

CRIMINAL JUSTICE AND POLICE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 3: The Central Police Training and Development Authority

Part 5: Police Organisation

Police Authorities etc

305. This Act introduces changes to some of the provisions currently governing police authorities, the National Crime Squad (NCS) and the National Criminal Intelligence Service (NCIS). Most police authorities already appoint vice-chairmen, but this Act will make the appointment statutory. It removes the maximum age limit for membership of police authorities, independent member selection panels and NCS/NCIS, bringing them into line with the Metropolitan Police Authority. It clarifies the question of political balance on police authorities. The Act also enables police authorities, and the service authorities for NCS/NCIS, to devise their own schemes for payment of allowances, where previously they were bound by a centrally regulated scheme.

Constitution of the Service Authorities, Financial Provisions, and Directors General for NCIS and NCS

306. The National Crime Squad and the National Criminal Intelligence Service were established by the Police Act 1997. This part of the Act makes changes to the constitution of the Service Authorities that maintain the NCS and the NCIS, alters the financial arrangements for those Authorities and makes further provision relating to the Director General of NCS and NCIS.
307. The main source of funding for both Service Authorities is levies issued, under the Police Act 1997, to police authorities in England and Wales. (The NCIS Service Authority, as a UK-wide body, also receives separately negotiated contributions from Scotland and Northern Ireland.) The Act replaces the provision for levies with provision for annual grants, to be made to the Service Authorities by the Secretary of State.
308. Currently, the Audit Commission audits the accounts as is the case for police authorities. This Act changes the auditing arrangements to provide for the National Audit Office to take on this role.
309. As a result of the change in funding arrangements, this part of the Act also disapplies a wide range of local government enactments that apply to the NCS Service Authority. Provision equivalent to that made by these local government enactments applies to the NCIS Service Authority by virtue of orders under section 44 of the Police Act 1997. Section 44 is also being repealed by the Act and, accordingly, the orders under that section will cease to have effect.
310. With the abolition of levies on police authorities, provision is made to reduce the number of members of the Service Authorities who are appointed to those Authorities by virtue of their membership of police authorities. At the same time, the restriction

that police authority members must be local authority members is removed by the Act and a wider range of police authority members will now be eligible for appointment as service authority members. In addition, the membership of the NCIS Service Authority is being widened to encompass the Security Service and the core membership of the Service Authorities is being widened to encompass HMCE so that the NCS Service Authority will include HMCE.

311. At present, Directors General for NCIS and NCS are appointed (and removed) by the Service Authorities with the approval of the Secretary of State. The Act provides for their appointment (and removal) by the Secretary of State. This is because under the new funding arrangements the Permanent Secretary of the Home Office will become the Departmental Accounting Officer (DAO) for NCIS and the NCS, and the Director General of each service will be that service's Accounting Officer (AO). The DAO is responsible for providing funds to both services and for ensuring that the financial and management controls applied by the services conform with the propriety and good financial management requirements applied by the department. The DAO is also accountable to Parliament for those funds. The Accounting Officer (AO) for NCIS and NCS is responsible for the overall organisation, management and staffing of the services and for ensuring that there is a high standard of financial management as a whole. The AO is responsible to Parliament for the resources under his control. By providing for the Secretary of State to make the appointments, the Act enables him to ensure that each person appointed is competent to fulfil the role of Accounting Officer.

Police Ranks

312. Following a recommendation of the Sheehy inquiry ("The Inquiry into Police Responsibilities and Rewards" published in 1993 (ISBN: 0101228023)) the ranks of deputy chief constable (and the equivalent rank of deputy assistant commissioner in the Metropolitan Police) and chief superintendent were abolished with effect from 1 April 1995. The Home Secretary announced in an answer to a written Parliamentary question on 2 March 1999 that he would reintroduce them at the earliest legislative opportunity.
313. The abolition of the rank of deputy chief constable has given rise to concerns about the selection procedures for assistant chief constable (designate) and the arrangements for the direction and control of a police force. Under the present arrangements an assistant chief constable (designate), has responsibility for managing the police force in the absence of the chief constable. He or she is selected from among the serving assistant chief constables in the force by the chief constable. This procedure differs from other appointments to senior positions which are made by the police authority following the post being advertised and an open selection procedure. Selection by Chief Constable alone may provide an unintended obstacle to the career development of assistant chief constables. The rank of deputy assistant commissioner in the Metropolitan Police which is deemed equivalent to deputy chief constable is also re-introduced in the Act.
314. The arrangements for the direction and control of a force are being improved by providing that in the absence of both the chief constable and deputy chief constable the police authority would be able to temporarily designate one of the assistant chief constables to direct and control the force in their absence.
315. The abolition of the rank of chief superintendent has led to inconsistencies and confusion with many police forces still using the term chief superintendent. It is now considered that there are advantages in having two superintendent ranks in terms of both command structures and personal positions.

Pensions for members of NCIS and NCS

316. The Act regularises the pension position of senior staff of ACPO rank given fixed term appointments to the two service authorities for the National Crime Squad (NCS) and the National Criminal Intelligence Service (NCIS), set up in April 1998 by the Police Act 1997.

317. When the 1997 Act was being considered by Parliament it was decided that the two new organisations should not adopt the Police Pension Scheme (which covers police officers working for forces in England, Wales and Scotland) or the RUC scheme for their senior staff. This decision reflected the fact that NCIS in particular would be a United Kingdom wide police organisation. The intention was that NCIS and NCS would have parallel pension schemes open to all permanent police members, set up under administrative arrangements approved by the Inland Revenue. These would provide the same benefits available under the main police pension arrangements.
318. It subsequently became clear that the “by analogy” pension schemes that had been envisaged for NCS and NCIS permanent staff could not be approved. In order to ensure that senior officers accepting fixed term appointments with NCS and NCIS are not disadvantaged special arrangements were put in place. These are complicated to administer and suitable only as a temporary measure.
319. In the Act the Police Pensions Act 1976 is being amended to bring the senior officers within the NCS and the NCIS from UK forces fully within the existing Police Pension Scheme. These officers are of chief constable or assistant chief constable rank.
320. The pension position of other police officers working for the authorities is not affected. Those officers work on secondment from their home force and have always remained a part of the Police Pension Scheme or RUC pension scheme.

Pensions for ACPO staff

321. The secretariat of the Association of Chief Police Officers (ACPO) is funded mainly by a Home Office grant provided under section 57(1) of the Police Act 1996. Section 57(1) enables the Secretary of State to make contributions to the provision or maintenance of organisations that promote the efficiency or effectiveness of the police. Members of the secretariat – 17 staff in total - are civilian employees. Initially the posts were filled by members of the civil staff of the Metropolitan Police service on secondment. Those concerned were therefore members of the Metropolitan Civil Staff Superannuation Scheme (the MCSSS), a scheme by analogy to the Principal Civil Service Pension Scheme (PCSPS) established under section 15 of the Superannuation (Miscellaneous Provisions) Act 1967. That scheme was for members of the civil staff of the Metropolitan Police and for other staff for historical reasons paid by the Receiver for the metropolitan police.
322. For the last decade the members of the secretariat have been employees of ACPO rather than members of the civil staff of the Metropolitan Police service. It is therefore unsatisfactory for them to remain as members of the MCSSS. In the longer term it is, in any event, proposed to wind up the MCSSS in the light of the organisational changes made in the Greater London Authority Act 1999. As the terms of the MCSSS are the same as those for the PCSPS a switch to membership of the PCSPS will not result in any change to the pension entitlement of the staff concerned.
323. In the Act, provision is made for members of the ACPO secretariat who are members of the MCSSS (whether as current employees or as previous employees with an entitlement to a deferred MCSSS pension) to transfer to the PCSPS.

Section 104: Vice-chairmen

324. *Subsections (1) and (2)* amend Schedules 2 and 2A of the Police Act 1996, to allow for the appointment of police authority vice-chairmen. Police authorities and the Service Authorities for NCS and NCIS currently have a statutory chairman but not a statutory vice-chairman. In practice, most police authorities appoint a non-statutory vice-chairman and in some of the larger authorities (e.g. the Metropolitan Police Authority) more than one. This section gives police authority vice-chairmen official recognition on a statutory footing roughly in line with that relating to local authorities, as determined by section 5 of the Local Government Act 1972. Police authorities will

*These notes refer to the Criminal Justice and Police Act
2001 (c.16) which received Royal Assent on 11th May 2001*

not be required to appoint a vice-chairman, but will be given the discretion to appoint one or more as appropriate.

325. *Subsection (3)* amends Schedule 2 of the Police Act 1997, to allow for the appointment of a vice-chairman to the Service Authorities of both NCIS and NCS. The appointee must be a core member (for a definition of “core members” please see paragraph 335 of these notes) of the NCIS/NCS Service Authorities and the appointment must be made by the Secretary of State after consultation with Scottish Ministers. There will be no requirement to appoint a vice-chairman.
326. *Subsections (4) to (9)* make consequential amendments to existing legislation (the Police Act 1996, the Police Act 1997, the Local Government Act 1972) relating to the functions and duties of chairmen by adding references to “vice-chairmen”. This will allow a vice-chairman formally to deputise for the chairman and receive additional allowances in respect of extra work carried out.

Section 105: Political balance on police authorities

327. *Subsection (1)* amends Schedule 2 of the Police Act 1996, which requires the balance of the parties on the relevant council or councils to be reflected, so far as practicable, in appointments to the police authority. A High Court judgement has determined that ‘parties’ must be taken to refer to political parties, thereby excluding councillors who are not members of a political party from being taken into account in allocating places on the authority. This section will ensure that appointments reflect the composition of the entire membership of the council or councils concerned. It requires the council (or joint committee) to ensure (so far as practicable) that the proportion of members from any political party appointed to the police authority is the same as the proportion of those members on the council (or relevant councils taken as a whole). Any other places on the police authority must then be allocated to councillors who are not members of political parties. For example, if party A and party B each hold a third of the seats on the relevant council or councils taken as a whole, and the remaining third are held by councillors who are not members of a political party, party A and party B would each be allocated a third of the relevant places on the police authority. The remaining places must be allocated among the other councillors. Neither party A nor party B could be given extra places, as this would exceed their proportion.
328. *Subsection (2)* amends Schedule 2A of the 1996 Act, to apply the same provision to members of the London Assembly appointed to the Metropolitan Police Authority by the Mayor.

Section 106: Removal of age qualification for membership

329. This removes the maximum age limit of 70 for members of police authorities outside London, selection panels for independent member appointments, and the Service Authorities for NCS/NCIS. This section brings them into line with the Metropolitan Police Authority, which (as established under the Greater London Authority Act 1999), has no maximum age limit for members.

Section 107: Payment of allowances to authority members etc

330. *Subsection (1)* amends existing legislation (the Police Act 1996 and the Police Act 1997) to enable police authorities and the Service Authorities for NCS/NCIS to determine members allowances payments for themselves, where previously they were determined by the Secretary of State. The Secretary of State will retain the power to determine payment of expenses and to give guidance on allowances of which the authorities would be required to take account.
331. *Subsections (2) and (3)* relate to police authorities outside London and to the Metropolitan Police Authority respectively. By inserting additional provisions into Schedules 2 and 2A of the Police Act 1996, the sections provide certain rules which

all police authorities must follow when devising and implementing their allowances schemes. These rules provide that: any allowances scheme must be published annually, and each time it is revised; payments may differ depending on the role or type of member; authorities may pay expenses and allowances to non-police authority members of standards committees appointed under section 53(4)(b) of the Local Government Act 2000; authorities should have regard to any guidance which the Secretary of State may issue; and the Secretary of State maintains a reserve power to limit by regulations the allowances paid. The section relating to the Metropolitan Police Authority has an additional provision determining that members who are also salaried members of the Greater London Assembly shall not receive allowances payments under the scheme set up by the authority.

332. *Subsection (4)* amends the Police Act 1997 by introducing provision for the Service Authorities of NCIS and NCS to make varying payments by way of allowances to its chairman, vice-chairman and other members. Only police authority and independent members can receive these allowances which must fall within the limitations imposed by the Secretary of State by regulations. Also, such allowances can only be paid in accordance with arrangements published by the Service Authorities within the previous twelve months. Any revision of such arrangements can only be made with due regard to any guidance issued by the Secretary of State and can only come into effect by publication.

Section 108: Number and appointment of the members

333. *Subsections (1) and (2)* amend sections 1 and 47 of the Police Act 1997 respectively, reducing the membership of the Service Authority for NCIS from nineteen to eleven and the Service Authority for NCS from seventeen to eleven. The provision made by sections 1(2) and 47(2) of that Act enabling the Secretary of State, by order, to increase the membership of the Service Authorities is retained.
334. *Subsection (3)* introduces Schedule 5 which makes amendments to Schedule 1 to the Police Act 1997. Schedule 1 makes provision about the appointment of members of the Service Authorities.