

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

SCHEDULES

VALID FROM 22/11/2012

SCHEDULE 1

Section 1

POLICE AND CRIME COMMISSIONERS

.....

VALID FROM 22/11/2012

SCHEDULE 2

Section 2

CHIEF CONSTABLES

.....

VALID FROM 16/01/2012

SCHEDULE 3

Section 3

MAYOR'S OFFICE FOR POLICING AND CRIME

Allowances

- 1
- (1) The occupant of the Mayor's Office for Policing and Crime is to be paid authorised allowances.
 - (2) In this paragraph “authorised allowances” means allowances, in respect of expenses incurred by the occupant of the Mayor's Office for Policing and Crime in the exercise of the functions of that Office, which are of the kinds and amounts designated by the Secretary of State as payable in accordance with this paragraph.
 - (3) A determination under this paragraph may make different provision for different cases.
 - (4) Payments under this paragraph are to be made by the Mayor's Office for Policing and Crime.

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Staff

- 2 (1) The Mayor's Office for Policing and Crime must appoint a person to be the head of that Office's staff (referred to in this Part as the chief executive of the Mayor's Office for Policing and Crime).
- (2) The Mayor's Office for Policing and Crime may appoint such other staff (in addition to the chief executive, and the chief finance officer appointed under section 127(2) of the Greater London Authority Act 1999) as the Office thinks appropriate to enable the Office to exercise its functions.
- (3) A reference in any enactment to the officers of a functional body of the Greater London Authority is, in the case of the Mayor's Office for Policing and Crime, to be read as a reference to the staff of that Office.
- 3 (1) The Mayor's Office for Policing and Crime must appoint a person to act as chief executive, if and for as long as—
- (a) that post is vacant, or
 - (b) the holder of that post is, in the opinion of the Mayor's Office for Policing and Crime, unable to carry out the duties of that post.
- (2) A reference in any enactment to the chief executive of the Mayor's Office for Policing and Crime includes a reference to a person acting as chief executive in accordance with sub-paragraph (1).

The Deputy Mayor for Policing and Crime

- 4 (1) This paragraph applies to the person appointed under section 19 to be the Deputy Mayor for Policing and Crime.
- (2) None of the following may be appointed as the Deputy Mayor for Policing and Crime—
- (a) a person who has not attained the age of 18 on the day of appointment;
 - (b) a person who is subject to a relevant disqualification;
 - (c) a Member of the House of Commons;
 - (d) a member of the European Parliament;
 - (e) a member of the National Assembly for Wales;
 - (f) a member of the Scottish Parliament;
 - (g) a member of the Northern Ireland Assembly.
- (3) The terms and conditions of a person who is appointed as the Deputy Mayor for Policing and Crime must provide for the appointment to end not later than the day when the current term of office of the occupant of the Mayor's Office for Policing and Crime ends.
- (4) If, and for as long as, the person who is Deputy Mayor for Policing and Crime is a member of the London Assembly, the Deputy Mayor for Policing and Crime is not to be regarded as a member of staff of the Mayor's Office of Policing and Crime.
- (5) But sub-paragraph (4) does not prevent the person who is the Deputy Mayor for Policing and Crime from receiving allowances and gratuities under paragraph 6.
- (6) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the Deputy Mayor for Policing and Crime.

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(7) In this paragraph “current term of office”, in relation to the appointment of a member of staff by the occupant of the Mayor's Office for Policing and Crime, means the occupant's term of office which is running at the time the appointment is made.

(8) For the purposes of this paragraph, a person is subject to a relevant disqualification if the person is disqualified from being elected as, or being, a police and crime commissioner under—

- (a) section 65(1) (police officers, police-related employment etc), other than paragraph (e)(ii); or
- (b) section 66(1), (3)(a)(iii) or (iv), (3)(c) or (3)(d) (citizenship, bankruptcy, criminal convictions & corrupt or illegal election practices).

Notification of appointments

5 (1) This paragraph applies to every appointment of a member of staff of the Mayor's Office for Policing and Crime.

- (2) The Mayor's Office for Policing and Crime must notify the London Assembly of—
- (a) the name of the person appointed;
 - (b) the post to which the person has been appointed; and
 - (c) the terms and conditions on which the person has been appointed.

(3) In this paragraph, a reference to appointment of a person as a member of staff of the Mayor's Office for Policing and Crime includes a reference to a person who is already a member of staff of the Office being appointed to a different post within the staff of the Office.

Remuneration etc of staff

6 (1) The Mayor's Office for Policing and Crime may pay remuneration, allowances and gratuities to the members of the staff of the Office.

- (2) The Mayor's Office for Policing and Crime may pay—
- (a) pensions to, or in respect of, persons who have been members of the staff of the Office, and
 - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the staff of the Office.

(3) In this paragraph “allowances”, in relation to a member of the staff of the Mayor's Office for Policing and Crime, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.

Incidental powers

7 (1) The Mayor's Office for Policing and Crime may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the Office.

- (2) That includes—
- (a) entering into contracts and other agreements (whether legally binding or not);
 - (b) acquiring and disposing of property (including land);

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(c) borrowing money.

(3) This paragraph is subject to the other provisions of this Act and to any other enactment about the powers of the Mayor's Office for Policing and Crime.

Protection from personal liability

8 (1) A person who is the occupant of the Mayor's Office for Policing and Crime has no personal liability for an act or omission done by the person in the exercise of the functions of the office unless it is shown to have been done otherwise than in good faith.

(2) A person who is a member of staff of the Mayor's Office for Policing and Crime has no personal liability for an act or omission done by the person in the carrying out of duties as a member of staff unless it is shown to have been done otherwise than in good faith.

Financial year

9 (1) The first financial year of the Mayor's Office for Policing and Crime is the period that—

- (a) begins with the day on which section 3 comes into force, and
- (b) ends with the relevant 31 March.

(2) After that, the financial year of the Mayor's Office for Policing and Crime is the period of 12 months ending with 31 March.

(3) In this paragraph “relevant 31 March”, in relation to the first financial year of the Mayor's Office for Policing and Crime, means—

- (a) if that financial year begins on or before 1 October, the first 31 March that falls after the beginning of the financial year;
- (b) if that financial year begins after 1 October, the second 31 March that falls after the beginning of the financial year.

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SCHEDULE 4

Section 4

COMMISSIONER OF POLICE OF THE METROPOLIS

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SCHEDULE 5

Section 26

ISSUING PRECEPTS

.....

VALID FROM 25/04/2012

SCHEDULE 6

Section 28

POLICE AND CRIME PANELS

.....

SCHEDULE 7

Section 31

REGULATIONS ABOUT COMPLAINTS AND CONDUCT MATTERS

Introduction

1 (1) In this Schedule—

“conduct matter” has the same meaning as in section 31;

“police force” means a police force maintained for a police area in England or Wales or any other police force which exercises functions in England or Wales;

“qualifying complaint” has the same meaning as in section 31;

“regulations” means regulations under section 31.

(2) The provisions of this Schedule that confer power to make particular kinds of regulations do not affect the generality of the power conferred by section 31.

Commencement Information

II Sch. 7 para. 1 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

Investigation of serious complaints

2 (1) This paragraph applies to—

(a) serious complaints, and

(b) conduct matters,

which relate to any relevant office holder.

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- (2) Regulations must provide for serious complaints and conduct matters to be investigated—
- (a) by the Independent Police Complaints Commission, or
 - (b) by a police force, in an investigation that is under the management of the Independent Police Complaints Commission.
- (3) This paragraph does not prevent regulations from making provision about the receipt or initial handling of serious complaints or conduct matters otherwise than by the Independent Police Complaints Commission or a police force.
- (4) This paragraph does not prevent regulations from making provision about—
- (a) circumstances in which serious complaints or conduct matters are not to be investigated; and
 - (b) circumstances in which investigations of serious complaints or conduct matters are to be discontinued;
- including provision about the determination of such matters (whether by the Independent Police Complaints Commission, a police force or otherwise).
- (5) Regulations may make provision about what is to be taken to be a criminal offence for the purposes of sub-paragraph (6).
- (6) In this paragraph “serious complaint” means a qualifying complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.

Commencement Information

I2 Sch. 7 para. 2 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

Resolution of other complaints

- 3 (1) This paragraph applies in relation to qualifying complaints which—
- (a) relate to a holder of the office of—
 - (i) police and crime commissioner,
 - (ii) deputy police and crime commissioner, or
 - (iii) Deputy Mayor for Policing and Crime (unless the holder of that office is a member of the London Assembly), and
 - (b) are not, or cease to be, investigated by the Independent Police Complaints Commission or a police force.
- (2) Regulations—
- (a) may not provide for the investigation of such complaints; but
 - (b) must provide for police and crime panels to engage in informal resolution of such complaints.
- (3) This paragraph does not prevent regulations from making provision about the receipt or initial handling of qualifying complaints otherwise than by police and crime panels.
- (4) This paragraph does not prevent regulations from making provision about—

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- (a) circumstances in which police and crime panels are not required to engage in informal resolution of such complaints; and
- (b) circumstances in which informal resolution of such complaints is to be discontinued;

including provision about the determination of such matters (whether by police and crime panels or otherwise).

(5) In this Schedule—

- (a) references to engaging in informal resolution of a complaint are references to encouraging, facilitating, or otherwise assisting in, the resolution of the complaint otherwise than by legal proceedings; and
- (b) references to informal resolution of a complaint are to be construed accordingly.

Commencement Information

I3 Sch. 7 para. 3 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

- 4 (1) This paragraph applies in relation to qualifying complaints which—
- (a) relate to a holder of the office of—
 - (i) the Mayor's Office for Policing and Crime, or
 - (ii) Deputy Mayor for Policing and Crime, if the holder of that office is a member of the London Assembly, and
 - (b) are not, or cease to be, investigated by the Independent Police Complaints Commission or a police force.
- (2) Regulations must secure that such complaints are dealt with in accordance with Part 3 of the Local Government Act 2000.

Commencement Information

I4 Sch. 7 para. 4 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

Conferral of functions

- 5 (1) Regulations may confer functions on—
- (a) the Independent Police Complaints Commission,
 - (b) a police force,
 - (c) police and crime panels,
 - (d) the Secretary of State, or
 - (e) any other person.
- (2) That includes functions involving the exercise of a discretion.

Commencement Information

I5 Sch. 7 para. 5 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

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No power to terminate holding of office or employment

- 6 (1) Regulations may not provide for a relevant office holder—
- (a) to cease to hold office, or
 - (b) to be required to cease to hold office.
- (2) But that does not apply to regulations under, or for the purposes of, paragraph 4.

Commencement Information

I6 Sch. 7 para. 6 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

Application and amendment of other enactments

- 7 (1) Regulations may apply (with or without modifications), or amend or otherwise modify, Part 2 of the Police Reform Act 2002.
- (2) Regulations may apply (with or without modifications) such other enactments, or make such amendments or other modifications of other enactments, as appear to the Secretary of State to be necessary or expedient—
- (a) in connection with, or in consequence of, regulations, or
 - (b) for the purposes of paragraph 4.

Commencement Information

I7 Sch. 7 para. 7 in force at 31.10.2011 by [S.I. 2011/2515](#), [art. 2\(d\)](#)

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SCHEDULE 8

Section 38

APPOINTMENT, SUSPENSION AND REMOVAL OF SENIOR POLICE OFFICERS

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SCHEDULE 9

Section 57

SUPPLEMENTARY VOTE SYSTEM

.....

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SCHEDULE 10

Section 74

ELECTIONS OF POLICE AND CRIME COMMISSIONERS: CONSEQUENTIAL AMENDMENTS

.....

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SCHEDULE 11

Section 88

CRIME AND DISORDER STRATEGIES

.....

VALID FROM 16/01/2012

SCHEDULE 12

Section 89

COLLABORATION AGREEMENTS

1 The Police Act 1996 is amended as follows.

2 (1) Section 23 (police force collaboration agreements) is amended in accordance with this paragraph.

(2) In the title, for “**Police force collaboration agreements**” substitute “**Collaboration agreements involving police forces**”.

(3) Omit subsection (1).

(4) In subsection (2), for the words before paragraph (a) substitute—

“(2) Force collaboration provision may, in particular, consist of provision—”.

(5) Omit subsection (3).

(6) In subsection (4), for “An agreement” substitute “A collaboration agreement”.

(7) In subsection (5), for “an agreement” substitute “a collaboration agreement”.

(8) Omit subsections (6), (7) and (8).

3 (1) Section 23A (police authority collaboration agreements) is amended in accordance with this paragraph.

(2) For the title substitute “**Collaboration agreements involving policing bodies**”.

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- (3) Omit subsection (1).
- (4) In subsection (2)—
- (a) for the words before paragraph (a) substitute—
- “(2) Policing body collaboration provision, or policing body & force collaboration provision, may, in particular, consist of provision—”;
- (b) in paragraphs (a) and (b), for “authorities” substitute “policing bodies”;
- (c) in paragraph (c)—
- (i) for “an authority” substitute “a policing body”;
- (ii) for “another authority” (in each place) substitute “another policing body”.
- (5) In subsection (3), for “In this section” substitute “In relation to policing body collaboration provision, or policing body & force collaboration provision, ”.
- (6) Omit subsection (4).
- (7) In subsection (5)—
- (a) for “A police authority may make an agreement” substitute “A policing body may make a collaboration agreement”;
- (b) for “police authorities” substitute “policing bodies”.
- (8) For subsection (6), substitute—
- “(6) A policing body must consult the chief officer of police of the police force which the body is responsible for maintaining before making a collaboration agreement (unless that chief officer is a party to the agreement).”.
- (9) Omit subsection (7).
- 4 (1) Section 23B (collaboration agreements: payments) is amended in accordance with this paragraph.
- (2) In subsection (1), for “relevant police authorities” substitute “parties to the agreement”.
- (3) In subsection (2)—
- (a) after “may” insert “in the case of policing bodies or chief officers of police who are parties to the agreement”;
- (b) in paragraph (a), for “authorities” (in each place) substitute “policing bodies or chief officers of police”.
- (4) In subsection (3), for “A relevant police authority” substitute “A policing body or chief officer of police”.
- (5) Omit subsections (4) and (5).
- 5 (1) Section 23C (collaboration agreements: consultation and supplemental) is amended in accordance with this paragraph.
- (2) Omit subsection (1).
- (3) After subsection (5) insert—

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- “(6) If circumstances are such that one or more of the parties to a collaboration agreement would not, at a particular time, have power to enter into a collaboration agreement of that description (whether because of a failure to meet the requirements of section 22A(1) or (5) or otherwise) each person who does not have that power must cease to be a party to the agreement.”.
- 6 (1) Section 23D (collaboration agreements: accountability) is amended as follows.
- (2) In subsection (1)—
- (a) for “police force collaboration agreement” substitute “ collaboration agreement ”;
- (b) for “police authority” substitute “ policing body ”.
- (3) In subsection (2), for “approving an agreement as mentioned in section 23(6), a police authority” substitute “ making a collaboration agreement to which a chief officer of police is to be a party, a policing body ”.
- (4) In subsection (3)—
- (a) for “police authority” (in each place) substitute “ policing body ”;
- (b) for “consider making” substitute “ make ”.
- (5) In subsection (4), for “police authority” substitute “ policing body ”.
- 7 In section 23E (collaboration agreements: publication), in subsection (2), for the words before “must” substitute “ In a case where information is notified to a chief officer of police under section 23D(2), that information ”.
- 8 In section 23F (collaboration agreements: guidance), for “police authorities” (in each place) substitute “ policing bodies ”.
- 9 In section 23G (collaboration agreements: directions), in subsections (1) and (2), for “police authorities” substitute “ policing bodies ”.
- 10 After section 23H insert—
- “23HA Decisions about efficiency or effectiveness**
- In reaching a conclusion about whether or not a collaboration agreement is, or would be, in the interests of efficiency or effectiveness of one or more police forces (the “police forces under consideration”), a person must, in particular, consider—
- (a) the existing collaboration agreements, and other arrangements for co-operation, to which the police forces under consideration are parties;
- (b) the desirability of police forces taking a consistent approach in making such agreements and other arrangements; and
- (c) the opportunities available to the police forces under consideration to make such agreements and other arrangements.”.
- 11 (1) Section 23I (collaboration agreements: definitions) is amended in accordance with this paragraph.
- (2) In subsection (1), for “23” substitute “ 22A ”.
- (3) In subsection (4), for the words before paragraph (a) insert—

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“(4) Policing body” means—

(aa) a local policing body.”.

(4) After subsection (4) insert—

“(5) The following expressions have the meanings given in section 22A—

“collaboration agreement”;

“force collaboration provision”;

“policing body collaboration provision”;

“policing body & force collaboration provision”.

(6) References to the police force which a policing body is responsible for maintaining include—

(a) in the case of the British Transport Police Authority, the British Transport Police, and

(b) in the case of the Civil Nuclear Police Authority, the Civil Nuclear Constabulary.

(7) References to a police force include—

(a) references to the special constables appointed by a chief officer of police, and

(b) references to the civilian employees of the police force;

and references to the members of a police force are to be read accordingly.

(8) For that purpose “civilian employee” means—

(a) in the case of a police force maintained under section 2 or 5A, the members of the civilian staff of that force;

(b) in the case of any other police force, the employees of the policing body responsible for maintaining that force who are under the direction and control of the chief officer of police of that force.”.

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SCHEDULE 13

Section 90

POLICE POWERS FOR CIVILIAN EMPLOYEES UNDER COLLABORATION AGREEMENTS

Police Act 1996

1

After section 23A of the Police Act 1996 insert—

“23AA Force collaboration provision about civilian employees

(1) This section applies to force collaboration provision, contained in a collaboration agreement, which is about the discharge of functions by designated civilian employees of one police force (the “assisting force”) for the purposes of another police force (the “assisted force”).

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- (2) The force collaboration provision must specify—
 - (a) the functions which the designated civilian employees are permitted by the collaboration agreement to discharge for the purposes of the assisted force, and
 - (b) any restrictions or conditions on that permission for the designated civilian employees to discharge those functions.
- (3) The force collaboration provision must not permit the designated civilian employees to discharge functions for the purposes of the assisted force unless those employees are, by virtue of the relevant section 38 designation, authorised to discharge those functions for the purposes of the assisting force.
- (4) The force collaboration provision does not authorise the designated civilian employees to discharge functions for the purposes of the assisted force (but see section 38B of the Police Reform Act 2002).
- (5) References in this section to the discharge of functions by civilian employees of the assisting force for the purposes of the assisted force include references to—
 - (a) the joint discharge of functions by the civilian employees and members of the assisted police force,
 - (b) the discharge of functions by the civilian employees in the assisted force's area, and
 - (c) the provision of the civilian employees to the assisted force.
- (6) In this section—

“designated”, in relation to a civilian employee of a police force, means designated by the chief officer of police of that force by a section 38 designation;

“relevant section 38 designation”, in relation to a designated civilian employee, means the section 38 designation relating to the employee;

“section 38 designation” means a designation under section 38 of the Police Reform Act 2002.”.

Police Reform Act 2002

2 The Police Reform Act 2002 is amended as follows.

3 After section 38A insert—

“38B Police powers for civilian employees under collaboration agreements

- (1) The chief officer of police of a police force (the “assisted force”) may designate a person (“C”) who—
 - (a) is a civilian employee of another police force (the “assisting force”),
 - (b) is designated under section 38 by the chief officer of police of the assisting police force (the “section 38 designation”), and

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- (c) is permitted, under relevant police collaboration provision, to discharge powers and duties specified in that provision for the purposes of the assisted force.
- (2) The designation under subsection (1) (the “collaboration designation”) must designate C as an officer of one or more of the descriptions specified in section 38(2).
- (3) The collaboration designation may designate C as an officer of a particular description specified in section 38(2) only if the section 38 designation designates C as an officer of that description.
- (4) C shall have the powers and duties conferred or imposed on C by the collaboration designation.
- (5) A power or duty may be conferred or imposed on C by the collaboration designation only if C is permitted, under the relevant police collaboration provision, to discharge that power or duty for the purposes of the assisted force.
- (6) C shall not be authorised or required by virtue of the collaboration designation to engage in any conduct otherwise than in the course of discharging a power or duty conferred or imposed on C by the collaboration designation.
- (7) The collaboration designation must specify the restrictions and conditions to which C is subject in the discharge of the powers and duties conferred or imposed by the collaboration designation.
- (8) Those restrictions and conditions must include the restrictions and conditions specified in the relevant police collaboration provision.
- (9) C is authorised or required to discharge any power or duty conferred or imposed by the collaboration designation subject to the restrictions and conditions specified in the collaboration designation.
- (10) References in this section to the discharge of functions by civilian employees of the assisting force for the purposes of the assisted force have the same meaning as in section 23B of the Police Act 1996.
- (11) In this section—
“civilian employee” has the meaning given by section 23I of the Police Act 1996;
“relevant police collaboration provision” means provision, contained in a collaboration agreement under section 22A of the Police Act 1996, which is of the kind referred to in section 23AA of that Act.

38C Designations under section 38B: supplementary provision

- (1) The collaboration designation of C must be in accordance with the relevant police collaboration provision.
- (2) Subsection (1) is in addition to section 38B(5) and (8).

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- (3) Subsections (8) and (9) of section 38 apply to any power exercisable by C in reliance on the collaboration designation as they apply to a power exercisable by a person in reliance on a designation under section 38.
- (4) In exercising or performing any power or duty in reliance on the collaboration designation, C is to be taken—
- (a) as exercising or performing that power or duty in reliance on that collaboration designation (and not in reliance on any designation under section 38); and
 - (b) accordingly, as not being a designated person (within the meaning of section 46(1)) by virtue of any designation under section 38.
- (5) Expressions used in this section and section 38B have the same meanings in this section as in section 38B.”.
- 4 (1) Section 42 (supplementary provisions relating to designations and accreditations) is amended in accordance with this paragraph.
- (2) In subsection (1), after “section 38” insert “, 38B ”.
- (3) After subsection (2) insert—
- “(2ZA) A power exercisable by any person in reliance on a designation under section 38B by the chief officer of police of the assisted force shall, subject to subsection (2A), be exercisable only by a person wearing such uniform as may be—
- (a) determined or approved for the purposes of this Chapter by the chief officer of police of the assisting police force; and
 - (b) identified or described in the designation.
- In this subsection, “assisted force” and “assisting force” have the same meanings as in section 38B.”.
- (4) In subsection (2A), after “subsection (2)” insert “ or (2ZA) ”.
- (5) In subsection (2B), after “section 38” insert “ (in relation to subsection (2)) or section 38B (in relation to subsection (2ZA)) ”.
- (6) In subsection (3), after “section 38” insert “, 38B ”.
- (7) After subsection (7) insert—
- “(7A) For the purposes of determining liability for the unlawful conduct of a civilian employee of a police force (within the meaning of section 38B), conduct by such an employee in reliance or purported reliance on a designation under section 38B shall be taken to be conduct in the course of the employee's employment by the employer; and, in the case of a tort, that employer shall fall to be treated as a joint tortfeasor accordingly.”.
- 5 In section 46 (offences against designated and accredited persons etc), after subsection (4) insert—
- “(5) References in this section to a designated person are to—
- (a) a designated person within the meaning given by section 47(1), and
 - (b) a person in relation to whom a designation under section 38B is for the time being in force.”.

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Railways and Transport Safety Act 2003

- 6 In section 28 of the Railways and Transport Safety Act 2003 (exercise of powers by civilians), after subsection (1)(aa) insert—
- “(ab) sections 38B and 38C (police powers for civilian employees under collaboration agreements)”.

SCHEDULE 14

Section 95

POLICE: COMPLAINTS

Introduction

- 1 The Police Reform Act 2002 is amended in accordance with this Schedule.

Commencement Information

I8 Sch. 14 para. 1 in force at 15.11.2011 by [S.I. 2011/2515](#), **art. 3(f)**

Membership and proceedings of Independent Police Complaints Commission

- 2 In section 9(2)(b) (minimum number of members of Commission), for “ten” substitute “ five ”.

Commencement Information

I9 Sch. 14 para. 2 in force at 15.11.2011 by [S.I. 2011/2515](#), **art. 3(f)**

- 3 In Schedule 2 (the Independent Police Complaints Commission), in paragraph 10 (proceedings), omit sub-paragraph (6).

Commencement Information

I10 Sch. 14 para. 3 in force at 15.11.2011 by [S.I. 2011/2515](#), **art. 3(f)**

VALID FROM 16/01/2012

Complaints about policing

- 4 Omit section 14 (direction and control matters).

VALID FROM 22/11/2012

- 5 (1) In section 29(1) (interpretation of Part 2), in the definition of “conduct” in subsection (1), for “and statements” substitute “ , statements and decisions ”.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

(2) In Schedule 3 (handling of complaints and conduct matters), in paragraph 4 (reference of complaints to the Commission), after sub-paragraph (7) insert—

“(8) In a case where—

- (a) a complaint relates to a direction and control matter, and
 - (b) there is no obligation under this paragraph for the appropriate authority to refer the complaint to the Commission,
- the appropriate authority may refer the complaint to the Commission under this paragraph only if the Commission consents.”.

VALID FROM 22/11/2012

6 In consequence of paragraph 4—

- (a) in section 10 (general functions of the Commission), omit subsection (8);
- (b) in section 13 (handling of complaints, conduct matters and DSI matters etc), omit “subject to section 14(1)”.

VALID FROM 16/01/2012

Power of local policing body to direct chief officer of police to comply with obligations

7 In section 15 (general duties of local policing bodies, chief officers and inspectors), after subsection (2) insert—

“(2A) Subsection (2B) applies in a case where it appears to a local policing body that—

- (a) an obligation to act or refrain from acting has arisen by or under this Part,
- (b) that obligation is an obligation of the chief officer of police of the police force which is maintained by the local policing body, and
- (c) the chief officer has not yet complied with that obligation, or has contravened it.

(2B) The local policing body may direct the chief officer to take such steps as the local policing body thinks appropriate.

(2C) The chief officer must comply with any direction given under subsection (2B).”.

VALID FROM 16/01/2012

Initial handling and recording of complaints

8 (1) In Schedule 3 (handling of complaints and conduct matters), paragraph 2 (initial handling and recording of complaints) is amended in accordance with sub-paragraphs (2) to (5).

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

(2) For sub-paragraph (1) substitute—

“(1) Where a complaint is made to the Commission, it shall give notification of the complaint to the appropriate authority.

(1A) But the Commission need not give that notification if the Commission considers that there are exceptional circumstances that justify its not being given.”.

(3) Omit sub-paragraph (4).

(4) In sub-paragraph (5)—

(a) in the words before sub-paragraph (a)—

(i) omit the words from “or the Commission” to “sub-paragraph (4)”;

(ii) omit “or, as the case may be, the Commission”;

(b) omit sub-paragraph (b) (and the word “or” preceding it).

(5) After sub-paragraph (7) insert—

“(8) Nothing in this paragraph shall require the recording by any person of any complaint about any conduct if that person considers that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph.”.

(6) In consequence of the amendments made by sub-paragraphs (2) to (5)—

(a) in section 12(2) (complaints, matters and persons to which Part 2 applies), omit “, paragraph 2(4) of Schedule 3”;

(b) in section 29(1) (interpretation of Part 2), omit paragraph (b) of the definition of “recordable conduct matter”.

Commencement Information

III Sch. 14 para. 8(1)(2)(3) in force at 16.1.2012 for specified purposes by [S.I. 2011/3019](#), art. 3, [Sch. 1](#)

VALID FROM 22/11/2012

Handling of complaints by the appropriate authority

9 (1) In Schedule 3 (handling of complaints and conduct matters), for paragraph 6 (handling of complaints by the appropriate authority) substitute—

“6 (1) This paragraph applies where a complaint has been recorded by the appropriate authority.

(2) But this paragraph does not apply to a complaint if it is one that has been, or must be, referred to the Commission under paragraph 4, unless the complaint is for the time being—

(a) referred back to the authority under paragraph 5, or

(b) the subject of a determination under paragraph 15.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (3) Subject to paragraph 7, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution.
 - (4) If the appropriate authority determines that the complaint is suitable for being subjected to local resolution, it shall make arrangements for it to be so subjected.
 - (5) If the appropriate authority determines that the complaint is not so suitable, it shall make arrangements for the complaint to be investigated by the authority on its own behalf.
 - (6) A determination that a complaint is suitable for being subjected to local resolution may not be made unless the following conditions are both met.
 - (7) The first condition is that the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not justify the bringing of any criminal or disciplinary proceedings against the person whose conduct is complained of.
 - (8) The second condition is that the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not involve the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998).
 - (9) In a case where this paragraph applies to a complaint by virtue of sub-paragraph (2)(b), a determination that the complaint is suitable for being subjected to local resolution may not be made unless the Commission approves the determination.
 - (10) No more than one application may be made to the Commission for the purposes of sub-paragraph (9) in respect of the same complaint.
 - (11) Sub-paragraph (9) (where applicable) is in addition to sub-paragraphs (6) to (8).”.
- (2) In paragraphs 7(6)(a) and 16(1)(a) of that Schedule, for “paragraph 6(2)” substitute “ paragraph 6(3) ”.
 - (3) In section 22 (power of the Commission to issue guidance), in subsection (5)(c), omit sub-paragraph (ii) (and the word “and” at the end of sub-paragraph (i)).”.

VALID FROM 22/11/2012

Disapplication of requirements of Schedule 3 to 2002 Act

- 10 (1) Schedule 3 (handling of complaints and conduct matters) is amended in accordance with this paragraph.
- (2) In the italic heading that precedes paragraph 7 (dispensation by the Commission from requirements of Schedule 3 to 2002 Act), for “*Dispensation by the Commission from*” substitute “ *Disapplication of*”.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (3) Paragraph 7 is amended in accordance with the following provisions of this paragraph.
- (4) In sub-paragraph (1), omit “apply to the Commission, in accordance with the regulations, for permission to”.
- (5) After sub-paragraph (1) insert—
- “(1A) But, in a case where paragraph 6 applies by virtue of paragraph 6(2)(a) or (b), the appropriate authority may not handle the complaint in whatever manner (if any) the authority thinks fit unless—
- (a) the authority applies to the Commission, in accordance with the regulations, for permission to so handle the complaint, and
- (b) the Commission gives permission.”.
- (6) For sub-paragraph (2) substitute—
- “(2) The appropriate authority shall notify the complainant—
- (a) that the appropriate authority has decided to handle the complaint as permitted by sub-paragraph (1) (in a case where the appropriate authority is not required to apply for permission under sub-paragraph (1A) to so handle the complaint); or
- (b) about the making of the application under sub-paragraph (1A) (in a case where the appropriate authority makes such an application).”.
- (7) In sub-paragraph (5)—
- (a) for the words before paragraph (a) substitute—
- “(5) Where the complaint is to be handled in whatever manner (if any) the authority thinks fit (whether or not the Commission's permission is needed), the authority—”;
- (b) in sub-paragraph (b), for “but for the permission” substitute “ if it were not proceeding in accordance with this paragraph ”.
- (8) In sub-paragraph (6)—
- (a) after “Where” insert “ the appropriate authority applies to the Commission under sub-paragraph (1A) and ”;
- (b) omit “under this paragraph”.

VALID FROM 22/11/2012

Conduct matters arising in civil proceedings

- 11 (1) In Schedule 3 (handling of complaints and conduct matters), paragraph 10 (conduct matters arising in civil proceedings) is amended in accordance with sub-paragraphs (2) to (4).
- (2) In sub-paragraph (3), for “record that matter” substitute “ determine whether the matter is one which it or he is required to refer to the Commission under paragraph 13 or is one which it would be appropriate to so refer ”.
- (3) For sub-paragraph (4) substitute—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

“(4) In a case where the appropriate authority determines that the matter is one which it or he is required to refer to the Commission under paragraph 13, or is one which it would be appropriate to so refer, it or he shall record the matter.

(4A) In any other case, the appropriate authority shall determine whether the matter falls within a description of matters specified in regulations made by the Secretary of State for the purposes of this sub-paragraph.

(4B) In a case where the appropriate authority determines that the matter does not fall within such a description, it or he shall record the matter.

(4C) In any other case, the appropriate authority may (but need not) record the matter.

(4D) In a case where the appropriate authority—
(a) records a matter under this paragraph, and
(b) is not required to refer the matter to the Commission under paragraph 13 and does not do so,
the appropriate authority may deal with the matter in such other manner (if any) as it or he may determine.”

(4) In sub-paragraph (5), for “sub-paragraph (3)” substitute “ sub-paragraph (4) or (4B) ”.

(5) In paragraph 16(2)(a) of Schedule 3, for “10(4)(b)” substitute “ 10(4D) ”.

VALID FROM 22/11/2012

Recording etc of conduct matters in other cases

12 (1) In Schedule 3 (handling of complaints and conduct matters), paragraph 11 (recording etc of conduct matters in other cases) is amended in accordance with sub-paragraphs (2) to (4).

(2) In sub-paragraph (1)—
(a) for the words before paragraph (a) substitute—

“(1) This paragraph applies where—”;

(b) omit the words after paragraph (b).

(3) For sub-paragraph (3) substitute—

“(3) The appropriate authority must determine whether the matter is one which it or he is required to refer to the Commission under paragraph 13, or is one which it would be appropriate to so refer.

(3A) In a case where the appropriate authority determines that the matter is one which it or he is required to refer to the Commission under paragraph 13, or is one which it would be appropriate to so refer, it or he shall record the matter.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

(3B) In any other case, the appropriate authority shall determine whether the matter falls within a description of matters specified in regulations made by the Secretary of State for the purposes of this sub-paragraph.

(3C) In a case where the appropriate authority determines that the matter does not fall within such a description, it or he shall record the matter.

(3D) In any other case, the appropriate authority may (but need not) record the matter.

(3E) In a case where the appropriate authority—

(a) records a matter under this paragraph, and

(b) is not required to refer the matter to the Commission under paragraph 13 and does not do so,

the appropriate authority may deal with the matter in such other manner (if any) as it or he may determine.”

(4) In sub-paragraph (4), for “sub-paragraph (1)” substitute “ sub-paragraph (3A) or (3C) ”.

(5) In paragraph 16(2)(a) of Schedule 3, for “11(3)(b)” substitute “ 11(3E) ”.

VALID FROM 22/11/2012

Power to discontinue an investigation

13 (1) Schedule 3 (handling of complaints and conduct matters) is amended in accordance with this paragraph.

(2) In the italic heading that precedes paragraph 21 (power of the Commission to discontinue an investigation), omit “*of the Commission*”.

(3) Paragraph 21 is amended in accordance with the following provisions of this paragraph.

(4) For sub-paragraph (1) substitute—

“(1) The Commission may by order require the discontinuance of the investigation of a complaint or matter if (whether on the application of the appropriate authority or otherwise) it appears to the Commission that—

(a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and

(b) discontinuance of the investigation is within the Commission's power.

(1A) The appropriate authority that is investigating a complaint or matter may discontinue the investigation if it appears to that authority that—

(a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and

(b) discontinuance of the investigation is not within the Commission's power.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

(1B) For the purposes of this paragraph—

- (a) discontinuance of the investigation of a complaint is within the Commission's power if—
 - (i) the investigation is being undertaken by the appropriate authority on its own behalf and the complaint is one required to be referred to the Commission under paragraph 4; or
 - (ii) the investigation is under the supervision or management of the Commission;
- (b) discontinuance of the investigation of a matter other than a complaint is within the Commission's power if the investigation is under the supervision or management of the Commission.”.

(5) After sub-paragraph (3) insert—

“(3A) Where the appropriate authority discontinues an investigation under sub-paragraph (1A), the appropriate authority shall give notification of the discontinuance—

- (a) to every person entitled to be kept properly informed in relation to the investigation under section 21; and
- (b) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.”.

(6) In sub-paragraph (4), for “in accordance with this paragraph” substitute “ in accordance with an order under sub-paragraph (1) ”.

(7) After sub-paragraph (5) insert—

“(6) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with sub-paragraph (1A)—

- (a) the appropriate authority may take any such steps of a description specified in regulations made by the Secretary of State as he or it considers appropriate for purposes connected with the discontinuance of the investigation; and
- (b) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.”.

VALID FROM 22/11/2012

Duties with respect to disciplinary proceedings

14 (1) Schedule 3 is amended in accordance with this paragraph.

(2) In paragraph 23 (action by the Commission in response to an investigation report under paragraph 22), in sub-paragraph (6)(a), after sub-paragraph (i) insert—

“(ia) whether or not any such person's performance is unsatisfactory, and”.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (3) In paragraph 24 (action by the appropriate authority in response to an investigation report under paragraph 22), in sub-paragraph (6)(a), after sub-paragraph (i) insert—
- “(ia) whether or not any such person's performance is unsatisfactory, and”.
- (4) In paragraph 25 (appeals to the Commission with respect to an investigation)—
- (a) in sub-paragraph (2)(ba), after “answer” (in the second place) insert “ or that such a person's performance is, or is not, unsatisfactory ”;
- (b) in sub-paragraph (3), after sub-paragraph (za) insert—
- “(zb) sets out whether the appropriate authority has determined any such person's performance is, or is not, unsatisfactory;”;
- (c) in sub-paragraph (5)(c)(i), after “sub-paragraph (3)(za)” insert “ or (zb) ”;
- (d) in sub-paragraph (9), in the words before sub-paragraph (a), for “considers appropriate or” substitute “ considers appropriate, or determines that the appropriate authority has not made a determination as to whether a person's performance is or is not unsatisfactory, or determines that the appropriate authority ”.
- (5) In paragraph 27 (duties with respect to disciplinary proceedings), in sub-paragraph (3)—
- (a) after sub-paragraph (za) insert—
- “(zb) that the person's performance is, or is not, unsatisfactory;”;
- (b) in sub-paragraph (a), after “conduct” insert “ , efficiency or effectiveness ”;
- (c) in sub-paragraph (b), after “conduct” insert “ , efficiency or effectiveness ”.

VALID FROM 22/11/2012

Rights of appeal

- 15 Schedule 3 (handling of complaints and conduct matters) is amended in accordance with the following paragraphs of this Schedule.
- 16 In paragraph 3 (failures to notify or record a complaint), after sub-paragraph (3) insert—
- “(3A) But the complainant has no right of appeal under sub-paragraph (3) in either of the following cases.
- (3B) The first case is where, by virtue of paragraph 2(7), there is no requirement to record the complaint.
- (3C) The second case is where—
- (a) the complaint relates to a direction and control matter, and
- (b) the appeal relates to a failure by a local policing body.”.
- 17 (1) Paragraph 7 (dispensation by the Commission from requirements of Schedule 3 to 2002 Act) is amended in accordance with this paragraph.
- (2) After sub-paragraph (7) insert—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- “(8) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under this paragraph to handle the complaint otherwise than in accordance with this Schedule or to take no action in relation to it.
- (9) But the complainant has no right of appeal in either of the following cases.
- (10) The first case is where the appeal relates to a decision for which the Commission has given permission under this paragraph.
- (11) The second case is where the complaint relates to a direction and control matter.
- (12) On an appeal under this paragraph, subject to sub-paragraphs (13) and (14), the relevant appeal body shall—
- (a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
 - (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for handling the complaint in accordance with this Schedule or handling it otherwise than in accordance with this Schedule;
- and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).
- (13) Sub-paragraph (12) does not apply in a case where a particular chief officer of police is—
- (a) the person in respect of whose decision the appeal is made under this paragraph, and
 - (b) the relevant appeal body in relation to the appeal.
- (14) In such a case—
- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
 - (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for handling the complaint in accordance with this Schedule or handling it otherwise than in accordance with this Schedule.”.

18 For paragraph 9 and the italic heading that precedes it (Appeals relating to local resolution) substitute—

“Appeals relating to complaints dealt with other than by investigation

- 8A (1) The complainant shall have a right of appeal to the relevant appeal body against the outcome of any complaint that is—
- (a) subjected to local resolution, or
 - (b) handled otherwise than in accordance with this Schedule.
- (2) But the complainant has no right of appeal if the complaint relates to a direction and control matter.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (3) On an appeal under this paragraph, subject to sub-paragraphs (4) and (5), the relevant appeal body shall—
- (a) determine whether the outcome of the complaint is a proper outcome; and
 - (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the appropriate authority as to the action to be taken in relation to the complaint;
- and it shall be the duty of the appropriate authority to comply with any directions given under paragraph (b).
- (4) Sub-paragraph (3) does not apply in a case where a chief officer of police is the relevant appeal body in relation to the appeal.
- (5) In such a case—
- (a) the appeal shall determine whether the outcome of the complaint is a proper outcome; and
 - (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate in relation to the complaint.”.
- 19 (1) Paragraph 21 (power of the Commission to discontinue an investigation) is amended in accordance with this paragraph.
- (2) After sub-paragraph (6) (inserted by paragraph 13(7) of this Schedule) insert—
- “(7) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under sub-paragraph (1A) to discontinue the investigation of the complaint.
- (8) But the complainant has no right of appeal if the complaint relates to a direction and control matter.
- (9) On an appeal under this paragraph, subject to sub-paragraphs (10) and (11), the relevant appeal body shall—
- (a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
 - (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for investigating the complaint;
- and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).
- (10) Sub-paragraph (9) does not apply in a case where a particular chief officer of police is—
- (a) the person in respect of whose decision an appeal is made under this paragraph, and
 - (b) the relevant appeal body in relation to the appeal.
- (11) In such a case—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
 - (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for investigating the complaint.”.
- 20 (1) In the italic heading that precedes paragraph 25 (appeals to the Commission with respect to an investigation), omit “*to the Commission*”.
- (2) Paragraph 25 is amended in accordance with the following provisions of this paragraph.
- (3) In sub-paragraph (2)—
 - (a) in the words before sub-paragraph (a), for “to the Commission” substitute “to the relevant appeal body”;
 - (b) in the words after sub-paragraph (d)—
 - (i) for “Commission” substitute “relevant appeal body”;
 - (ii) after “this paragraph” insert “(except that the duty to notify the appropriate authority does not apply where that authority is the relevant appeal body)”.
- (4) After sub-paragraph (2) insert—

“(2ZA) But the complainant has no right of appeal if the complaint relates to a direction and control matter.”.
- (5) In sub-paragraph (5), for “Commission” (in each place) substitute “relevant appeal body”.
- (6) In sub-paragraph (6)—
 - (a) for “Commission” (in the first place) substitute “relevant appeal body”;
 - (b) after “any matter” insert “—
 - (a) in a case where the Commission is the relevant appeal body,”;
 - (c) at the end insert “; and
 - (b) in a case where the appropriate authority is the relevant appeal body, that authority shall take such steps as it considers appropriate for securing that the complainant is properly informed.”.
- (7) In sub-paragraph (7), for “sub-paragraph (6)” substitute “sub-paragraph (6)(a)”.
- (8) In sub-paragraph (8)—
 - (a) after “reconsidered,” insert “in a case where the Commission is the relevant appeal body”;
 - (b) at the end of paragraph (b) insert “; and
 - in a case where the appropriate authority is the relevant appeal body, that authority shall re-investigate the complaint.”.
- (9) In sub-paragraph (9)—
 - (a) for “Commission” (in the first three places) substitute “relevant appeal body”;

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (b) for “considers appropriate, the Commission shall” substitute “considers appropriate—
- (a) sub-paragraph (9ZA) applies if the Commission is the relevant appeal body; or
 - (b) sub-paragraph (9ZB) applies if the chief officer of police is the relevant appeal body.
- (9ZA) The Commission shall—”.
- (10) Before sub-paragraph (9A) insert—
- “(9ZB) The chief officer of police shall take such action as the chief officer thinks appropriate in relation to the bringing of disciplinary proceedings in respect of the matters dealt with in the report.
- (9ZC) If disciplinary proceedings are brought by virtue of sub-paragraph (9ZB), it shall be the duty of the appropriate authority to ensure that they are proceeded with to a proper conclusion.”.
- (11) In sub-paragraph (9A)—
- (a) for “Commission” substitute “ relevant appeal body ”;
 - (b) for “it shall direct the appropriate authority” substitute “ in a case where the Commission is the relevant appeal body it shall direct the appropriate authority to, or in a case where the appropriate authority is the relevant appeal body it shall ”;
 - (c) in sub-paragraph (a)—
 - (i) omit “to”;
 - (ii) omit “Commission's”;
 - (d) in sub-paragraph (b), omit “to”.
- (12) In sub-paragraph (10)—
- (a) in the words before paragraph (a), for “Commission” substitute “ relevant appeal body ”;
 - (b) in sub-paragraph (a), after “authority” insert “ (unless it is the relevant appeal body) ”;
 - (c) in sub-paragraph (d), for “Commission” substitute “ relevant appeal body ”.
- (13) In sub-paragraph (11), for “The Commission” substitute “ In a case where the Commission is the relevant appeal body, it ”.
- (14) In sub-paragraph (13), for “Commission” substitute “ relevant appeal body ”.
- 21 In paragraph 29 (minor definitions), before the definition of “gross misconduct” insert—
- ““direction and control matter” means a matter that relates to the direction and control of a police force by—
- (a) the chief officer of police of that force, or
 - (b) a person for the time being carrying out the functions of the chief officer of police of that force;”.

22 After paragraph 29 insert—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

“Appeals: the relevant appeal body

- 30 (1) The relevant appeal body in relation to an appeal is—
- (a) the Commission, in a case where the relevant complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph; or
 - (b) the chief officer of police who is the appropriate authority in relation to the relevant complaint, in any other case.
- (2) In this paragraph and paragraphs 31 and 32—
- “appeal” means an appeal under paragraph 7(8), 8A, 21(7) or 25(2);
 - “relevant complaint”, in relation to an appeal, means the complaint to which the appeal relates.
- 31 (1) This paragraph applies in a case where—
- (a) an appeal is made to the Commission, and
 - (b) the appropriate authority is the relevant appeal body in relation to the appeal.
- (2) The Commission must—
- (a) forward the appeal to the appropriate authority; and
 - (b) notify the person who made the appeal—
 - (i) that the appropriate authority is the relevant appeal body; and
 - (ii) the appeal has been forwarded.
- (3) The appeal is to be taken to have been—
- (a) made to the appropriate authority, and
 - (b) so made at the time when it is forwarded to the appropriate authority.
- 32 (1) This paragraph applies in a case where—
- (a) an appeal is made to the appropriate authority; and
 - (b) the Commission is the relevant appeal body in relation to the appeal.
- (2) The appropriate authority must—
- (a) forward the appeal to the Commission; and
 - (b) notify the person who made the appeal—
 - (i) that the Commission is the relevant appeal body; and
 - (ii) the appeal has been forwarded.
- (3) The appeal is to be taken to have been—
- (a) made to the Commission; and
 - (b) so made at the time when it is forwarded to the Commission.”.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

SCHEDULE 15

Section 98

POLICE REFORM: TRANSITIONAL PROVISION

VALID FROM 16/01/2012

PART 1

CHIEF OFFICERS OF POLICE

Current chief officers to remain in post

- 1 (1) At the relevant commencement time a person who, immediately before that time, is in post as the existing chief officer of the police force for a police area becomes the new chief officer of that police force.
- (2) Where a person has, prior to the relevant commencement time, accepted an appointment as the existing chief officer of the police force for a police area which is to come into effect at a time (the “effective time”) which falls at or after the relevant commencement time, that appointment is to take effect at the effective time as an appointment as the new chief officer of that police force.
- (3) Sub-paragraph (2) is without prejudice to any right of the person appointed not to take up the appointment.

Transfer of rights and liabilities

- 2 At the relevant commencement time, all rights and liabilities which immediately before that time were rights and liabilities of the existing chief officer of the police force for a police area are to transfer to the new chief officer of that police force.

Relevant legislative provisions

- 3 (1) Any relevant legislative provision which, immediately before the relevant commencement time, applied to chief constables of police forces maintained under section 2 of the Police Act 1996 is to apply after that time in the same way to chief constables established under section 2 of this Act (except where the context otherwise requires).
- (2) Any relevant legislative provision which, immediately before the relevant commencement time, applied to the Commissioner of Police of the Metropolis is to apply after that time in the same way to the Commissioner of Police of the Metropolis established under section 4 of this Act (except where the context otherwise requires).
- (3) Sub-paragraphs (1) and (2) are subject to any provision to the contrary made—
- (a) by or under this Act, or
 - (b) by any other Act passed, or subordinate legislation made, on or after the passing of this Act.
- (4) In this paragraph—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

“relevant legislative provision” means—

- (a) provision of an Act made before the relevant commencement day, or
- (b) provision of an instrument made before the relevant commencement day under a public general Act which is of a legislative character;

but provision which applies only to specified chief constables of police forces maintained under section 2 of the Police Act 1996 is not relevant legislative provision.

Interpretation

4 In this Part “relevant commencement time” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the time when section 2 comes into force in relation to that area;
- (b) in relation to the metropolitan police district, the time when section 4 comes into force.

VALID FROM 16/01/2012

PART 2

INITIAL TRANSFER FROM POLICE AUTHORITIES

Transfer of property, rights and liabilities

- 5
- (1) At the relevant commencement time, all property, rights and liabilities which immediately before that time were property, rights and liabilities of the existing police authority for a police area are to transfer to, and by virtue of this paragraph vest in, the new policing body for that police area.
 - (2) This paragraph does not apply to any rights or liabilities under a contract of employment (which are dealt with in paragraph 6).

Transfer of staff

- 6
- (1) Subject to sub-paragraphs (5) and (6), this paragraph applies to any person who immediately before the relevant commencement time is a member of the staff of the existing police authority for a police area (the “existing employer”).
 - (2) A contract of employment between a person to whom this paragraph applies and the existing employer is to have effect from the relevant commencement time as if originally made between that person and the new policing body for the police area in relation to which the existing employer was established (the “new employer”).
 - (3) Sub-paragraph (2) does not break the continuity of a person's employment and accordingly such a person's period of employment with the existing employer counts as a period of employment with the new employer for the purposes of the Employment Rights Act 1996.
 - (4) Without prejudice to sub-paragraph (2)—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (a) all the existing employer's rights, powers, duties and liabilities under or in connection with a contract to which that sub-paragraph applies are by virtue of this paragraph transferred to the new employer at the relevant commencement time; and
 - (b) anything done before that date by or in relation to the existing employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the new employer.
- (5) Sub-paragraphs (2) to (4) are without prejudice to any right of a member of staff to terminate the contract of employment if a substantial change is made to the person's detriment in the person's working conditions; but no such right arises by reason only of the change in employer effected by this paragraph.
- (6) Where a person—
- (a) has, prior to the relevant commencement time, entered into a contract of employment with an existing police authority which is to come into effect at or after that time; and
 - (b) would, if the contract had come into effect before that date, have been a person to whom this paragraph applies,
- that person is to be treated as a person to whom this paragraph applies.
- (7) A person who would (but for this sub-paragraph) be treated as being dismissed by the operation of this paragraph (whether by an enactment or otherwise) is to be treated as not being so dismissed.
- (8) Sub-paragraph (7) does not apply to a person who, by virtue of sub-paragraph (5), does not become an employee of a new policing body.
- (9) This paragraph is subject to paragraph 7.

Police civilians

- 7 (1) The new policing body for a police area—
- (a) is to have, for the purpose mentioned in sub-paragraph (2), relevant powers to arrange for the new chief officer of the police force for that area to discharge functions of that body; and
 - (b) must exercise those powers for the purpose mentioned in sub-paragraph (2).
- (2) That purpose is securing that the police civilian members of staff of that new policing body are under the direction and control of that chief officer.
- (3) Any arrangements made in compliance with section 15(2) of the Police Act 1996 between the existing police authority for a police area and the existing chief officer of the police force for that area which are in force immediately before the relevant commencement time are to have effect at and after that time as if made under this paragraph between the new policing body for that area and the new chief officer of that police force.
- (4) Sub-paragraph (5) applies to a person who—
- (a) immediately before the relevant commencement time, is a police civilian member of the staff of an existing police authority, and
 - (b) at that time becomes a member of the staff of the new policing body for a police area by virtue of paragraph 6.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (5) For as long as the person continues to be a member of the staff of that body, the person is to be—
- (a) employed as a police civilian member of that staff, and
 - (b) under the direction and control of the new chief officer of the police for that area.
- (6) Sub-paragraph (5) does not prevent the new policing body from making arrangements with the person for the person to cease to be a police civilian member of staff of that body (whether or not the person remains a member of the staff of that body).
- (7) After the relevant commencement time, a new policing body may, for either of the purposes set out in sub-paragraph (8), make arrangements—
- (a) with any member of the staff of the body who is not a police civilian member of staff to become a police civilian member of that staff, or
 - (b) with a person who is not a member of that body's staff to become a police civilian member of that staff.
- (8) In relation to the new policing body for a police area those purposes are—
- (a) replacing police civilian members of staff of the existing police authority for that area who did not become members of the staff of the new policing body in accordance with paragraph 6;
 - (b) replacing police civilian members of staff of the new policing body who have ceased to be police civilian members of staff of that body otherwise than by virtue of a transfer scheme under Part 2 of this Schedule; or
 - (c) to supplement the police civilian members of staff of the new policing body.
- (9) Sub-paragraphs (1) to (5) are subject to—
- (a) any provision included in a collaboration agreement under section 22A of the Police Act 1996, and
 - (b) section 24(3A) of that Act (aid of one police force by another).
- (10) In this paragraph—
- (a) “relevant powers” means powers corresponding to those conferred by sections 101 and 107 of the Local Government Act 1972 on police authorities established under section 3 of the Police Act 1996;
 - (b) references to a police civilian member of staff of an existing police authority or a new policing body are references to a member of the staff of that authority or body who is employed solely to assist the police force maintained by that authority or body;
 - (c) the chief officers' powers of direction and control referred to include powers of engagement and dismissal.

Seconded staff

8

In the case of a person who, immediately before the relevant commencement time, is seconded to the existing police authority for a police area, the secondment is to have effect, after that time, as a secondment to the new policing body for that police area.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

Interpretation

- 9 In this Part “relevant commencement time” means—
- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the time when section 1 comes into force in relation to that area;
 - (b) in relation to the metropolitan police district, the time when section 3 comes into force.

VALID FROM 16/01/2012

PART 3

SUBSEQUENT TRANSFER BY NEW POLICING BODY

Power to direct new policing body to make transfer scheme

- 10 (1) The Secretary of State may direct a new policing body—
- (a) to make one or more transfer schemes, and
 - (b) to submit such a scheme to the Secretary of State for approval.
- (2) If the Secretary of State gives a direction under sub-paragraph (1)(b), the Secretary of State may—
- (a) approve the scheme as submitted,
 - (b) approve the scheme with modifications, or
 - (c) reject the scheme.
- (3) Before making a decision under sub-paragraph (2), the Secretary of State must—
- (a) consult the new policing body, and
 - (b) if the scheme includes provision about the transfer of staff, consult persons who, in the Secretary of State's opinion, represent the views of the staff concerned.
- (4) If the Secretary of State gives a direction under sub-paragraph (1)(b), the new policing body—
- (a) must not make the scheme unless the Secretary of State approves it, and
 - (b) if the Secretary of State approves the scheme with modifications, must make it with those modifications.
- (5) A direction under this paragraph—
- (a) must be in writing; and
 - (b) may be varied or revoked by a further direction.
- 11 (1) The Secretary of State may make one or more transfer schemes in relation to a new policing body if—
- (a) the body does not comply with a direction given to it under paragraph 10, or
 - (b) the Secretary of State decides not to approve one or more schemes submitted by that body under paragraph 10.
- (2) A scheme made by the Secretary of State under this paragraph is to be treated as if made by the new policing body.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- 12 (1) The Secretary of State may direct a new policing body—
- (a) to modify a transfer scheme made by that body, and
 - (b) to submit such a scheme to the Secretary of State for approval.
- (2) Sub-paragraphs (2) to (5) of paragraph 10 apply to a direction under sub-paragraph (1) of this paragraph as they apply to a direction under sub-paragraph (1) of paragraph 10.
- (3) In the application of paragraph 10(2) to (5) by virtue of sub-paragraph (2)—
- (a) references to paragraph 10(1)(b) have effect as references to sub-paragraph (1)(b) of this paragraph;
 - (b) references to the making of a scheme have effect as references to the modification of a scheme;
 - (c) references to a scheme have effect as references to a scheme as modified.
- (4) The Secretary of State may modify a transfer scheme made by a new policing body if—
- (a) the authority does not comply with a direction given to it under sub-paragraph (1), or
 - (b) the Secretary of State decides not to approve the modified scheme submitted by the body.
- (5) A scheme modified by the Secretary of State under sub-paragraph (4) is to be treated as if modified (and made) by the new policing body.
- (6) A scheme modified in accordance with this paragraph is to be deemed for all purposes to have come into force with those modifications.

Staff

- 13 (1) A transfer scheme may provide for a person employed by the new policing body to become—
- (a) a member of the civilian staff of the police force, or
 - (b) a member of staff of a local authority.
- (2) The scheme may provide that a contract of employment which the person had before becoming a member of the civilian staff of a police force is to have effect (subject to any modifications) as if originally made between that person and the chief officer.
- (3) The scheme may provide that a contract of employment which the person had before becoming a member of the staff of a local authority is to have effect (subject to any modifications) as if originally made between that person and that local authority.
- 14 (1) A transfer scheme may provide, in the case of a person who is seconded to the new policing body, that the secondment is to have effect as a secondment to—
- (a) the civilian staff of the police force, or
 - (b) a local authority.
- (2) The scheme may make provision as to the terms and conditions which are to have effect as the terms and conditions of the person's secondment.
- 15 (1) A transfer scheme may provide for the transfer to the chief officer of the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment of a person who becomes a member of the civilian staff of the police force.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (2) A transfer scheme may provide for the transfer to a local authority of the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment of a person who becomes a member of the staff of that local authority.
- (3) A transfer scheme may make provision—
- (a) for periods before a person became a member of the civilian staff of the police force to count as periods of employment with the chief officer, and
 - (b) for periods before a person became a member of the civilian staff of the police force, and the periods after the person became a member of the civilian staff of the police force, to count as a period of continuous employment.
- (4) A transfer scheme may make provision—
- (a) for periods before a person became a member of the staff of a local authority to count as periods of employment with that local authority, and
 - (b) for periods before a person became a member of the staff of a local authority, and the period after the person became a member of the staff of the local authority, to count as a period of continuous employment.
- 16 (1) A transfer scheme may provide for a person who—
- (a) is employed by the new policing body, and
 - (b) would otherwise, by the operation of the scheme, become—
 - (i) a member of the civilian staff of the police force, or
 - (ii) a member of staff of a local authority,
 not to become such a member of staff if the person gives notice objecting to the operation of the scheme in relation to the person.
- (2) A person who would (but for this sub-paragraph) be treated as being dismissed by the operation of a transfer scheme (whether by an enactment or otherwise) is to be treated as not being so dismissed.
- (3) Sub-paragraph (2) does not apply to a person who, by virtue of sub-paragraph (1), does not become a member of staff.

Property, rights and liabilities etc

- 17 (1) A transfer scheme may provide for the transfer of property, rights and liabilities of the new policing body to the chief officer.
- (2) The scheme may—
- (a) create rights or interests, or impose liabilities, in relation to property, rights and liabilities transferred by virtue of the scheme or retained by the transferor under the scheme or create rights or liabilities as between the transferor and transferee under the scheme, and
 - (b) apportion property, rights and liabilities between the new policing body and the chief officer.

Supplementary

- 18 (1) A transfer scheme may contain further provision in connection with any of the matters to which paragraphs 13 to 17 relate.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (2) A transfer scheme may contain incidental, consequential, supplemental, transitional and saving provision.
- (3) A transfer scheme may confer functions on any person (including the Secretary of State).
- 19 (1) A transfer scheme may contain provision—
- (a) for the Secretary of State, or any other person nominated by or in accordance with the scheme, to determine any matter requiring determination under or in consequence of the scheme, and
 - (b) as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of sub-paragraph (a).

PART 4

OTHER TRANSITIONAL PROVISION

VALID FROM 16/01/2012

Politically restricted posts

- 20 (1) This paragraph applies to a person if by virtue of a transfer scheme, the person—
- (a) ceases to be a member of the staff of an existing police authority, and
 - (b) becomes a member of the staff of a new policing body.
- (2) Section 1 of the Local Government and Housing Act 1989 (politically restricted posts) does not apply to the person for as long as the person—
- (a) continues to be a member of the staff of the new policing body, and
 - (b) carries out duties which are the same, or substantially the same, as the duties the person carried out as a member of the staff of the existing police authority.

VALID FROM 16/01/2012

Continuity

- 21 (1) The abolition of an existing police authority, the transfer or abolition of its functions, and the transfer of its property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.
- (2) The replacement of an existing chief officer, the transfer or abolition of the functions of an existing chief officer, and the transfer of the rights and liabilities of an existing chief officer, do not affect anything done before the replacement, transfer or abolition.
- (3) The transfer of the property, rights and liabilities of a new policing body does not affect anything done before the transfer.

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (4) Sub-paragraphs (5) to (7) apply where any functions, property, rights or liabilities are transferred by or under this Act from a person (the “transferor”) to another person (the “transferee”).
- (5) There may be continued by or in relation to the transferee anything (including legal proceedings) which—
- (a) relates to any of the functions, property, rights or liabilities transferred, and
 - (b) is in the process of being done by or in relation to the transferor immediately before the transfer takes effect.
- (6) Anything which—
- (a) was made or done by or in relation to the transferor for the purposes of, or otherwise in connection with, any of the functions, property, rights or liabilities transferred, and
 - (b) is in effect immediately before the transfer takes effect,
- has effect as if made or done by or in relation to the transferee.
- (7) The transferee is to be substituted for the transferor in any instruments, contracts or legal proceedings which—
- (a) relate to any of the functions, property, rights or liabilities transferred, and
 - (b) are made or commenced before the transfer takes effect.
- (8) The Secretary of State may, by direction, determine any question under this section as to—
- (a) whether any particular functions, property, rights or liabilities are transferred by or under this Act, or
 - (b) the person to which any particular functions, property, rights or liabilities are transferred by or under this Act.
- (9) The preceding provisions of this paragraph—
- (a) are without prejudice to Part 2 of this Schedule and any power to make a transfer scheme, and
 - (b) are subject to the provisions of Part 2 of this Schedule and any transfer scheme.
- (10) In this paragraph a reference to the transfer of a function includes a reference to the abolition of the function and the conferral of a corresponding function on another person.

VALID FROM 16/01/2012

Foreign property etc: perfection of vesting

- 22 (1) Subsections (2) to (8) of section 414 of the Greater London Authority Act 1999 (foreign property, rights and liabilities: perfection of vesting) apply in any case where a transfer by or under this Act provides for the transfer of foreign property, rights or liabilities.
- (2) In the application of those provisions by virtue of sub-paragraph (1)—
- (a) references to a transfer or pension instrument have effect as references to the transfer by or under this Act; and

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (b) references to the transferor and the transferee are to be construed accordingly.

VALID FROM 16/01/2012

Transfers: supplementary provision

- 23 (1) All property, rights and liabilities to which a statutory transfer applies are to be transferred by that transfer, notwithstanding that they may be or include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred, or
 - (b) rights and liabilities under enactments.
- (2) The property, rights and liabilities which may be transferred by a transfer scheme include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred, or
 - (b) rights and liabilities under enactments.
- (3) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property shall operate or become exercisable as a result of any transfer of land or other property by virtue of a statutory transfer or a transfer scheme (whether or not any consent required to the transfer has been obtained).
- (4) No right to terminate or vary a contract or instrument shall operate or become exercisable, and no provision of a contract or relevant document, shall operate or become exercisable or be contravened, by reason of any transfer by virtue of a statutory transfer or a transfer scheme.
- (5) Sub-paragraphs (2) to (4) above have effect in relation to—
- (a) the grant or creation of an estate or interest in, or right over, any land or other property, or
 - (b) the doing of any other thing in relation to land or other property, as they have effect in relation to a transfer of land or other property.
- (6) A transfer scheme may make provision for the apportionment or division of any property, rights or liabilities.
- (7) Where a transfer scheme makes provision for the apportionment or division between two or more persons of any rights or liabilities under a contract, the contract shall have effect, as from the coming into force of the provision, as if it constituted two or more separate contracts separately enforceable by and against each of those persons respectively as respects the part of the rights or liabilities which falls to that person as a result of the apportionment or division.
- (8) The provision that may be made by a transfer scheme includes provision for—
- (a) any transfer of land or other property by virtue of the instrument,
 - (b) the grant or creation of any estate or interest in, or right over, any land or other property by virtue of the instrument, or
 - (c) the doing of any other thing in relation to land or other property by virtue of the instrument,

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

to be on such terms, including financial terms, as the person making the scheme thinks fit.

- (9) The Secretary of State may by order confer on any body or person to whom property, rights or liabilities are transferred by a statutory transfer or transfer scheme any statutory functions which were previously exercisable in relation to that property, or those rights or liabilities, by the transferor.
- (10) It shall be the duty—
- (a) of existing police authorities, new policing bodies, existing chief officers, new chief officers and local authorities, and
 - (b) of the trustees or managers, or administrators, of any pension scheme,
- to provide the Secretary of State with such information or assistance as the Secretary of State may reasonably require for the purposes of, or in connection with, the exercise of any powers exercisable by the Secretary of State in relation to a statutory transfer or a transfer scheme.
- (11) Where any person is entitled, in consequence of any transfer made by virtue of a statutory transfer or transfer scheme, to possession of a document relating in part to the title to, or to the management of, any land or other property in England and Wales—
- (a) the instrument may contain provision for treating that person as having given another person an acknowledgment in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
 - (b) section 64 of the Law of Property Act 1925 (production and safe custody of documents) shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.
- (12) In this paragraph—
- “relevant document” means—
- (a) any enactment, other than an enactment contained in this Act;
 - (b) any subordinate legislation made otherwise than under this Act; or
 - (c) any deed or other instrument;
- “statutory transfer” means a transfer under Part 1 or 2 of this Schedule;
- “transfer scheme” means a transfer scheme under Part 3.

Power to make transitional provision etc

- 24 (1) The Secretary of State may, by order, make such transitional and transitory provision, and savings, as the Secretary of State considers appropriate in connection with Part 1 of this Act (including provision that supplements or varies the provision made by this Schedule).
- (2) An order under this paragraph may, in particular—
- (a) amend, or otherwise modify, any enactment;
 - (b) make any provision that may be made by a transfer scheme under Part 3 of this Schedule (whether the provision in the order relates to that Part or Part 2 of this Schedule);

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (c) provide for the new policing body for a police area to make any payment which—
 - (i) before a day specified in the order could have been made out of the police fund of the existing police authority for that area, but
 - (ii) is not a liability which is transferred to the new policing body by virtue of Part 2 of this Schedule;
 - (d) provide for a new chief officer or a local authority to which property, rights or liabilities of a new policing body are, or are to be, transferred by virtue of a transfer scheme under Part 3 of this Schedule to make any payment which—
 - (i) before a day specified in the order could have been made out of the police fund of that new policing body, but
 - (ii) is not a liability which could be transferred by virtue of such a transfer scheme;
 - (e) make provision in relation to the accounts and audit of—
 - (i) existing police authorities, and
 - (ii) new policing bodies.
- (3) Provision of the kind referred to in sub-paragraph (2)(e) may, in particular—
- (a) amend, or otherwise modify, any enactment relating to the accounts and audit of public bodies in its application to—
 - (i) an existing police authority and the financial year in which that authority is abolished, or
 - (ii) a new policing body and the financial year in which that body is established;
 - (b) provide for the Secretary of State to give directions as to action to be taken in relation to the accounts and audit of—
 - (i) an existing police authority in relation to the financial year in which that authority is abolished, or
 - (ii) a new policing body in relation to the financial year in which that body is established;
 - (c) provide for a person who, in acting in accordance with such a direction, fails to comply with a code of practice or other document relating to proper accounting practice to be taken not to have so failed to comply.

Commencement Information

I12 Sch. 15 para. 24 in force at 31.10.2011 by S.I. 2011/2515, art. 2(e)

VALID FROM 16/01/2012

PART 5

INTERPRETATION

25

In this Schedule—

“existing chief officer” means—

Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the chief constable of the police force for that area before the coming into force of section 2 of this Act in relation to that area;
- (b) in relation to the metropolitan police district, the Commissioner of Police of the Metropolis immediately before the coming into force of section 4;
- “existing police authority” means—
- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the police authority established under section 3 of that Act for that area;
- (b) in relation to the metropolitan police district, the Metropolitan Police Authority;
- “local authority” means—
- (a) in relation to England, a county council or a district council;
- (b) in relation to Wales, a county council or a county borough council;
- “new chief officer” means—
- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the chief constable established for that police area under section 2 of this Act;
- (b) in relation to the metropolitan police district, the Commissioner of Police of the Metropolis established under section 4;
- “new policing body” means—
- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the police and crime commissioner for that area;
- (b) in relation to the metropolitan police district, the Mayor's Office for Policing and Crime;
- “police force” means—
- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the police force maintained for that area under section 2 of that Act;
- (b) in relation to the metropolitan police district, the metropolitan police force;
- “transfer scheme”, in relation to an existing police authority, means a scheme for transferring staff, property, rights or liabilities of that authority.

VALID FROM 16/01/2012

SCHEDULE 16

Section 99

POLICE REFORM: MINOR AND CONSEQUENTIAL AMENDMENTS

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Status: Point in time view as at 15/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011. (See end of Document for details)

SCHEDULE 17

Section 151

TEMPORARY CLASS DRUG ORDERS

Amendments of the Misuse of Drugs Act 1971

1 The Misuse of Drugs Act 1971 is amended in accordance with paragraphs 2 to 20.

Commencement Information

I25 Sch. 17 para. 1 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

2 In section 2 (controlled drugs and their classification for purposes of Act), in subsection (1)—

- (a) in paragraph (a), for the words after “specified” substitute “—
 - (i) in Part I, II or III of Schedule 2, or
 - (ii) in a temporary class drug order as a drug subject to temporary control (but this is subject to section 2A(6));”, and
- (b) at the end of paragraph (b) insert “, and
 - (c) the expression “temporary class drug” means any substance or product which is for the time being a controlled drug by virtue of a temporary class drug order;”.

Commencement Information

I26 Sch. 17 para. 2 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

3 After section 2 insert—

“2A Temporary class drug orders

- (1) The Secretary of State may make an order (referred to in this Act as a “temporary class drug order”) specifying any substance or product as a drug subject to temporary control if the following two conditions are met.
- (2) The first condition is that the substance or product is not a Class A drug, a Class B drug or a Class C drug.
- (3) The second condition is that—
 - (a) the Secretary of State has consulted in accordance with section 2B and has determined that the order should be made, or
 - (b) the Secretary of State has received a recommendation under that section that the order should be made.
- (4) The Secretary of State may make the determination mentioned in subsection (3)(a) only if it appears to the Secretary of State that—
 - (a) the substance or product is a drug that is being, or is likely to be, misused, and
 - (b) that misuse is having, or is capable of having, harmful effects.
- (5) A substance or product may be specified in a temporary class drug order by reference to—

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- (a) the name of the substance or product, or
 - (b) a description of the substance or product (which may take such form as the Secretary of State thinks appropriate for the purposes of the specification).
- (6) A substance or product specified in a temporary class drug order as a drug subject to temporary control ceases to be a controlled drug by virtue of the order—
- (a) at the end of one year beginning with the day on which the order comes into force, or
 - (b) if earlier, upon the coming into force of an Order in Council under section 2(2) by virtue of which the substance or product is specified in Part 1, 2 or 3 of Schedule 2.
- (7) Subsection (6)—
- (a) is subject to subsection (10), and
 - (b) is without prejudice to the power of the Secretary of State to vary or revoke a temporary class drug order by a further order.
- (8) The power of the Secretary of State to make an order under this section is subject to section 2B.
- (9) An order under this section is to be made by statutory instrument.
- (10) An order under this section—
- (a) must be laid before Parliament after being made, and
 - (b) ceases to have effect at the end of the period of 40 days beginning with the day on which the order is made unless before the end of that period the order is approved by a resolution of each House of Parliament.
- (11) In calculating that period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (12) Subsection (10)(b)—
- (a) is without prejudice to anything previously done or to the power of the Secretary of State to make a new order under this section;
 - (b) does not apply to an order that only revokes a previous order under this section.

2B Orders under section 2A: role of Advisory Council etc

- (1) Before making an order under section 2A the Secretary of State—
- (a) must consult as mentioned in subsection (2), or
 - (b) must have received a recommendation from the Advisory Council to make the order.
- (2) The Secretary of State must consult—
- (a) the Advisory Council, or
 - (b) if the order is to be made under section 2A(1) and the urgency condition applies, the person mentioned in subsection (3).

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- (3) The person referred to in subsection (2)(b) is—
- (a) the person who is for the time being the chairman of the Advisory Council appointed under paragraph 1(3) of Schedule 1, or
 - (b) if that person has delegated the function of responding to consultation under subsection (1)(a) to another member of the Advisory Council, that other member.
- (4) The “urgency condition” applies if it appears to the Secretary of State that the misuse of the substance or product to be specified in the order as a drug subject to temporary control, or the likelihood of its misuse, poses an urgent and significant threat to public safety or health.
- (5) The duty of the Advisory Council or any other person consulted under subsection (1)(a) is limited to giving to the Secretary of State that person's opinion as to whether the order in question should be made.
- (6) A recommendation under subsection (1)(b) that a temporary class drug order should be made may be given by the Advisory Council only if it appears to the Council that—
- (a) the substance or product is a drug that is being, or is likely to be, misused, and
 - (b) that misuse is having, or is capable of having, harmful effects.”.

Commencement Information

I27 Sch. 17 para. 3 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 4 In section 3 (restriction of importation and exportation of controlled drugs), in subsection (2)(a) after “this Act” insert “ or by provision made in a temporary class drug order by virtue of section 7A ”.

Commencement Information

I28 Sch. 17 para. 4 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 5 In section 4(1) (restriction of production and supply of controlled drugs), after “this Act” insert “ , or any provision made in a temporary class drug order by virtue of section 7A, ”.

Commencement Information

I29 Sch. 17 para. 5 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 6 In section 5 (restriction of possession of controlled drugs), after subsection (2) insert—
- “(2A) Subsections (1) and (2) do not apply in relation to a temporary class drug.”.

Commencement Information

I30 Sch. 17 para. 6 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

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7 In section 7 (authorisation of activities otherwise unlawful under foregoing provisions of Act), after subsection (9) insert—

“(10) In this section a reference to “controlled drugs” does not include a reference to temporary class drugs (see instead section 7A).”.

Commencement Information

I31 Sch. 17 para. 7 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

8 After section 7 insert—

“7A Temporary class drug orders: power to make further provision

(1) This section applies if a temporary class drug order specifies a substance or product as a drug subject to temporary control.

(2) The order may—

- (a) include provision for the exception of the drug from the application of section 3(1)(a) or (b) or 4(1)(a) or (b),
- (b) make such other provision as the Secretary of State thinks fit for the purpose of making it lawful for persons to do things in respect of the drug which under section 4(1) it would otherwise be unlawful for them to do,
- (c) provide for circumstances in which a person's possession of the drug is to be treated as excepted possession for the purposes of this Act, and
- (d) include any provision in relation to the drug of a kind that could be made in regulations under section 10 or 22 if the drug were a Class A drug, a Class B drug or a Class C drug (but ignoring section 31(3)).

(3) Provision under subsection (2) may take the form of applying (with or without modifications) any provision made in regulations under section 7(1), 10 or 22.

(4) Provision under subsection (2)(b) may (in particular) provide for the doing of something to be lawful if it is done—

- (a) in circumstances mentioned in section 7(2)(a), or
- (b) in compliance with such conditions as may be prescribed by virtue of section 7(2)(b).

(5) Section 7(8) applies for the purposes of this section.

(6) Section 31(1) (general provision as to regulations) applies in relation to a temporary class drug order that contains provision made by virtue of this section as it applies to regulations under this Act.”.

Commencement Information

I32 Sch. 17 para. 8 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

9 In section 9A (prohibition of supply etc of articles for administering or preparing controlled drugs), in subsection (4)—

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- (a) at the end of paragraph (a) omit “or”,
- (b) in paragraph (b) after “of a controlled drug” insert “, other than a temporary class drug, ”, and
- (c) at the end of that paragraph insert “, or
 - (c) the administration by any person of a temporary class drug to himself in circumstances where having the drug in his possession is to be treated as excepted possession for the purposes of this Act (see section 7A(2)(c)).”.

Commencement Information

I33 Sch. 17 para. 9 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 10 In section 10 (power to make regulations for preventing misuse of controlled drugs), after subsection (2) insert—
- “(3) In this section a reference to “controlled drugs” does not include a reference to temporary class drugs (see instead section 7A).”.

Commencement Information

I34 Sch. 17 para. 10 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 11 In section 11 (power to direct special precautions for safe custody of controlled drugs to be taken at certain premises), in subsection (1) after “of this Act” insert “ or by provision made in a temporary class drug order by virtue of section 7A that is of a corresponding description to such regulations ”.

Commencement Information

I35 Sch. 17 para. 11 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 12 (1) Section 13 (directions prohibiting prescribing, supply etc of controlled drugs by practitioners in other cases) is amended as follows.
- (2) In subsection (1)—
- (a) after “section 10(2) of this Act” insert “ or of corresponding provision made in a temporary class drug order ”, and
 - (b) after “said paragraph (i)” insert “ or of any such corresponding provision ”.
- (3) After subsection (1) insert—
- “(1A) For the purposes of subsection (1), provision made in a temporary class drug order is “corresponding provision” if it—
- (a) is made by virtue of section 7A(2)(d), and
 - (b) is of a corresponding description to regulations made in pursuance of section 10(2)(h) or (as the case may be) 10(2)(i).”.

Commencement Information

I36 Sch. 17 para. 12 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

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- 13 In section 18 (miscellaneous offences), after subsection (4) insert—
- “(5) In this section (and in references in Schedule 4 that refer to this section), any reference to regulations made under this Act is to be taken as including a reference to provision made in a temporary class drug order by virtue of section 7A.
- (6) For this purpose, a reference in subsection (1) or (2) to regulations made in pursuance of section 10(2)(h) or (i) is a reference to any provision of a temporary class drug order which—
- (a) is made by virtue of section 7A(2)(d), and
 - (b) is of a corresponding description to regulations made in pursuance of section 10(2)(h) or (as the case may be) (i).”.

Commencement Information

I37 Sch. 17 para. 13 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 14 In section 22 (further power to make regulations)—
- (a) renumber the existing provision as subsection (1), and
 - (b) after that subsection insert—
- “(2) The power to make regulations under this section does not apply in relation to temporary class drugs (see instead section 7A).”.

Commencement Information

I38 Sch. 17 para. 14 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 15 (1) Section 23 (powers to search and obtain evidence) is amended as follows.
- (2) In subsection (2) after “any regulations” insert “ or orders ”.
- (3) In subsection (3)(a) after “any regulations” insert “ or orders ”.

Commencement Information

I39 Sch. 17 para. 15 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 16 After section 23 insert—
- “23A Temporary class drugs: further power to search, seize and detain**
- (1) Subsection (3) applies in any case where—
 - (a) a constable has reasonable grounds to suspect that a person (“P”) is in possession of a temporary class drug, and
 - (b) it does not appear to the constable that a power under section 23(2) applies to the case.
 - (2) But if any provision has been made by virtue of section 7A(2)(c) (excepted possession) that applies to the temporary class drug in question, subsection (3) applies only if the constable has no reason to believe that P’s

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possession of the drug is to be treated as excepted possession for the purposes of this Act.

- (3) The constable may—
- (a) search P, and detain P for the purposes of searching P;
 - (b) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
 - (c) seize and detain anything found in the course of the search which appears to the constable to be a temporary class drug or to be evidence of an offence under this Act.

In this subsection, “vessel” has the same meaning as in section 23(2).

- (4) Subsection (5) applies if a constable reasonably believes that anything detained under subsection (3)(c) is a temporary class drug but is not evidence of any offence under this Act.
- (5) The constable may dispose of the drug in such manner as the constable thinks appropriate.
- (6) A person who intentionally obstructs a constable in the exercise of the constable's powers under subsection (3) commits an offence.”.

Commencement Information

I40 Sch. 17 para. 16 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

17 (1) Section 25 (prosecution and punishment of offences) is amended as follows.

(2) After subsection (2) insert—

“(2A) Subsection (2B) applies if an offence specified in the first column of Schedule 4 is committed in relation to a temporary class drug.

(2B) The punishments which may be imposed on a person convicted of the offence summarily or (as the case may be) on indictment in relation to the temporary class drug are the same as those which could be imposed had the person been convicted of the offence in that way in relation to a Class B drug (see the fifth column of Schedule 4).”.

(3) After subsection (3) insert—

“(3A) The punishments which may be imposed on a person convicted of an offence under section 23A(6) are the same as those which, under Schedule 4, may be imposed on a person convicted of an offence under section 23(4).”.

Commencement Information

I41 Sch. 17 para. 17 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

18 In section 30 (licenses and authorities) after “of regulations” insert “ or orders ”.

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Commencement Information

I42 Sch. 17 para. 18 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 19 In section 37(1) (interpretation), after the definition of “supplying” insert—
 ““temporary class drug order” means an order made under section 2A(1);”.

Commencement Information

I43 Sch. 17 para. 19 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 20 In section 38(1) (special provisions as to Northern Ireland) for “2, 7,” substitute “2, 2A, 2B, 7, 7A, ”.

Commencement Information

I44 Sch. 17 para. 20 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

Amendments of other legislation

- 21 In Schedule 1 to the Customs and Excise Management Act 1979 (controlled drugs: variation of punishments for certain offences)—
- (a) in paragraph 1—
 - (i) in the opening words for “or a Class B drug” substitute “ , Class B drug or a temporary class drug ”, and
 - (ii) in paragraph (b)(ii) of the substituted words after “ Class B drug ” insert “ or a temporary class drug ”, and
 - (b) in paragraph 3, for “and “Class C drug”” substitute “ , “Class C drug” and “temporary class drug””.

Commencement Information

I45 Sch. 17 para. 21 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

- 22 In section 19 of the Criminal Justice (International Co-operation) Act 1990 (ships used for illicit traffic), in subsection (4)(b) after “Class B drug” insert “ or a temporary class drug ”.

Commencement Information

I46 Sch. 17 para. 22 in force at 15.11.2011 by S.I. 2011/2515, art. 3(g)

Status:

Point in time view as at 15/12/2011.

Changes to legislation:

There are currently no known outstanding effects for the Police Reform and Social Responsibility Act 2011.