information contained in the certificate is inaccurate he may make an application in writing to the Secretary of State for a new certificate.
- (2) The Secretary of State shall consider any application under this section; and where he is of the opinion that the information in the certificate is inaccurate he shall issue a new certificate.

### Commencement Information

- I36** S. 117 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)  
S. 117 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)

*Status: Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.*

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## 118 Evidence of identity.

- (1) The Secretary of State may refuse to issue a certificate under this Part, or to consider an application under section 117 [<sup>F333</sup>or 120], unless the application is supported by such evidence of identity as he may require.
- (2) In particular, the Secretary of State may refuse to issue a certificate or consider an application unless the applicant—
  - (a) has his fingerprints taken at such place and in such manner as may be prescribed, and
  - (b) pays the prescribed fee to such person as may be prescribed.
- [<sup>F334</sup>(2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) the Secretary of State may obtain such information as he thinks is appropriate from data held—
  - (a) by the United Kingdom Passport Agency;
  - (b) by the Driver and Vehicle Licensing Agency;
  - (c) by Driver and Vehicle Licensing Northern Ireland;
  - (d) by the Secretary of State in connection with keeping records of national insurance numbers;
  - (e) by such other persons or for such purposes as is prescribed.]
- (3) Regulations dealing with the taking of fingerprints may make provision requiring their destruction in specified circumstances and by specified persons.
- (4) Regulations prescribing a fee for the purposes of subsection (2)(b) shall make provision for a refund in cases of an application under section 117 where a new certificate is issued.

### Textual Amendments

**F333** Words in s. 118(1) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 164\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2005/358](#), [art. 2\(c\)](#); [S.I. 2005/1521](#), [art. 3\(3\)\(a\)](#); [S.I. 2008/697](#), [art. 2\(b\)](#)

**F334** S. 118(2A) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 164\(3\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2005/358](#), [art. 2\(c\)](#); [S.I. 2005/1521](#), [art. 3\(3\)\(a\)](#); [S.I. 2008/697](#), [art. 2\(b\)](#)

### Commencement Information

**I37** S. 118 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)  
S. 118 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)

## 119 Sources of information.

- (1) Any person who holds records of convictions or cautions for the use of police forces generally shall make those records available to the Secretary of State [<sup>F335</sup>for the purposes of an application [<sup>F336</sup>(whether for a certificate or for registration)] under this Part.] [<sup>F335</sup>for the purpose of enabling him to carry out his functions under this Part in relation to—
  - (a) any application for a certificate or for registration; or
  - (b) the determination of whether a person should continue to be a registered person.]

*Status: Point in time view as at 07/02/2006. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 19 July 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)*

- [<sup>F337</sup>(1A) Any person who keeps a list mentioned in section 113(3A) or (3C) above shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to—
- (a) any application for a certificate or for registration; or
  - (b) the determination of whether a person should continue to be a registered person.]
- (2) Where the chief officer of a police force receives a request under section 115 or 116 he shall comply with it as soon as practicable.
- (3) The Secretary of State shall pay to the appropriate police authority, <sup>F338</sup>... [<sup>F339</sup>the prescribed fee][<sup>F339</sup>such fee as he thinks appropriate] for information provided in accordance with [<sup>F340</sup>subsection (2)][<sup>F340</sup>section 120A(4) or subsection (2) of this section].
- (4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to the Secretary of State [<sup>F335</sup>for the purposes of an application under this Part.][<sup>F335</sup>for the purpose of enabling him to carry out his functions under this Part in relation to—
- (a) any application for a certificate or for registration; or
  - (b) the determination of whether a person should continue to be a registered person.]
- (5) No proceedings shall lie against the Secretary of State by reason of an inaccuracy in the information made available or provided to him in accordance with this section.

#### Textual Amendments

- F335** Words in s. 119(1)(4) substituted (E.W.N.I.) (19.6.2001) by [2001 c. 16, s. 134\(2\)\(a\)](#); [S.I. 2001/2223, art. 2\(1\)\(c\)](#)
- F336** Words in s. 119(1) inserted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(4\), 89\(2\)](#); [S.S.I. 2003/288, art. 2, sch.](#)
- F337** S. 119(1A) inserted (E.W.N.I.) (19.6.2001) by [2001 c. 16, s. 134\(2\)\(b\)](#); [S.I. 2001/2223, art. 2\(1\)\(c\)](#)
- F338** Words in s. 119 repealed (3.7.2000) by [1999 c. 29, ss. 325, 423, Sch. 27 para. 112, Sch. 34 Pt. VII](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/1648, art. 2, Sch.](#)
- F339** Words in s. 119(3) substituted (1.7.2005 for E.W., 1.4.2006 for S., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 165\(1\)\(a\), 178\(4\)\(d\)\(8\)](#); [S.I. 2005/1521, art. 3\(3\)\(b\)](#); [S.S.I. 2006/166, art. 2\(1\)\(c\)](#); [S.I. 2008/697, art. 2\(c\)](#)
- F340** Words in s. 119(3) substituted (E.W.N.I.) (19.6.2001) by [2001 c. 16, s. 134\(2\)\(c\)](#); [S.I. 2001/2223, art. 2\(1\)\(c\)](#)

#### Commencement Information

- I38** S. 119 in force at 1.3.2002 for E.W. by [S.I. 2002/413, art. 2](#)  
S. 119 in force at 25.4.2002 for S. by [S.S.I. 2002/124, art. 4](#)

## 120 Registered persons. **E+W+N.I.**

- (1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.

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(2) Subject to <sup>F341</sup>section 120A and] regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him in writing to be registered and satisfies the conditions in subsections (4) to (6).

<sup>F342</sup>(3) . . . . .

(4) A person applying for registration under this section must be—

- (a) a body corporate or unincorporate,
- (b) a person appointed to an office by virtue of any enactment, or
- (c) an individual who employs others in the course of a business.

(5) A body applying for registration under this section must satisfy the Secretary of State that it—

- (a) is likely to ask exempted questions, or
- (b) is likely to countersign applications under section 113 or 115 at the request of bodies or individuals asking exempted questions.

(6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.

(7) In this section “exempted question” has the same meaning as in section 113.

**Textual Amendments**

**F341** Words in s. 120(2) inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(3); S.I. 2001/2223, art. 2(1)(c)

**F342** S. 120(3) repealed (29.1.2004 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 35 para. 6(3), Sch. 37 Pt. 11; S.I. 2004/81, art. 4(1)(2)(p); S.I. 2007/3340, art. 2(b)

**Modifications etc. (not altering text)**

**C25** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

**Commencement Information**

**I39** S. 120(3) in force for E.W. at 19.3.2001 and s. 120(1)(2)(4)-(7) in force for E.W. at 1.5.2001 by S.I. 2001/1097, art. 2

S. 120(3) in force for S. at 1.1.2002 and s. 120(1)(2)(4)-(7) in force for S. at 1.2.2002 by S.S.I. 2001/482, art. 2

**120 Registered persons. S**

(1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.

(2) Subject to regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him in writing to be registered and satisfies the conditions in subsections (4) to (6).

(3) The Secretary of State may make regulations about the maintenance of the register; and regulations may, in particular, provide for—

- (a) the information to be included in the register,

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- (b) the removal from the register of persons who are, in the opinion of the Secretary of State, no longer likely to wish to countersign applications under section 113 or 115, and
  - (c) the payment of fees.
- (4) A person applying for registration under this section must be—
- (a) a body corporate or unincorporate,
  - (b) a person appointed to an office by virtue of any enactment, or
  - (c) an individual who employs others in the course of a business.
- (5) A body applying for registration under this section must satisfy the Secretary of State that it—
- (a) is likely to ask exempted questions, or
  - (b) is likely to countersign applications under section 113 or 115 at the request of bodies or individuals asking exempted questions.
- (6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.
- (7) In this section “exempted question” has the same meaning as in section 113.

#### Extent Information

**E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Commencement Information

**I49** S. 120(3) in force at 19.3.2001 for E.W. and s. 120(1)(2)(4)-(7) in force at 1.5.2001 for E.W. by [S.I. 2001/1097, art. 2](#)  
S. 120(3) in force at 1.1.2002 for S. and s. 120(1)(2)(4)-(7) in force at 1.2.2002 for S. by [S.S.I. 2001/482, art. 2](#)

### <sup>F343</sup> 120ZA Regulations about registration

- (1) The Secretary of State may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
- (a) the payment of fees,
  - (b) the information to be included in the register,
  - (c) the registration of any person to be subject to conditions,
  - (d) the nomination by—
    - (i) a body corporate or unincorporate, or
    - (ii) a person appointed to an office by virtue of any enactment,
 of the individuals authorised to act for it or, as the case may be, him in relation to the countersigning of applications under this Part, and
  - (e) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised.
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—



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- (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Secretary of State thinks fit, and
  - (b) for the Secretary of State to vary or revoke those conditions.
- (4) The conditions imposed by virtue of subsection (2)(c) may in particular include conditions—
- (a) requiring a registered person, before he countersigns an application at an individual's request, to verify the identity of that individual in the prescribed manner,
  - (b) requiring an application under section 113 or 115 to be transmitted by electronic means to the Secretary of State by the registered person who countersigns it, and
  - (c) requiring a registered person to comply with any code of practice for the time being in force under section 122.]

#### Textual Amendments

**F343** S. 120ZA inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 7](#); S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)

#### [<sup>F344</sup>120A] Refusal and cancellation of registration

- (1) The Secretary of State may refuse to include a person in the register maintained for the purposes of this Part if it appears to him that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information.
- (2) The Secretary of State may remove a person from the register if it appears to the Secretary of State—
  - (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information; or
  - (b) that the registration of that person has resulted in information becoming known to such an individual.
- <sup>F345</sup>(3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to—
  - (a) any information relating to that person which concerns a relevant matter;
  - (b) whether that person is included in any list mentioned in section 113(3A) or (3C) [<sup>F346</sup>or (3EA)] [<sup>F347</sup>or (3EC)]; and
  - (c) any information provided to the Secretary of State under subsection (4).
- (4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by the Secretary of State to provide the Secretary of State with information which—
  - (a) is available to the chief officer;
  - (b) relates to—
    - (i) an applicant for registration;
    - (ii) a registered person; or

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(iii) an individual who is likely to have access to information in consequence of the countersigning of applications by a particular applicant for registration or by a particular registered person;

and

(c) concerns a matter which the Secretary of State has notified to the chief officer to be a matter which, in the opinion of the Secretary of State, is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of the countersigning of applications under this Part.

(5) In this section “relevant matter” has the same meaning as in section 113.]

#### Textual Amendments

**F344** S. 120A inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(1); S.I. 2001/2223, art. 2(1)(c)

**F345** S. 120A(3) applied (13.8.2001) by S.I. 2001/1194, reg. 3A(4) (as inserted by S.I. 2001/2498, reg. 2(3))

**F346** Words in s. 120A(3)(b) inserted (N.I.) (1.4.2005) by The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417), arts. 1(3), 17(6); S.R. 2005/104, art. 2

**F347** Words in s. 120A(3)(b) inserted (N.I.) (1.4.2005) by The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417), arts. 1(3), 47(5); S.R. 2005/104, art. 2

#### 121 Performance by constables on central service in Scotland of functions under this Part.

In Scotland a constable engaged on central service (within the meaning of section 38 of the <sup>M60</sup>Police (Scotland) Act 1967) may perform functions under this Part (other than functions under section 114(2), 115(4) or (10), 116(2), 122(1) or (2) or 125) on behalf of the Secretary of State; and without prejudice to the application of subsection (5) of section 119 in respect of any other person performing functions on behalf of the Secretary of State, that subsection shall apply in respect of any constable performing functions by virtue of this section as the subsection applies in respect of the Secretary of State.

#### Commencement Information

**I40** S. 121 in force at 1.3.2002 for E.W. by S.I. 2002/413, art. 2

S. 121 in force at 25.4.2002 for S. by S.S.I. 2002/124, art. 4

#### Marginal Citations

**M60** 1967 c. 77.

#### 122 Code of practice.

- (1) The Secretary of State shall publish, and may from time to time revise, a code of practice in connection with the use of information provided to [F348, or the discharge of any function by,] registered persons under this Part.
- (2) The Secretary of State shall lay before Parliament the code of practice under this section as soon as practicable after publication and after revision.

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- (3) The Secretary of State may refuse to issue a certificate under section 113 or 115 if he believes that the registered person who countersigned the application—
- (a) has failed to comply with the code of practice under this section, or
  - (b) countersigned at the request of a body which, or individual who, has failed to comply with the code of practice.

- [<sup>F349</sup>(4) Where the Scottish Ministers have reason to believe that—
- (a) a registered person; or
  - (b) a body or individual at whose request a registered person has countersigned or is likely to countersign an application under section 113 or 115,
- has failed to comply with the code of practice, they may remove the registered person from the register or impose conditions on him as respects his continuing to be listed in the register]

#### Textual Amendments

**F348** Words in s. 122(1) inserted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(7\)\(a\), 89\(2\)](#); [S.S.I. 2003/288, art. 2, sch.](#)

**F349** S. 122(4) added (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(7\)\(b\), 89\(2\)](#); [S.S.I. 2003/288, art. 2, sch.](#)

#### Commencement Information

**I41** S. 122(1)(2) in force at 19.3.2001 for E.W. by [S.I. 2001/1097, art. 2\(1\)](#); s. 122(3) in force at 1.3.2002 for E.W. by [S.I. 2002/413, art. 2](#)

S. 122(1)(2) in force at 1.1.2002 for S. by [S.S.I. 2001/482, art. 2\(1\)](#); s. 122(3) in force at 25.4.2002 for S. by [S.S.I. 2002/124, art. 4](#)

### [<sup>F350</sup>122A] Delegation of functions of Secretary of State

- (1) The Secretary of State may, to such extent and subject to such conditions as he thinks fit, delegate any relevant function of his under this Part to such person as he may determine.
- (2) A function is relevant for the purposes of subsection (1) if it does not consist of a power—
- (a) to make regulations, or
  - (b) to publish or revise a code of practice or to lay any such code before Parliament.
- (3) A delegation under subsection (1) may be varied or revoked at any time.]

#### Textual Amendments

**F350** S. 122A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 35 para. 10](#); [S.I. 2004/81, art. 4\(1\)\(2\)\(o\)\(i\)](#); [S.I. 2007/3340, art. 2\(b\)](#)

### 123 Offences: falsification, &c.

- (1) A person commits an offence if, with intent to deceive, he—
- (a) makes a false certificate under this Part,

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- (b) alters a certificate under this Part,
  - (c) uses a certificate under this Part which relates to another person in a way which suggests that it relates to himself, or
  - (d) allows a certificate under this Part which relates to him to be used by another person in a way which suggests that it relates to that other person.
- (2) A person commits an offence if he knowingly makes a false statement for the purpose of obtaining, or enabling another person to obtain, a certificate under this Part.
- (3) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

#### Commencement Information

- I42** S. 123 in force at 1.3.2002 for E.W. by [S.I. 2002/413, art. 2](#)  
 S. 123 in force at 25.4.2002 for S. by [S.S.I. 2002/124, art. 4](#)

#### 124 Offences: disclosure.

- (1) A member, officer or employee of a body registered under section 120 commits an offence if he discloses information provided following an application under section 113 or 115 unless he discloses it, in the course of his duties,—
- (a) to another member, officer or employee of the registered body,
  - (b) to a member, officer or employee of a body at the request of which the registered body countersigned the application, or
  - (c) to an individual at whose request the registered body countersigned the relevant application.
- (2) Where information is provided under section 113 or 115 following an application countersigned at the request of a body which is not registered under section 120, a member, officer or employee of the body commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another member, officer or employee of that body.
- (3) Where information is provided under section 113 or 115 following an application countersigned by or at the request of an individual—
- (a) the individual commits an offence if he discloses the information unless he discloses it to an employee of his for the purpose of the employee's duties, and
  - (b) an employee of the individual commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another employee of the individual.
- (4) Where information provided under section 113 or 115 is disclosed to a person and the disclosure—
- (a) is an offence under this section, or
  - (b) would be an offence under this section but for subsection (5) or (6)(a), (d), (e) or (f),
- the person to whom the information is disclosed commits an offence (subject to subsections (5) and (6)) if he discloses it to any other person.

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- (5) Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section 115(8) which is made with the written consent of the chief officer who provided the information.
- (6) Subsections (1) to (4) do not apply to a disclosure of information contained in a certificate under section 113 or 115 which is made—
  - (a) with the written consent of the applicant for the certificate, or
  - (b) to a government department, or
  - (c) to a person appointed to an office by virtue of any enactment, or
  - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
  - (e) for the purposes of answering an exempted question (within the meaning of section 113) of a kind specified in regulations made by the Secretary of State, or
  - (f) for some other purpose specified in regulations made by the Secretary of State.
- (7) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both.

#### Commencement Information

- I43** S. 124 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)  
S. 124 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)

#### <sup>F351</sup>124A Further offences: disclosure of information obtained in connection with delegated function

- (1) Any person who is engaged in the discharge of functions conferred by this Part on the Secretary of State commits an offence if he discloses information which has been obtained by him in connection with those functions and which relates to a particular person unless he discloses the information, in the course of his duties,—
  - (a) to another person engaged in the discharge of those functions,
  - (b) to the chief officer of a police force in connection with a request under this Part to provide information to the Secretary of State, or
  - (c) to an applicant or registered person who is entitled under this Part to the information disclosed to him.
- (2) Where information is disclosed to a person and the disclosure—
  - (a) is an offence under subsection (1), or
  - (b) would be an offence under subsection (1) but for subsection (3)(a), (d) or (e),the person to whom the information is disclosed commits an offence if he discloses it to any other person.
- (3) Subsection (1) does not apply to a disclosure of information which is made—
  - (a) with the written consent of the person to whom the information relates,
  - (b) to a government department,
  - (c) to a person appointed to an office by virtue of any enactment,
  - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or

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- (e) for some other purpose specified in regulations made by the Secretary of State.
- (4) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.]

#### Textual Amendments

**F351** S. 124A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 11](#); S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)

## 125 Regulations.

- (1) Anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.
- (2) Regulations under this Part shall be made by statutory instrument.
- (3) A statutory instrument which contains (whether alone or with other provisions) regulations made by virtue of section 115(4) shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (4) A statutory instrument to which subsection (3) does not apply shall be subject to annulment pursuant to a resolution of either House of Parliament.
- (5) Regulations under this Part may make different provision for different cases.

#### Commencement Information

**I44** S. 125 in force at 19.3.2001 for E.W. by [S.I. 2001/1097](#), [art. 2\(1\)](#)  
 S. 125 in force at 1.1.2002 for S. by [S.S.I. 2001/482](#), [art. 2\(1\)](#)

## 126 Interpretation of Part V.

- (1) In this Part—

“caution” means a caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, he has admitted;

“certificate” means any one or more documents issued in response to a particular application;

“chief officer” means—

- (i) a chief officer of police of a police force in England and Wales,
- (ii) a chief constable of a police force in Scotland, and
- (iii) the Chief Constable of the <sup>F352</sup>Police Service of Northern Ireland];

“government department” includes a Northern Ireland department;

“Minister of the Crown” includes a Northern Ireland department;

“police authority” means—

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- (i) a police authority for an area in Great Britain or a joint police board (within the meaning of the <sup>M61</sup>Police (Scotland) Act 1967), and
  - (ii) the [<sup>F353</sup>Northern Ireland Policing Board];  
“police force” means—
    - (i) a police force in Great Britain, and
    - (ii) the [<sup>F352</sup>Police Service of Northern Ireland] and the [<sup>F352</sup>Police Service of Northern Ireland Reserve];“prescribed” shall be construed in accordance with section 125(1).
- (2) In the application of this Part to Northern Ireland, a reference to the <sup>M62</sup>Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the <sup>M63</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.
- [<sup>F354</sup>(3) In the application of this Part to Scotland references to the Secretary of State must be construed as references to the Scottish Ministers.
- (4) Subsection (3) does not apply to section 118(2A)(d) or 124A(1) and (2).]

#### Textual Amendments

- F352** Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(a)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F353** Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**
- F354** S. 126(3)(4) inserted (1.7.2005 for S., 1.7.2005 for E.W., 3.12.2007 for N.I.) by **Serious Organised Crime and Police Act 2005 (c. 15), ss. 166(2), 178(4)(d)(8)**; S.S.I. 2005/358, art. 2(d); S.I. 2005/1521, art. 3(3)(c); S.I. 2007/3341, art. 2(c)

#### Commencement Information

- I45** S. 126 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 126 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

#### Marginal Citations

- M61** 1967 c. 77.  
**M62** 1974 c. 53.  
**M63** S.I. 1978/1908 (N.I. 27).

## 127 Saving: disclosure of information and records.

Nothing in sections 112 to 119 shall be taken to prejudice any power which exists apart from this Act to disclose information or to make records available.

#### Commencement Information

- I46** S. 127 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 127 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

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## PART VI

### MISCELLANEOUS

#### *Amendments of Police Act 1996*

#### **128 Regulations for special constables and police cadets.**

- (1) In section 51 of the <sup>M64</sup>Police Act 1996 (regulations for special constables), after subsection (3) there shall be inserted—

“(3A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons, or
- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.”.

- (2) In section 52 of that Act (regulations for police cadets) after subsection (1) there shall be inserted—

“(1A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons, or
- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.”.

#### **Marginal Citations**

**M64** 1996 c. 16.

#### **129 Change of name or description of certain police areas.**

In Schedule 1 to the Police Act 1996 (police areas for England and Wales except London)—

- (a) in the entry in the first column for “Humberside” there shall be substituted “Humber”;
- (b) in the entry in the second column opposite the name of the Dyfed Powys police area for “Cardiganshire” there shall be substituted “Ceredigion”;
- (c) for the entry in that column opposite the name of the North Wales police area there shall be substituted—

“The counties of the Isle of Anglesey, Gwynedd, Denbighshire and Flintshire and the county boroughs of Conwy and Wrexham.”;



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- (d) in the entry in that column opposite the name of the South Wales police area for “Neath and Port Talbot” there shall be substituted “ Neath Port Talbot ”.

**Commencement Information**

**I47** S. 129 partly in force; S. 129 not in force at Royal Assent see s. 135; s.129(b)(c) and (d) in force (25.6.1997) by S.I. 1997/1377, **art. 2**

*Amendments of Police Act (Northern Ireland) 1970*

<sup>F355</sup>**130** .....

**Textual Amendments**

**F355** S. 130 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), **Sch. 6** (with Sch. 5 para. 1); S.R. 1999/176, **art. 3**

<sup>F356</sup>**131** .....

**Textual Amendments**

**F356** S. 131 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), **Sch. 6** (with Sch. 5 para. 1); S.R. 1999/176, **art. 3**

<sup>F357</sup>**132** .....

**Textual Amendments**

**F357** S. 132 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), **Sch. 6** (with Sch. 5 para. 1); S.R. 1999/176, **art. 3**

PROSPECTIVE

*Rehabilitation of Offenders*

**133 Rehabilitation of Offenders.**

The following provisions (which restrict the effect of the <sup>M65</sup>Rehabilitation of Offenders Act 1974 and the <sup>M66</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978) shall cease to have effect—

- (a) section 189 of, and Schedule 14 to, the <sup>M67</sup>Financial Services Act 1986;
- (b) section 95 of the <sup>M68</sup>Banking Act 1987;
- (c) section 39 of the <sup>M69</sup>Osteopaths Act 1993;

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- (d) section 19 of the <sup>M70</sup>National Lottery etc. Act 1993;
- (e) section 40 of the <sup>M71</sup>Chiropractors Act 1994.

#### Marginal Citations

- M65** 1974 c. 53.
- M66** S.I. 1978/1908 (N.I. 27).
- M67** 1986 c. 60.
- M68** 1987 c. 22.
- M69** 1993 c. 21.
- M70** 1993 c. 39.
- M71** 1994 c. 17.

## PART VII

### GENERAL

#### [<sup>F358</sup>133A Meaning of “prevention” and “detection”.

Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”) shall apply for the purposes of this Act as it applies for the purposes of the provisions of that Act not contained in Chapter I of Part I.]

#### Textual Amendments

- F358** S. 133A inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(13)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

#### 134 Amendments and repeals.

- (1) Schedule 9 (minor and consequential amendments) shall have effect.
- (2) The enactments mentioned in Schedule 10 are hereby repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

- I48** S. 134 partly in force; s. 134 not in force at Royal Assent, see s. 135(1); s. 134 in force for certain purposes at: 23.7.1997 by S.I. 1997/1377, art. 4(2)(o); 1.9.1997 by S.I. 1997/1930, art. 2(2)(w); 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); 1.4.1998 by S.I. 1998/354, art. 2; 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**

#### 135 Commencement.

- (1) The preceding provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) An order under this section may—

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- (a) appoint different days for different purposes or different areas, and
  - (b) make transitional provision and savings (including provision modifying this Act).
- (3) An order under this section may, in relation to Part I, II or IV make provision—
- (a) for the transfer and apportionment of property and for the transfer, apportionment and creation of rights and liabilities;
  - (b) for the transfer of members of police forces in Great Britain, members of the [F359Police Service of Northern Ireland] and other persons;
  - (c) for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order;
  - (d) as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (c).
- (4) Any day appointed by an order under this section for the coming into force of section 93, 94 or 95 of this Act shall not be earlier than the day on which a code of practice issued under section 101 comes into operation.
- (5) A statutory instrument containing provisions made by virtue of subsection (2)(b) or (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Subordinate Legislation Made

- P1** S. 135 power partly exercised: different dates appointed for specified provisions by S.I. 1997/1377  
S. 135 power partly exercised: 22.2.1999 appointed for specified provisions by S.I. 1999/151, **art. 2**  
S. 135 power partly exercised: different dates appointed for specified provisions by S.S.I. 2001/482, **art. 2**  
S. 135 power partly exercised: 1.3.2002 appointed for specified provisions by {S.I. 2002/413}, art. 2
- P2** S. 135(1)(2)(a) power partly exercised: different dates appointed for specified provisions by {S.S.I. 2002/124}, arts. 3-5

#### Textual Amendments

- F359** Words in s. 135(3)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**

### 136 Police: co-operation on implementation.

It shall be the duty of police authorities for areas in Great Britain, and the [F360Northern Ireland Policing Board], and their staff to co-operate with each other, and generally to exercise their functions, so as to facilitate the implementation of Parts I and II of this Act and any transfer of property or staff made by an order under section 135.

#### Textual Amendments

- F360** Words in s. 136 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

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### 137 Extent.

- (1) Subject to subsections (2) to (4), this Act extends throughout the United Kingdom.
- (2) The following provisions of this Act extend to England and Wales only—
  - (a) Part II;
  - (b) Part III of Schedule 1;
  - (c) Parts I and IV of Schedule 1, and Schedule 2, so far as they relate to the Service Authority for the National Crime Squad;
  - <sup>F361</sup>(d) .....
  - (e) sections 128 and 129.
- <sup>F362</sup>(3) .....
- (4) The amendments in Schedules 6 and 9, and the repeals in Schedule 10, have the same extent as the enactments to which they refer.

#### Textual Amendments

**F361** S. 137(2)(d) repealed (1.8.2001) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2001/2223, **art. 3(j)(i)(ii)**

**F362** S. 137(3) repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), **Sch. 6** (with Sch. 5 para. 1); S.R. 1999/176, **art. 3**

### 138 Short title.

This Act may be cited as the Police Act 1997.

**Status:**

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**Changes to legislation:**

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